

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

DECEMBER 9, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:41 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- FREDERICK L. Hill, Chairperson
- LORNA JOHN, Vice-Chair
- CHRISHAUN SMITH, Board Member
- ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

- ELISA VITALE
- MATT JESICK
- MR. RICE

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OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from the  
Regular Public Hearing held on December 9, 2020

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 18238A - Application of 8th Street, LLC . . . . . 7  
 (Rescheduled to February 10th, 2021)

Case No. 20261 - Application of Ramon Argueta . . . . . 8

Case No. 20325 - Application of Ethan Landis . . . . . 18

Case No. 20326 - Application of Spencer Allin . . . . . 50

Case No. 20327 - Application of 1214 Fairmont Street,  
 Northwest, LLC . . . . . 63

Case No. 20329 - Application of IKOP I. Graham . . . . . 78

Case No. 20330 - Application of 5608 Broad Branch Road, N.W.  
 . . . . . 108

Case No. 20317 - Application of Julia Shepherd . . . . . 159

Case No. 20321 - Appeal of 700 Randolph Street, N.W., LLC . 178

Case No. 20328 - Appeal of Madison Heights, LLC . . . . . 237

Case No. 20290 - Appeal of Vitis Investments, LLC . . . . . 315

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

2 (9:41 a.m.)

3 CHAIRPERSON HILL: This hearing will please come to  
4 order.

5 Good morning, ladies and gentlemen. We are convening  
6 and broadcasting this public hearing via videoconference. This is  
7 the December 9th, 2020, public hearing of the Board of Zoning  
8 Adjustment of the District of Columbia. My name is Fred Hill,  
9 Chairperson. Joining me today is Lorna John, Vice-Chair;  
10 Chrishaun Smith, Board Member; and representing the Zoning  
11 Commission is Anthony Hood.

12 Today's hearing agenda is available to you on the Office  
13 of Zoning's website. Please be advised that this proceeding is  
14 being recorded by a court reporter and is also webcast live via  
15 Webex and YouTube Live.

16 The webcast video will be available on the Office of  
17 Zoning website after today's hearing. Accordingly, everyone who  
18 is listening on Webex or by telephone will be muted during the  
19 hearing, and only persons who have signed up to participate or  
20 testify will be unmuted at the appropriate time.

21 Please state your name and home address before providing  
22 oral testimony or your presentation. Oral presentations should be  
23 limited to a summary of your most important points. When you are  
24 finished speaking, please mute your audio so that your microphone  
25 is no longer picking up sound or background noise.

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1           If you are experiencing difficulty accessing Webex or  
2 with your telephone call-in or if you have forgotten to sign up 24  
3 hours prior to this hearing, then please call our OZ hotline  
4 number at 202-727-5471. Once again, 202-727-5471 to sign up to  
5 testify and to receive Webex login or call-in instructions.

6           All persons planning to testify either in favor or in  
7 opposition should have signed up in advance. They will be called  
8 by name to testify. If this is an appeal, only parties are  
9 allowed to testify. By signing up to testify, all participants  
10 will complete the oath or affirmation, as required by Subtitle Y  
11 408.7.

12           Requests to enter evidence at the time of an online  
13 virtual hearing, such as written testimony or additional  
14 supporting documents other than live video, which may not be  
15 presented as part of the testimony, may be allowed pursuant to  
16 Subtitle Y 103.13, provided that the persons making the request to  
17 enter an exhibit explain how the proposed exhibit is relevant, the  
18 good cause that justifies allowing the exhibit into the record,  
19 including an explanation of why the requester did not file the  
20 exhibit prior to the hearing pursuant to  
21 Y 206, and how the proposed exhibit would not unreasonably  
22 prejudice any parties.

23           The order of special exceptions and variances are  
24 pursuant to Y 409. The procedures of appeals are in Y 507. At  
25 the conclusion of each case, an individual who is unable to

1 testify because of technical issues may file a request for leave  
2 to file a written version of the planned testimony to the record  
3 within 24 hours following the conclusion of public testimony in  
4 the hearing.

5 If additional written testimony is accepted, then  
6 parties will be allowed a reasonable time to respond, as  
7 determined by the Board. The Board will then make its decision at  
8 its next meeting, but no earlier than 48 hours after the hearing.

9 Moreover, the Board may request additional specific  
10 information to complete the record. The Board and the staff will  
11 specify at the end of the hearing exactly what is expected and the  
12 date when persons must submit the evidence to the Office of  
13 Zoning. No other information shall be accepted by the Board.

14 The Board's agenda may include previous cases set for  
15 decision after the Board adjourns the hearing. The Office of  
16 Zoning, in consultation with myself, will determine whether a full  
17 or summary order may be issued. A full order is required when the  
18 decision it contains is adverse to a party including an affected  
19 ANC. A full order may also be needed if the Board's decision  
20 differs from the Office of Planning's recommendation.

21 Although the Board favors the use of summary orders  
22 whenever possible, an applicant may not request the Board to issue  
23 such an order. The District of Columbia Administrative Procedure  
24 Act requires that the public hearing on each case be held in the  
25 open before the public. However, pursuant to 405(b) and 406 of

1 that Act, the Board may, consistent with its Rules of Procedure  
2 and the Act, enter into a closed meeting on a case for purposes of  
3 seeking legal counsel on a case, pursuant to D.C. Official Code  
4 Section 2-575(B)(4), and/or deliberating on a case pursuant to  
5 D.C. Official Code Section 2-575(B)(13), but only after providing  
6 the necessary public notice and, in the case of an emergency  
7 closed meeting, after taking a roll call vote.

8 Preliminary matters are those which relate to whether a  
9 case will or should be heard today, such as a request for a  
10 postponement, continuance, or withdrawal, or whether proper and  
11 adequate notice of the hearing has been given. If you are not  
12 prepared to go forward with the case today, or if you believe that  
13 this Board should not proceed, now is the time to raise such a  
14 matter.

15 Mr. Secretary, do we have any preliminary matters?  
16 You're on mute, Mr. Moy.

17 MR. MOY: Thank you, Mr. Chairman. Yeah, that's number  
18 one.

19 CHAIRPERSON HILL: That is number one --

20 MR. MOY: Okay. So --

21 CHAIRPERSON HILL: -- Mr. Moy.

22 MR. MOY: Yeah. Okay. So I have a couple of  
23 announcements related to today's docket. The first one is we  
24 originally had a modification of -- a modification, request for  
25 modification, for today, but it has been rescheduled to a full

1 hearing on February 10th, 2021, and that is Case Application No.  
2 18238A, A as in alpha. This is the application of 8th Street,  
3 LLC. Again, this is rescheduled for a motion -- or rather a  
4 modification of significance on February 10th, 2021.

5 There are other preliminary matters, but staff would  
6 suggest I bring that before the Board when I call the case.  
7 That's it.

8 CHAIRPERSON HILL: Okay. Great. Thanks.

9 All right. Mr. Moy, you can go ahead and call our first  
10 hearing case.

11 MR. MOY: Thank you, sir. That would be the Case  
12 Application No. 20261 of Ramon Argueta, as amended, for a special  
13 exception under Subtitle D, Section 5201, the lot occupancy  
14 requirement, Subtitle D, Section 304.1. This would allow a second  
15 story rear deck addition to an existing attached principal  
16 dwelling unit in the R-3 Zone at premises 5104 3rd Street,  
17 Northwest, Square 3301, Lot 45.

18 As you'll recall, Mr. Chairman, this application has  
19 been rescheduled on two occasions already. This was -- and the  
20 last get together with the Board was at its hearing on July 15th  
21 actually and -- what else? And we have a Spanish interpreter on  
22 this application, sir.

23 CHAIRPERSON HILL: Okay. Let's see. Could everyone  
24 turn on their camera so I can see who is with us?

25 MR. YOUNG: Mr. Chair?

1 CHAIRPERSON HILL: Yes?

2 MR. YOUNG: I also have the architect who is calling  
3 in, so you won't be able to see him, but I will unmute him.

4 CHAIRPERSON HILL: Okay. Can I ask the interpreter to  
5 identify themselves?

6 MS. POMMIER: Yes. Natalia Pommier, Spanish speaking  
7 interpreter. Unfortunately, I don't see an icon to activate my  
8 camera. I don't know. They told me over the phone that you would  
9 be allowing --

10 CHAIRPERSON HILL: That's okay. That's okay.

11 MS. POMMIER: Oh. Okay.

12 CHAIRPERSON HILL: Miss, how do you say your last name,  
13 please?

14 MS. POMMIER: Pommier.

15 CHAIRPERSON HILL: Pommier. All right, Ms. Pommier.  
16 Thank you.

17 I guess I see also Argueta. Is that -- who is that?

18 MS. ARGUETA: Hi.

19 MS. POMMIER: The interpreter provided --

20 MS. ARGUETA: Yeah, sorry. Hi. So we have -- sorry,  
21 this is Cely Argueta. I'm one of the volunteers. So Ms. Sonia  
22 Argueta is trying to speak, but it doesn't let her. It doesn't  
23 let her speak, so maybe can you unmute the participant Sonia  
24 Argueta? Okay. Maybe now they can speak.

25 Sonia, are you able to speak? Okay. Good. Okay.

1 Good. All right.

2 CHAIRPERSON HILL: Could you identify yourself, Ms. --  
3 well, there's two Argueta's. Whoever just spoke --

4 MS. ARGUETA: Yes.

5 CHAIRPERSON HILL: -- could you please identify yourself  
6 for the record?

7 MS. ARGUETA: My name is Cely Argueta and I am a  
8 volunteer. We have been helping Ms. Sonia Argueta with the case  
9 and she is on the call now and now she's able to speak.

10 CHAIRPERSON HILL: Okay. Ms. Pommier, can you please  
11 ask Ms. Argueta to identify herself?

12 MS. ARGUETA: Yes, my name is Sonia Argueta and I'm Mr.  
13 Ramon Argueta's wife.

14 CHAIRPERSON HILL: Okay. So you're the applicant; is  
15 that correct, Ms. Argueta?

16 MS. ARGUETA: Yes, I am.

17 CHAIRPERSON HILL: Okay. Let's see. So could you, Ms.  
18 Pommier, ask the architect to identify himself? I think he's on  
19 the phone.

20 MR. UDOFA: My name is Aniema Udofa and I've been  
21 helping them on this matter.

22 CHAIRPERSON HILL: Okay. And I might be confused. I  
23 thought there was somebody else who had a -- I might be -- I can't  
24 see the faces, so I can't remember who was there before me, so I  
25 might be getting this confused with someone else. So now who --

1 | could you, Ms. Pommier, ask who is going to be presenting before  
2 | us?

3 |           MS. ARGUETA: The architect, Mr. Udofa.

4 |           CHAIRPERSON HILL: Okay. Is the architect with us? Can  
5 | you ask that, Ms. Pommier?

6 |           MS. ARGUETA: Yes, the architect is here.

7 |           CHAIRPERSON HILL: Who is the architect?

8 |           MR. UDOFA: I am listening on the phone. I couldn't  
9 | join it, so nobody can see me. My name is Aniema Udofa.

10 |           CHAIRPERSON HILL: Okay. All right. So I guess, Mr. --  
11 | Udofa; is that how you said your name?

12 |           MR. UDOFA: That's correct.

13 |           CHAIRPERSON HILL: Okay. Mr. Udofa, could you tell us a  
14 | little bit about the project and what has happened since the last  
15 | time we were together at the hearing?

16 |           MR. UDOFA: Well, what has happened after the last time  
17 | is that we have decided to reduce the size of the deck to meet the  
18 | requirement of the Agency. So the deck has been revised to 10.5  
19 | feet depth and 12.8 feet wide and which is equivalent to 69.96  
20 | percent and that falls under the special exception.

21 |           CHAIRPERSON HILL: Okay. Sir, can you tell me what  
22 | happened when you presented at the ANC?

23 |           MR. UDOFA: Unfortunately, I was not the one that  
24 | presented. I was not there on the day it was presented.

25 |           CHAIRPERSON HILL: Okay. But do you know --

1 MR. UDOFA: But I -- but --

2 CHAIRPERSON HILL: -- who did present?

3 MR. UDOFA: But from what I have learned, it was that if  
4 the deck is -- if we agree to trim the deck to this size which is  
5 acceptable, that everything would be approved. That was my  
6 understanding after the meeting.

7 CHAIRPERSON HILL: Okay. Who did present at the ANC?

8 MR. UDOFA: Cely, can you tell them who presented?

9 MS. ARGUETA: It was Mr. -- it was another volunteer.  
10 It was Mr. Henry, but he was just a volunteer. He didn't have a -  
11 - he's not an architect. He didn't have a construction  
12 background. He was someone that was helping Ms. Sonia with the  
13 DCRA paperwork, so.

14 CHAIRPERSON HILL: Okay. That's all right. I have the  
15 report from the ANC in front of me.

16 Okay. Does the Board have any questions for anyone?  
17 And if so, please raise your hand. I don't see anyone raising  
18 their hand.

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

20 MS. ELLIOTT: Good morning, Mr. Chairman and members of  
21 the Board. I'm Brandice Elliott representing the Office of  
22 Planning for BZA Case 20327. The Office of Planning is  
23 recommending approval of what has been -- the application has been  
24 modified from the last time you saw it. I probably should have  
25 started with that.

1           Originally, it was a variance and a special exception  
2 for other relief. It has since been downgraded to a special  
3 exception just for lot occupancy relief. Rear yard relief is no  
4 longer needed because they reduced the size of the deck enough  
5 that a compliant rear yard is now being provided. And so because  
6 of that, the Office of Planning is now recommending approval of  
7 the special exception relief for the lot occupancy and if you have  
8 any questions, I'm happy to answer them.

9           CHAIRPERSON HILL: Okay. Does the Board have any  
10 questions for the Office of Planning? And if so, could you please  
11 raise your hand? All right. I don't see anything.

12           Ms. Pommier, could you please ask the applicant if they  
13 have any questions for the Office of Planning?

14           MS. ARGUETA: No, I do not have a question.

15           CHAIRPERSON HILL: Okay. Great. Thank you.

16           Mr. Young, do you have -- is there anyone here wishing  
17 to speak for testimony?

18           MR. YOUNG: We don't have anyone.

19           CHAIRPERSON HILL: Okay. All right. Ms. Pommier, do  
20 you have anything -- can you ask the applicant if they have  
21 anything they'd like to add at the end?

22           MS. ARGUETA: What would I need to add?

23           CHAIRPERSON HILL: There's nothing to add. I was just  
24 asking if they -- if she had anything she'd like to say.

25           MS. ARGUETA: No, it's fine.

1 CHAIRPERSON HILL: Okay. Great. Thank you.

2 All right. Then I'm going to go ahead and close the  
3 hearing.

4 Mr. Young, if you could excuse everyone?

5 Okay. So let's see. I went ahead and closed the  
6 hearing. Once again, I am closing the hearing and closing the  
7 record -- for the record and I'm ready to speak about this. I  
8 didn't really have any issues with it. I mean, after reviewing  
9 the record after looking at the Office of Planning's report as  
10 well as the report from the ANC, I would agree that the applicant  
11 has put forward an application that I could support in terms of  
12 how they're meeting the standard for the relief being requested  
13 and I'm going to vote in favor.

14 Mr. Hood, is there anything you'd like to add?

15 COMMISSIONER HOOD: I don't have anything to add, Mr.  
16 Chairman. I think reduced variance to the special exception makes  
17 it easy to go ahead and I think the merits in the record warrants  
18 our approval.

19 CHAIRPERSON HILL: Chrishaun, do you have anything to  
20 add?

21 MEMBER SMITH: No, Mr. Chairman. I feel like this is  
22 fairly straightforward. I would like to thank the applicant for  
23 working with the ANC concerning the neighbors to reduce the size  
24 of this deck to reduce the impacts on the surrounding properties,  
25 so I will be supporting this application.

1 CHAIRPERSON HILL: Great. Thank you.

2 Ms. John?

3 VICE CHAIR JOHN: I have nothing to add, Mr. Chairman.  
4 Now that the deck has been reduced to meet the special exception  
5 requirement, it's fairly straightforward so I can support the  
6 application.

7 CHAIRPERSON HILL: Okay. Great. Thank you.

8 All right. I'm going to go ahead and make a motion to  
9 approve Application No. 20261 as captioned and read by the  
10 secretary and ask for a second, Ms. John.

11 VICE CHAIR JOHN: Second.

12 CHAIRPERSON HILL: The motion has been made and  
13 seconded.

14 Mr. Moy, could you please take a roll call vote?

15 MR. MOY: Yes. Thank you, Mr. Chairman. When I call  
16 your name, if you would please reply with a yes, no, or abstain to  
17 the motion made by Chairman Hill to approve the application for  
18 the relief requested. The motion is seconded by Vice Chair John.  
19 Zoning Commission Chair, Anthony Hood?

20 COMMISSIONER HOOD: Yes.

21 MR. MOY: Mr. Smith?

22 MEMBER SMITH: Yes.

23 MR. MOY: Vice Chair John?

24 VICE CHAIR JOHN: Yes.

25 MR. MOY: Chairman Hill?

1 CHAIRPERSON HILL: Yes.

2 MR. MOY: And we have a Board seat vacant. Staff would  
3 record the vote as 4 to 0 to 1 and this is on the motion of  
4 Chairman Hill to approve the application seconded by Vice Chair  
5 John. Also in support of the motion is Mr. Smith and Zoning  
6 Commissioner Hood. We have a Board seat vacant. Again, the  
7 motion carries 4 to 0 to 1.

8 CHAIRPERSON HILL: Okay. Great. Thank you.

9 Mr. Young, can you hear me?

10 MR. YOUNG: Yeah, I can hear you.

11 CHAIRPERSON HILL: Yeah, I don't know if you know how  
12 and -- for some reason like the people's names aren't showing up  
13 at the bottom of the screen as they normally do, like, and maybe  
14 it's just what I'm going to have to deal with today. Right now  
15 they're all showing up at the bottom of the screen and now they're  
16 not.

17 MR. YOUNG: Yeah. I think it's an update that Webex  
18 did. It seems like if your cursor is idle then the names will  
19 disappear, but if you move your cursor around, they'll pop back  
20 up.

21 CHAIRPERSON HILL: Oh. So there's no way to fix that or  
22 change that?

23 MR. YOUNG: I can look into it. I'm not sure right now.  
24 I think it was just a recent update that Webex did.

25 CHAIRPERSON HILL: That's the worst freaking update I've

1 ever heard of in my life.

2 MR. YOUNG: Yeah.

3 CHAIRPERSON HILL: That's the whole point of having the  
4 name below.

5 COMMISSIONER HOOD: So, Mr. Chairman, I noticed the  
6 other night my names were blinking up, they were popping out. So  
7 I guess you're experiencing it too (audio interference) on, but  
8 the other night it was blinking on, blinking off. So kind of what  
9 you're experiencing, but for some reason today the names are not  
10 doing that.

11 CHAIRPERSON HILL: For you.

12 COMMISSIONER HOOD: Yeah, for me.

13 CHAIRPERSON HILL: Yeah. For me --

14 COMMISSIONER HOOD: (Audio interference).

15 CHAIRPERSON HILL: -- unless you -- as Mr. Young just  
16 mentioned, unless someone says something or moves their cursor,  
17 the name disappears.

18 COMMISSIONER HOOD: I think it must be Mr. Chairman's  
19 problems because I had that problem the other night and I'm not  
20 having it today and I'm not --

21 CHAIRPERSON HILL: Yeah.

22 COMMISSIONER HOOD: -- Chairman.

23 CHAIRPERSON HILL: Yeah. The Chairman's got a bunch of  
24 problems, but this, unfortunately, is not one that I had  
25 anticipated today.

1 All right. Well, Mr. Young, if you figure that one out,  
2 that's great. But if not, then I'll try to figure out how to deal  
3 with it.

4 Mr. Moy, you can call our next case.

5 MR. MOY: Thank you, Mr. Chairman. So this would be  
6 before the Board Case Application No. 20325 of Ethan Landis.  
7 Captioned and advertised for a special exception under Subtitle E,  
8 Section 206.2 from the rooftop architectural requirement, Subtitle  
9 E, Section 206.1(a). This would add two dormers on a new third-  
10 story addition and add a second dwelling unit to an existing  
11 attached principal dwelling unit. RF-1 Zone at premises 2611 13th  
12 Street, Northwest, Square 2862, Lot 70. And I believe, Mr.  
13 Chairman, the applicant made a motion to waive the 21-day filing  
14 deadline for revised materials under Exhibit 35.

15 CHAIRPERSON HILL: Okay. Can everyone please turn on  
16 their cameras? Okay. Great. Ms. Thomas, you don't have to turn  
17 yours on just yet, but I'm trying to get the other ones on, but  
18 thanks for playing.

19 MS. SHARE: Okay. Can you hear me now?

20 CHAIRPERSON HILL: Is that Ms. Share?

21 MS. SHARE: Correct.

22 CHAIRPERSON HILL: Okay. Do you --

23 MS. SHARE: And I can't turn my camera on because I  
24 don't see an icon to turn the camera on.

25 CHAIRPERSON HILL: If you move the cursor over your

1 screen --

2 MS. SHARE: I --

3 CHAIRPERSON HILL: -- it should have a button at the  
4 bottom that says, "start video."

5 MS. SHARE: I don't see that. Start video. I'm sorry.  
6 Yes, you're there. Yes, okay. Can you see me now? Okay.

7 CHAIRPERSON HILL: Okay. Perfect, there we go.

8 MS. SHARE: All right. Okay. Good.

9 CHAIRPERSON HILL: All right.

10 MS. SHARE: Thank you.

11 CHAIRPERSON HILL: And so, Ms. Share, are you the  
12 applicant?

13 MS. SHARE: So yes, my name is Tahani Share from Landis  
14 Architects/Builders representing Ethan Landis, the owner of the  
15 property at 2611 13th Street.

16 CHAIRPERSON HILL: Okay. And are you going to be  
17 presenting to us?

18 MS. SHARE: Correct, and Mr. Landis is also with us.  
19 When it's his time to testify, I think he will be also unmuted,  
20 and he will turn his camera on.

21 CHAIRPERSON HILL: Okay. All right. So there's a --

22 MR. LANDIS: Yes, I'm here.

23 CHAIRPERSON HILL: -- way that --

24 MS. SHARE: Yes.

25 MR. LANDIS: Yeah. You can hear me?

1 MS. SHARE: Yes, we can.

2 CHAIRPERSON HILL: We can hear you, Mr. Landis.

3 MR. LANDIS: My camera is not working for --

4 CHAIRPERSON HILL: (Audio interference).

5 MR. LANDIS: For some reason, the camera won't connect.  
6 I'll keep fiddling with it.

7 CHAIRPERSON HILL: That's fine. That's okay. I mean, I  
8 just wanted to -- that's fine.

9 Let's see. So Ms. Share, you guys need a waiver from  
10 the 21 days. Why do you need the waiver again?

11 MS. SHARE: So there was another amendment to the  
12 section that we are asking for and the Office of Zoning sent us  
13 the amendment two days after the cut-off date of the 21 days from  
14 submitting the material. So we went through the process of doing  
15 the Notice of Service and we sent the Notice of Service to the  
16 Office of Planning, the ANC, and the Zoning Committee and we filed  
17 along with the modification of the application based on the new  
18 sections in the code. So it wasn't us really. It was the Zoning  
19 Office that did the amendment to the section.

20 CHAIRPERSON HILL: Ms. Thomas, are you there now?

21 MS. THOMAS: Yes.

22 CHAIRPERSON HILL: Could you please identify yourself  
23 for the record?

24 MS. THOMAS: Good morning, Mr. Chairman, members of the  
25 Board. I am Karen Thomas with the Office of Planning on Case No.

1 20325. I'll be happy to take any questions.

2 CHAIRPERSON HILL: Can you just explain again what the  
3 waiver is for? What was the change that they needed to make?

4 MS. THOMAS: Well, they just needed to reflect that the  
5 application would be reviewed under the changes made or the text  
6 amendments made under Zoning Commission 1921 which is now in  
7 effect. So we encouraged proper advertising. The Office of  
8 Planning and OAG encouraged that the proper reflection be made to  
9 the public with respect to that.

10 CHAIRPERSON HILL: Okay. And Ms. Share, when you  
11 presented to the ANC, it's the same project that you presented to  
12 the ANC, correct?

13 MS. SHARE: Correct. Correct. So --

14 CHAIRPERSON HILL: Okay.

15 MS. SHARE: -- nothing changed on the nature of the  
16 relief, or the architectural drawings, or the project. It's just  
17 the text of which section, just the correct section and the  
18 correct --

19 CHAIRPERSON HILL: (Audio interference).

20 MS. SHARE: Yeah.

21 CHAIRPERSON HILL: I understand. Okay. So unless the  
22 Board has any issues, I'm going to go ahead and allow the waiver  
23 or approve the waiver, I should say. And if you do, please raise  
24 your hand. I don't see anybody. Okay. So we're going to go  
25 ahead and approve that 21-day waiver.

1 Ms. Share, you can go ahead and present your testimony.  
2 And again, if you could --

3 MS. SHARE: Okay.

4 CHAIRPERSON HILL: If you could, please focus primarily  
5 on -- again, what you're here for is the dormer relief as you know  
6 --

7 MS. SHARE: Correct.

8 CHAIRPERSON HILL: -- correct?

9 MS. SHARE: Correct.

10 CHAIRPERSON HILL: So if you could please just focus on  
11 the dormer relief --

12 MS. SHARE: Okay. (Audio interference) --

13 CHAIRPERSON HILL: -- and I put 15 minutes on the clock  
14 there and you can begin whenever you'd like.

15 MS. SHARE: Okay. So Mr. Young, do you have the  
16 drawings ready to show? Okay. Thank you. All right. Thank you,  
17 very much. Okay.

18 So again, my name is Tahani Share from Landis  
19 Architects/Builders representing Ethan Landis, the owner of the  
20 property on 2611 13th Street. We are requesting a special  
21 exception from Subtitle E, Section 206.2 from the rooftop  
22 architectural element requirement of Subtitle E, Section 206.1(a)  
23 to add two dormers.

24 So the subject property is located on the Square 2862,  
25 Lot 70. It's an interior unit. This is the unit, if you see my

1 cursor. The one here in the middle. It's an interior unit in a  
2 rowhouse dwelling and it has a lot area of 1,900 square feet and  
3 located in Zone RF-1.

4 The biggest part of the project is doing -- is  
5 renovating the property doing a third-story addition and  
6 converting into two units which all are in compliance with the --  
7 with all zoning regulations including lot coverage, height, and  
8 setbacks. The special exception is related just to the dormers.  
9 In the course of adding a second story, we need to add two windows  
10 and in order to do that, we would need to add two dormers on the  
11 mansard roof.

12 So as you can see here, there are currently no dormers.  
13 Can we go to the next page, Mr. Young? Okay. So this shows the  
14 existing front elevation without the dormer and this is the  
15 proposed. And as you can see, no changes are proposed on the  
16 front elevation except the two dormers. Next, Mr. Young?

17 So this is (audio interference) plan is just for general  
18 knowledge. This is the basement or the cellar floor. This is the  
19 first floor, and this is the second, and the third is the new  
20 floor proposed for this property. Next slide, please?

21 So this section shows the existing mansard roof. So  
22 this will remain and the addition at the back and we are adding  
23 the dormers in the front. That is the special exception we're  
24 asking for. Next?

25 Yes, so these are views from 13th Street. As you can

1 see, this is the unit and at the corner of this row dwelling  
2 actually, there is a property that already has two dormers. Two  
3 in the front and two on the side, and this one shares the same  
4 mansard roof as our -- as the subject property.

5 In adding the two dormers, we believe that we meet the  
6 criteria set for special exceptions. The new dormers will not  
7 have a negative impact on the adjacent neighbor's right of light,  
8 air, and privacy. They will not have an negative impact on the  
9 use and enjoyment of neighboring properties and with the way the  
10 proposed dormers are designed, they will not protrude or intrude  
11 on the character and scale of the surrounding structures.

12 They will, in fact, match dormers that already exist on  
13 properties nearby, mainly the one here at the corner. Also note  
14 that there will be no change on the existing mansard roof. We  
15 will not increase the height and we will not increase the slope,  
16 so that will stay that -- so we will preserve the character,  
17 scale, and pattern of the street.

18 So with this project, we went to the ANC. We first  
19 presented to the Zoning and -- Zoning Planning and Development  
20 Committee and they voted in full support of the application and --  
21 on November 16th and then the full ANC support also voted in  
22 support of the recommendation of the ZPD. I can stop at this  
23 point and will answer any questions you may have for me.

24 CHAIRPERSON HILL: Okay. Ms. Share, thank you for your  
25 testimony. I didn't see the ANC report. Did it get put into the

1 record?

2 MS. SHARE: Yeah. Last night, I think I went to the  
3 file and it was uploaded.

4 CHAIRPERSON HILL: Does anybody know what exhibit that's  
5 in?

6 MS. SHARE: It's the last one. So you have to go two  
7 steps in to get to the last --

8 CHAIRPERSON HILL: I don't see it.

9 COMMISSIONER HOOD: It's the last exhibit, Mr. Chairman.

10 MS. SHARE: Yes.

11 COMMISSIONER HOOD: Let me tell you exactly what exhibit  
12 (audio interference).

13 CHAIRPERSON HILL: Number 61?

14 COMMISSIONER HOOD: I just was looking at it. Hold on.

15 CHAIRPERSON HILL: Maybe I'm in the wrong -- I didn't  
16 think I --

17 MR. YOUNG: 41.

18 COMMISSIONER HOOD: Exhibit 41.

19 CHAIRPERSON HILL: Okay. Give me a second.

20 COMMISSIONER HOOD: And they basically (audio  
21 interference) form.

22 CHAIRPERSON HILL: Okay. Thank you, sir. I'm sorry I'm  
23 laughing. Like, this Webex thing is just awful because like now I  
24 used to have -- everybody's last name was very easy and now it's  
25 just going to be, "Hey, you in the blue shirt."

1 All right. Let's see. Okay. Right. So, Ms. Share, I  
2 guess, again what you had said was that the height is not  
3 changing, correct?

4 MS. SHARE: Correct.

5 CHAIRPERSON HILL: Okay. All right. I'm going to turn  
6 to the -- oh, I'm sorry. Does the Board have any questions for  
7 the applicant? If so, please raise your hand. All right. I'm  
8 going to turn to the Office of Planning.

9 MS. THOMAS: Yes. Good morning, Mr. Chair, again,  
10 members of the Board. Karen Thomas with the Office of Planning.  
11 The Office of Planning is recommending approval of the addition of  
12 the two dormers to the mansard roof. We found no appreciable  
13 impact to neighboring properties and the dormers would be  
14 architecturally compatible with the character of the roof and we  
15 would rest on the record of our report. Thank you.

16 CHAIRPERSON HILL: Okay. Thanks, Ms. Thomas.

17 And then let's see, the -- again, Ms. Thomas, to clarify  
18 with you, right, the turning it into a flat for the second  
19 dwelling, that is a matter of right, correct?

20 MS. THOMAS: That's correct, yes.

21 CHAIRPERSON HILL: We're only here for the dormers.

22 MS. THOMAS: That's correct. Based on the information  
23 that the applicant provided and the record, the addition satisfies  
24 all the other requirements including lot occupancy, height, and  
25 such.

1 CHAIRPERSON HILL: Okay. And sir, I can't -- you're the  
2 owner; is that correct?

3 MS. SHARE: So I am --

4 MR. LANDIS: Correct, yes.

5 MS. SHARE: Ethan Landis is the owner, yes.

6 MR. LANDIS: Right. I'm on the call here too.

7 CHAIRPERSON HILL: Okay.

8 MR. LANDIS: I'm the owner.

9 CHAIRPERSON HILL: Mr. Landis, I'm trying to understand.  
10 You're here for the next application as well, correct?

11 MR. LANDIS: Sort of. We purchased two properties side-  
12 by-side and the owner of that property is on right after me, but  
13 they are identical projects.

14 CHAIRPERSON HILL: If you --

15 MS. SHARE: So I'm the same person for both,  
16 representing both, but for the next case it's going to be Spencer  
17 Allin who is the owner (audio interference) --

18 CHAIRPERSON HILL: It's a different owner. It's a  
19 different owner.

20 MS. SHARE: Correct, yes.

21 CHAIRPERSON HILL: Okay. All right. Does the Board  
22 have any questions for the Office of Planning and if so, please  
23 raise your hand?

24 Does the applicant have any questions for the Office of  
25 Planning?

1 MS. SHARE: No, thank you.

2 CHAIRPERSON HILL: Mr. Young, is there here -- people to  
3 testify?

4 MR. YOUNG: Yeah, we have three people signed up. Do  
5 you want me to bring them all up?

6 CHAIRPERSON HILL: Yeah. Could you bring them all up  
7 and perhaps excuse the -- leave the Office of Planning and --  
8 well, I guess if you can fit all three in there that's fine, but  
9 --

10 MR. YOUNG: Yeah, yeah.

11 CHAIRPERSON HILL: Chairman Hood, can you hear me?

12 COMMISSIONER HOOD: Yes, I can hear you.

13 CHAIRPERSON HILL: I'm just curious now. Do you see all  
14 the pictures of everybody on the screen?

15 COMMISSIONER HOOD: Yes, I changed my grid to see  
16 everybody. If you go in and change your grid. I'm not sure what  
17 you're working with.

18 CHAIRPERSON HILL: No, I did do that. I did do that.

19 COMMISSIONER HOOD: Yeah, I can see everyone.

20 CHAIRPERSON HILL: And so -- okay. I guess -- I've  
21 never watched this live, so I don't know if -- do you know if the  
22 live version shows everybody or it's just -- I guess it's just  
23 whoever's speaking is what it shows.

24 MR. YOUNG: Yeah. The live version shows whoever is  
25 speaking and then it will have -- whoever else is on will be

1 underneath in little --

2 CHAIRPERSON HILL: Got it.

3 MR. YOUNG: -- squares.

4 CHAIRPERSON HILL: Got it. Okay. Great. Okay. Thank  
5 you.

6 All right. Let's see. The people that just popped in,  
7 could you please raise your hand? The people that are testifying.  
8 Okay. That's one person. Who else is testifying? Can you raise  
9 your hand? All right. Sir, the -- and again, I'm sorry. The  
10 names don't pop up on the screen. The gentlemen in the red shirt  
11 who just raised his hand, could you please speak and identify  
12 yourself?

13 MR. ROBEY: Yeah. My name is Phil Robey, and I am a  
14 resident on the block, 2625 13th Street, and why are you smiling  
15 as though you know me?

16 CHAIRPERSON HILL: Yeah. Mr. Robey, I'm sorry. I was -  
17 - and I know you're here to testify, but I'm amused that the way  
18 that this has been working since the pandemic is no longer the way  
19 it's working. So just so you know, the gentleman who raised his  
20 hand is also wearing a red shirt. So he was trying to also speak.

21 MR. ROBEY: Oh. Okay.

22 CHAIRPERSON HILL: So --

23 MR. ROBEY: I'll let him --

24 CHAIRPERSON HILL: So I'm going to have to --

25 MR. ROBEY: I'll defer.

1 CHAIRPERSON HILL: I'm going to have to figure this out  
2 a different way in a very PC way whenever the time comes. So, Mr.  
3 Robey, could you please, again, identify yourself for the record?

4 MR. ROBEY: Yes. My name is Philip Robey and I have  
5 resided at 2625 13th Street since 1991.

6 CHAIRPERSON HILL: Mr. Robey, where are you in  
7 relationship to the property?

8 MR. ROBEY: I am three houses north.

9 CHAIRPERSON HILL: Okay.

10 MR. ROBEY: He's 26. I think this one's 2611, so four  
11 houses north --

12 CHAIRPERSON HILL: Okay.

13 MR. ROBEY: -- on 13th Street.

14 CHAIRPERSON HILL: So Mr. Robey, can you see the clock  
15 that says three minutes?

16 MR. ROBEY: There's a lot on my screen. No, but if you  
17 tell me three minutes, I'll do my best.

18 CHAIRPERSON HILL: Okay. Sure. Go ahead and begin  
19 whenever you'd like.

20 MR. ROBEY: Okay. I can see that clock. A lot of the  
21 people that I've spoken with, some of whom are on this call, is  
22 that this is a density issue. We do not want the addition of  
23 (audio interference) to it. I'll let Ms. Phoenix speak to some of  
24 that. She lives right next door and she's on today. But the  
25 issue is that he is allowed, as I understand it, is allowed to

1 have a third floor, but we think it would probably stop him from  
2 doing so if we said no dormers and therefore, we don't see a  
3 reason for dormers.

4 By the way, Ms. Phoenix's house is right next door to  
5 his. They showed a house that's on the corner in the picture, but  
6 that's a much larger house and longer house. It's a completely  
7 different style from these houses facing 13th Street. So we don't  
8 want a five-bedroom house being added or two five-bedroom houses,  
9 apartments, being added to that section because that invites large  
10 group houses.

11 We're already having a problem with 2619 and large  
12 (audio interference) properties and add to them. And I  
13 understand, again, that we may not be able to control the issue  
14 about third floor and two extra bedrooms, but we certainly can  
15 control the issue of dormers and if we can do that, perhaps the  
16 owner will go back and revise his plans to come up with a  
17 different solution because the density issue is not acceptable to  
18 us.

19 And I was not informed, by the way, of an ANC meeting.  
20 I haven't heard of one in ages. Finished.

21 CHAIRPERSON HILL: Mr. Robey, could you hear me?

22 MR. ROBEY: I can now, yes.

23 CHAIRPERSON HILL: Okay. I'm going to come back, Mr.  
24 Robey, to you to -- to hear your testimony again. You kind of cut  
25 in and out and like something weird would happen with my computer

1 a second ago, so I'll come back to you again for your testimony.

2 MR. ROBEY: Okay.

3 CHAIRPERSON HILL: I got the gist of it, but I want to  
4 hear your testimony.

5 Sir, and I apologize, I have no other way of knowing.  
6 Again, the other gentleman in the red shirt who raised his hand;  
7 could you please speak and introduce yourself for the record? I  
8 can't hear you now. You're on mute. Still can't hear you.

9 MR. FLANIGAN: How about now? Can you hear me now?

10 CHAIRPERSON HILL: Yes, yes.

11 MR. FLANIGAN: All right, cool. Listen, yeah, my name  
12 is William Flanigan.

13 CHAIRPERSON HILL: And where do you live, Mr. Flanigan?

14 MR. FLANIGAN: At 1300 Fairmont Street.

15 CHAIRPERSON HILL: Where do you live in relationship to  
16 the property?

17 MR. FLANIGAN: Across the street. I guess if you're  
18 facing it, to the left or north.

19 CHAIRPERSON HILL: Okay.

20 MR. FLANIGAN: At the corner of Fairmont.

21 CHAIRPERSON HILL: All right. Mr. Flanigan, you'll have  
22 three minutes to speak and you can begin whenever you like.

23 MR. FLANIGAN: Sure. I just want to make sure you guys  
24 got my letter. I mean, I totally support exactly what Phil is --  
25 the previous, the other person in the red shirt is saying. So at

1 | the end of the day, I'm here to show my support and make sure you  
2 | got my letter I sent to you. Did you get the letters? I sent you  
3 | a letter here, 1300 Fairmont, for a statement. Did you get that  
4 | into the system because I never got a confirm on that?

5 |           CHAIRPERSON HILL: We did get it and we have reviewed  
6 | it.

7 |           MR. FLANIGAN: Okay. Yeah, so I definitely support  
8 | everything that Phil is saying. That's, you know -- obviously,  
9 | we're all here. We just want to make sure it's a good job because  
10 | across the street, directly across the street from me, they built  
11 | a monstrosity and there's also 1230 Fairmont Street which was a --  
12 | not such a great job as far as a pop-up. It just doesn't look  
13 | very good and it just doesn't look good in the neighborhood. It  
14 | kills the beautiful architecture around here, so that's the --  
15 | that's pretty much all I have to say. If you have my statement,  
16 | that really summarizes how I feel and I just want to make sure you  
17 | got it.

18 |           CHAIRPERSON HILL: Yep, we got it.

19 |           MR. FLANIGAN: Okay.

20 |           CHAIRPERSON HILL: All right. Okay. Well, stick around  
21 | for questions, Mr. Flanigan.

22 |           MR. FLANIGAN: Sure.

23 |           CHAIRPERSON HILL: Who was the third -- oh, Ms. Phoenix.  
24 | Are you there?

25 |           MS. PHOENIX: Yes, I am. Good morning.

1 CHAIRPERSON HILL: Good morning. Ms. Phoenix, could you  
2 introduce yourself for the record, please?

3 MS. PHOENIX: Absolutely. My name is Annette Phoenix.  
4 I live at 2609 13th Street and I've lived here since 1969.

5 CHAIRPERSON HILL: Okay. Ms. Phoenix, you can go ahead  
6 and give your testimony if you'd like.

7 MS. PHOENIX: Thank you, very much. Good morning  
8 everyone. As Mr. Robey and Mr. Flanigan have indicated, there is  
9 a question of density. We have various issues in this  
10 neighborhood regarding parking and just the number of people in  
11 the neighborhood and that is a great concern to me added to the  
12 fact that I have not heard of an ANC meeting as well.

13 The work that has been done to that property so far has  
14 been somewhat disruptive in the sense that they're working,  
15 sometimes, seven days a week starting as early as 7 o'clock on the  
16 weekend and my property has been damaged somewhat by when they  
17 started pulling down the roof next door.

18 The communication of this property and its  
19 characteristics have not been quite forthcoming, and I'm very  
20 concerned about going forward how this will look aesthetically as  
21 well because as Mr. Robey indicated and I believe Mr. Flanigan,  
22 the unit on the end is actually on Euclid Street and is not part  
23 of this unit block. So I'm very concerned about the future going  
24 forward of the characteristic of this neighborhood as well as the  
25 quality of the construction and the communication taken forth.

1           The density is actually a great problem because as he  
2           intimated, he's putting on more area for people to live in and the  
3           area is not built for that many people. Add to the fact I  
4           received a call after they kind of tracked me down stating that  
5           they wanted to help my property out by rebuilding by chimney and  
6           after really talking to the person and somewhat interrogating  
7           them, they will pull my property out of compliance in order to  
8           build this property. So I'm concerned about the dormers and the  
9           proper (audio interference).

10           CHAIRPERSON HILL: Okay. Can you repeat that last part?  
11           What did you say about your not being compliant? What's that?

12           MS. PHOENIX: If this third-floor property comes up, my  
13           chimney space on my property which is adjacent, abutting that  
14           property, will come out of compliance which will mean that I will  
15           need to make changes and upgrade to my chimney in order to still  
16           be in compliance with the plans that they had in place.

17           CHAIRPERSON HILL: And who told you this, Ms. Phoenix?

18           MS. PHOENIX: One of the representatives -- Landis.

19           CHAIRPERSON HILL: Okay. All right. I don't think  
20           that's right, but I'm going to ask the Office of Planning. But  
21           let me see. So, and Ms. Thomas, that means I'm going to come to  
22           you in a second just to -- for clarification, but I'm going to  
23           still go to Mr. Robey next.

24           Mr. Robey, can you go ahead and give me your testimony  
25           again? I'm sorry you were chunking in and out of there.

1           MR. ROBEY: Okay. Hopefully it will be more  
2 straightforward at this point. My largest issue really is with  
3 the dormers and it is a density issue. With the dormers come a  
4 third floor and two additional bedrooms making one of the units a  
5 five -- five bedrooms. One of the units of the two in the  
6 building. This is similar for the building next door, so we're  
7 going to be right back to that building.

8           But at this point I don't see any reason or need for two  
9 extra bedrooms on the top floor and the dormers are allowing that  
10 to occur, so I'm against the dormers for that reason. Also, they  
11 don't match the buildings surrounding them. They do match the one  
12 on the end, but as Mrs. Phoenix has said, the building on the end  
13 is a Euclid Street building, 1241 Euclid. It is not a 13th Street  
14 building.

15           So the dormer addition to this building is allowing the  
16 owner to put in additional bedrooms and we are saturated with  
17 units around here that people are renting out that are creating a  
18 great deal of noise. A five-bedroom place does not invite a  
19 family. A five-bedroom place usually means a group house and  
20 that's what we're seeing, so I would be completely against the  
21 addition of those dormers. I have no problem with his right to  
22 divide the property into two units.

23           CHAIRPERSON HILL: Okay. Okay. All right, Mr. Robey.

24           MR. ROBEY: (Audio interference) ANC meeting.

25           CHAIRPERSON HILL: You did go to the ANC meeting?

1           MR. ROBEY: We were never told about the ANC meeting. I  
2 don't even know who the ANC rep is these days. I heard they  
3 redrew the boundaries, but no one has been in touch. No one's in  
4 touch with us about those things.

5           CHAIRPERSON HILL: Okay. Well, the property was posted,  
6 so you should have seen that there was an ANC meeting.

7           MR. ROBEY: Where?

8           CHAIRPERSON HILL: In the -- well, in your ANC -- if you  
9 see your ANC meeting's agenda and I understand that takes some  
10 effort, you would have known when this was going to be heard  
11 before the ANC. And then also you were -- you did receive a  
12 letter about this project, correct?

13           MR. ROBEY: I've received a letter from the Board of  
14 Zoning Adjustment about the project.

15           CHAIRPERSON HILL: Right. Okay. So you're within the  
16 200 feet to receive it. I'm just trying to tell you about the  
17 notification.

18           MR. ROBEY: Yeah.

19           CHAIRPERSON HILL: And so the ANC did have their meeting  
20 and they did approve this project, but just to let you -- I'm  
21 sorry that you missed that meeting, but they did have their  
22 meeting.

23           MR. ROBEY: Yeah, and I don't know who was there or  
24 whether -- I can say that the ANC really represents us anymore. I  
25 hear they're down in Shaw and we're way up here in Columbia

1 Heights, so I don't know. I haven't heard anything about an ANC  
2 in years, but I will say that people on the block are concerned.  
3 Some of the people who are not here today are also concerned and I  
4 think they've written letters of concern. So within the immediate  
5 zone of the house, you know, those of us within 200 feet, we have  
6 a lot of concerns. Personally, I'm not going to speak for all of  
7 my neighbors, but my concern is added density. We don't want  
8 larger buildings going up after a hundred years of buildings  
9 sitting here that are three bedrooms. Why do they suddenly need  
10 to be five bedrooms? So the dormers will allow that. I  
11 understand that's not your issue, but the -- adding dormers are  
12 going to allow him to put on a third floor --

13 CHAIRPERSON HILL: Okay.

14 MR. ROBEY: -- and (audio interference).

15 CHAIRPERSON HILL: Okay. All right. Okay. I see  
16 you're raising your hand, Mr. Landis. Give me one second and I'll  
17 get right back to you. Can you hear me, Mr. Landis?

18 MR. LANDIS: Yes, yes.

19 CHAIRPERSON HILL: Oh. No, I'm sorry. Landis? I'm  
20 sorry. Oh, I hate this thing now.

21 MR. FLANIGAN: It's Flanigan.

22 CHAIRPERSON HILL: Mr. Lannegan (sic), thanks.

23 MR. FLANIGAN: Flanigan. Flanigan.

24 CHAIRPERSON HILL: So give me a second, Mr. -- give me a  
25 second, Mr. Lannegan.

1 MR. FLANIGAN: Flanigan. Flanigan. Flanigan.

2 CHAIRPERSON HILL: Sorry. Flanigan. Flanigan.

3 MR. FLANIGAN: (Audio interference).

4 CHAIRPERSON HILL: Give me a second, Mr. Flanigan.

5 All right. Does the Board have any questions for the  
6 witnesses?

7 COMMISSIONER HOOD: Mr. Chairman?

8 CHAIRPERSON HILL: Yes. Please go ahead, Chairman.

9 COMMISSIONER HOOD: This is not necessarily germane, but  
10 I always try to help communities out especially with the ANC. I  
11 actually go to church right there on 13th Street, but I will say  
12 this, Mr. Robey. Your Chairman of your ANC lives right around the  
13 corner. ANC-1B. They meet the first Thursday, I believe, of  
14 every month and its Chairman Turner. If you go on the internet,  
15 you can look him up and that way you can get engaged. Right now  
16 they're meeting virtually, but I'm just making that announcement  
17 so you can get in touch with your ANC. Thank you, Mr. Chairman.

18 CHAIRPERSON HILL: Thank you.

19 MR. ROBEY: Is that a change?

20 COMMISSIONER HOOD: I'm sorry?

21 MR. ROBEY: Is that a change, because up until last year  
22 James Turner was not our ANC Commissioner. He represented the  
23 neighborhood north of ours.

24 COMMISSIONER HOOD: So is it James -- I'm not sure who  
25 your exact commissioner is, but James Turner is the Chairman of

1 the ANC-1B in which you're in.

2 MR. ROBEY: Thank you.

3 CHAIRPERSON HILL: Okay. All right. Does anyone have  
4 any questions for the witnesses? For the -- Mr. Flanigan, I'll  
5 get to you. Sorry.

6 MR. FLANIGAN: Okay. Cool.

7 CHAIRPERSON HILL: Does the Board have any questions for  
8 the witnesses? Okay.

9 Mr. Flanigan, I'm going to go ahead. Normally, again,  
10 you get your three minutes of testimony and it's not necessarily  
11 an interactive unless you have a question for us. What do you  
12 have -- what would you like to say?

13 MR. FLANIGAN: Well, no. It's just a comment. You  
14 know, the ANC meetings, I have yet to see them shoot down a  
15 proposal. I go to these things as much as I can, and it doesn't  
16 seem like a very useful tool. I think the letters, I thought that  
17 was a much more useful way and obviously this interaction we're  
18 having today, but I can tell you from the ANC meetings that I've  
19 been to, the virtual ones, the regular ones, I've yet to see them  
20 shoot down a proposal.

21 That's just been what I've observed. Maybe I missed the  
22 ones they have, but there was one. Not this most recent one, but  
23 the one before that. I just couldn't make the last one. So in  
24 any case, just FYI. So here I am, letters and that will do a much  
25 better way of voicing our opinions of this project.

1 CHAIRPERSON HILL: I understand. Mr. Flanigan, I've  
2 been doing this now for five years and the ANC shoot down  
3 proposals, just to let you know.

4 MR. FLANIGAN: Okay.

5 CHAIRPERSON HILL: They might not be shooting down this  
6 one and I guess the reason why they're not, and I don't want to  
7 use the -- they just, "they," the ANC, is supposed to do what  
8 we're doing, is look at the Regulations and see whether or not the  
9 project meets the standard for which to grant. It's not something  
10 that we decide like we like the project, we don't like the  
11 project.

12 We look at whether or not they fit within the  
13 Regulations or the scope of what's being asked for and then we  
14 have to determine. And the ANCs actually, they have a little bit  
15 more flexibility in terms of -- they actually sometimes are like,  
16 "We don't like the project," and they don't even -- aren't --  
17 well, I shouldn't speak in that way, but they do vote against  
18 things is what I'm just trying to clarify, but I understand what  
19 you're speaking to.

20 All right. If no one has any other questions for the  
21 witnesses, does -- Ms. Share, do you have any questions for the  
22 witnesses? I can't hear you, Ms. Share.

23 MR. LANDIS: You're muted.

24 CHAIRPERSON HILL: Ms. Share, I think you're still on  
25 mute.

1 MS. SHARE: Oh. Okay. Sorry. So no, first of all, I  
2 want to thank the witnesses for their time, for coming today and  
3 we actually took a long time with -- me, myself, and Ethan --

4 CHAIRPERSON HILL: Ms. Share? Ms. Share? Ms. Share?  
5 Ms. Share, I'm going to just cut you off. Do you have any  
6 questions?

7 MS. SHARE: No.

8 CHAIRPERSON HILL: Okay.

9 MS. SHARE: I don't have any questions, but --

10 CHAIRPERSON HILL: All right.

11 MS. SHARE: -- I believe we --

12 CHAIRPERSON HILL: Okay.

13 MS. SHARE: -- answered their -- a little bit of their  
14 concerns in a letter --

15 CHAIRPERSON HILL: Okay.

16 MS. SHARE: -- that we also posted on the website here.  
17 Sorry.

18 CHAIRPERSON HILL: Okay. All right. That's all right.  
19 Let me see. Hold on. Give me a second. Okay. All right.

20 Okay. Mr. Young, then could you please excuse the  
21 witnesses?

22 Okay. Let's see. All right. Mr. Landis, so this  
23 application is different than the other one.

24 All right. So does the Board have any final questions  
25 for anybody? And if so, please raise your hand.

1           Ms. Share, do you have any statements that you'd like to  
2 add at the end?

3           MS. SHARE: Yeah. Towards the end I would like to say  
4 that we are very conscious about the neighborhood concerns  
5 regarding construction work and I believe that both applicants for  
6 this application and the next one have provided their contact  
7 information for anything during construction that they are willing  
8 to address. Construction can be disruptive, we understand that,  
9 but they are willing to work with the neighbors. They want to be  
10 good neighbors. They want to work with them and have, you know,  
11 good relations and hopefully this project will not be disruptive  
12 and try to solve any problems that arise during construction.

13           And other than that, I mean, I think as far as the  
14 Regulations, we are in conformance with all Zoning Regulations.  
15 This is RF-1 and with regard to density, this is medium density.  
16 So I understand the concerns, but we are working within the Zoning  
17 Regulations and everything we're doing, zoning -- it's the dormers  
18 that we are asking, and we believe the dormers do not have any  
19 negative impact on the neighborhood.

20           CHAIRPERSON HILL: Okay. Ms. Thomas, I'll ask you a  
21 question again. There was something about the chimney. Do you  
22 know anything about that?

23           MR. LANDIS: Could I speak to that?

24           MR. THOMAS: (Audio interference).

25           CHAIRPERSON HILL: One second, Mr. Landis, and then you

1 can.

2 MS. THOMAS: The chimney would be regulated by the  
3 Building Code. It should -- any issues with the chimney would be  
4 regulated by the Building Code. The text amendment of 1921  
5 removed any reference to chimneys. So as far as the zoning goes,  
6 it's not in the regulations.

7 CHAIRPERSON HILL: All right.

8 Mr. Landis, you had a comment?

9 MR. LANDIS: Yes. Ms. Phoenix, we have tried to  
10 communicate with her, and I apologize, demolition is a messy job,  
11 but we have -- we've completed that stage. There has been really  
12 no work at the house for a couple weeks at this point because  
13 we're waiting for our final building permit, but we told her that  
14 we would definitely -- that the chimney that's up there now, it's  
15 an old brick chimney. It's in very poor shape and that it would  
16 (audio interference).

17 CHAIRPERSON HILL: Mr. Landis, you kind of chunked out  
18 there for me. Mr. Landis, can you hear me?

19 COMMISSIONER HOOD: I don't.

20 CHAIRPERSON HILL: I think we lost Mr. Landis.

21 COMMISSIONER HOOD: He's going to have to reboot and  
22 come back on.

23 CHAIRPERSON HILL: Mr. Landis, you might have to, as  
24 Chairman Hood just mentioned, turn your computer off. I'm sorry.  
25 Leave and come back is what Chairman Hood was suggesting. Or Ms.

1 Share, can you try to reach him by phone?

2 MS. SHARE: I am actually, right now.

3 CHAIRPERSON HILL: Okay. Ms. --

4 MS. SHARE: Okay. Sorry. Yes, he just texted me that  
5 his internet disappeared, so he can't come back.

6 CHAIRPERSON HILL: That's okay, Ms. Share. I think --

7 MS. SHARE: But I think he (audio interference) he  
8 wanted to say.

9 CHAIRPERSON HILL: I think we got the gist of the  
10 testimony. All right. Okay. I'm going to go ahead and close the  
11 hearing.

12 Mr. Young, if you could please excuse everyone from the  
13 hearing room.

14 CHAIRPERSON HILL: All right. Are my Board members with  
15 me? Ms. John, are you there?

16 VICE CHAIR JOHN: I'm here, Mr. Chairman, but I am not  
17 on this case, so you should --

18 CHAIRPERSON HILL: Oh. Oh, that's right. I'm sorry.

19 VICE CHAIR JOHN: Yeah.

20 CHAIRPERSON HILL: You recused yourself from these last  
21 two cases. Okay. Great. Thank you. I forgot about that.

22 VICE CHAIR JOHN: Thank you.

23 CHAIRPERSON HILL: All right. Sure. Certainly.

24 All right. Mr. Smith, Chairman Hood, are you guys ready  
25 to talk about this? And if so, Mr. Smith, let's start with you

1 | because -- we're going to go with you if that's all right.

2 |           MEMBER SMITH: Okay. So I would just reiterate the  
3 | question before us is regarding the dormers and I understand that  
4 | many of the -- well, many of the residents here and I would like  
5 | to thank many of the residents of the surrounding properties  
6 | coming down to testify regarding their concerns about this  
7 | particular case. But again, the request before us is not  
8 | regarding density.

9 |           The number of units that the applicant is proposing to  
10 | put into this property is by-right for the zone. The applicant  
11 | can decide not to put on a third floor onto this property and can  
12 | slice and dice the existing -- within the existing footprint to  
13 | get the by-right and convert the units within the property, so  
14 | that is not the request before us.

15 |           The request before us is regarding a special exception  
16 | for the rooftop architectural requirements and I do believe that  
17 | the applicant has demonstrated that it does meet the necessary  
18 | requirements to grant this relief. I do believe that as designed  
19 | by the applicant in that they are preserving the existing faux  
20 | mansard roof, the proposed addition would be in line with the --  
21 | or would be in character with the surrounding properties. There  
22 | are some adjacent properties, one towards the end of the block to  
23 | the north and, of course, the property that we already cited at  
24 | the corner of Euclid that does have dormers.

25 |           So this proposed design would be in character with the

1 surrounding properties, so I would be in support of this special  
2 exception and I do give great weight to OP's staff report in which  
3 they also support this request.

4 CHAIRPERSON HILL: All right. Thank you, Mr. Smith.  
5 Chairman Hood, may I go last if you could go next?

6 COMMISSIONER HOOD: Sure, sure. Mr. Chairman, I don't  
7 have anything to add. I think Board Member Smith has elaborated a  
8 lot on the relief requested and what is before us. I think he has  
9 conveyed exactly what our relief is requested, I think, with  
10 regard to this case go to us approving this as requested.

11 Now, I understand what the community is saying. I  
12 understand some of the other issues which I think are bigger than  
13 just the dormers. But anyway, I think this -- the merits of this  
14 case reflect our approval, so I'll have to (audio interference),  
15 Mr. Chairman.

16 CHAIRPERSON HILL: Okay. Thank you. I guess I  
17 reiterate what Mr. Smith said and, however, I want to clarify  
18 again that -- and this is for -- I guess the reason why I also  
19 want to kind of go into this a little bit is because, you know, I  
20 appreciate the testimony that was given by the witnesses and that  
21 it is unfortunate that they didn't have an opportunity or somehow,  
22 they missed the ANC meeting that spoke to this project.

23 What we, the Board of Zoning Adjustment is tasked with  
24 is looking at the Regulations and determining whether or not the  
25 project fits within the Regulations that is before us and the

1 relief that they're requesting, again, are for those dormers.  
2 Like, they're not raising the height of the building. They're not  
3 changing the massing of the building. Their ability to turn this  
4 into a flat, that is by-right.

5 I mean, what they're asking for is those dormers and the  
6 dormers, whether or not it's really going to unduly, again,  
7 unduly, impact light, air, privacy of adjacent properties, I don't  
8 think that it will. I mean, I don't think that those dormers are  
9 going to impede light, air, privacy. I don't think that they're  
10 going to intrude on the visual character of the neighborhood  
11 either because there's other dormers that are similar if not --  
12 you know, they're not exact, but similar to the ones that are  
13 being proposed.

14 So I think that their meaning of the criteria for us to  
15 grant the special exception and so, again, as I mentioned, it's  
16 not whether we -- I mean, the issues that they're speaking of are  
17 something that's not within our purview in terms of the zoning and  
18 so it's not whether we like or don't like a project, it's whether  
19 or not they fit within the criteria. And I think that we, the  
20 Board of Zoning Adjustment, are supposed to give great weight to  
21 the Office of Planning's report as well as that as the ANC and  
22 both of them believe that they are also meeting the criteria to  
23 grant this application, so I'm also going to vote in approval of  
24 this.

25 So I'm going to make a motion to approve Application No.

1 20325 as captioned and read by the Secretary and ask for a second,  
2 Mr. Smith.

3 MEMBER SMITH: Second.

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

6 MR. MOY: Yes. Thank you, Mr. Chairman. When I call  
7 your name, if you would please respond with a yes or a no to the  
8 motion made by Chairman Hill to approve the application for the  
9 relief requested. Seconding the motion is Mr. Smith. Zoning  
10 Commission Chair, Anthony Hood?

11 COMMISSIONER HOOD: Yes.

12 MR. MOY: Mr. Smith?

13 MEMBER SMITH: Yes.

14 MR. MOY: Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MR. MOY: And we have one seat vacant and we have one  
17 member not participating, so staff would call the vote as 3 to 0  
18 to 2. This is on the motion of Chairman Hill to approve the  
19 application for the relief requested. Motion seconded by Mr.  
20 Smith. Also in support of the motion, Zoning Commission Chair,  
21 Anthony Hood. We have a seat vacant. Ms. John is not  
22 participating. Again, the vote count is 3 to 0 to 2. Motion  
23 passes, sir.

24 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. Mr. Moy,  
25 when you get a chance, you can call our next case.

1 MR. MOY: That would be Case Application No. 20326 of  
2 Spencer Allin. That's spelled A-L-L-I-N. Captioned and  
3 advertised for a special exception under Subtitle E, Section 206.2  
4 from the rooftop architectural element requirement, Subtitle E,  
5 Section 206.1(a). This would add two dormers on a new third-story  
6 addition and add a second dwelling unit to an existing attached  
7 principal dwelling unit, RF-1 Zone, at premises 2613 13th Street,  
8 Northwest, Square 2862, Lot 71.

9 CHAIRPERSON HILL: Okay. Great. Ms. Share, could you  
10 please introduce yourself for the record?

11 MS. SHARE: Yes. My name is Tahani Share from Landis  
12 Architects/Builders. I'm representing Spencer Allin, the owner of  
13 the property at 2613 13th Street.

14 CHAIRPERSON HILL: Okay. Are you going to be the only  
15 person today for this application?

16 MS. SHARE: Spencer is also with me. Mr. Allin --

17 MR. ALLIN: Hey, good afternoon --

18 MS. SHARE: He's in --

19 MR. ALLIN: -- or good morning. Can you guys --

20 MS. SHARE: Yeah.

21 MR. ALLIN: -- hear me?

22 MS. SHARE: Yes, we can hear you.

23 CHAIRPERSON HILL: Yes, we can hear you.

24 MS. SHARE: Yeah.

25 MR. ALLIN: Gotcha. Sorry, I'm unable to be in front of

1 a computer for the call.

2 CHAIRPERSON HILL: Could you please --

3 MR. ALLIN: (Audio interference).

4 CHAIRPERSON HILL: -- introduce yourself for the record?

5 MR. ALLIN: I'm Spencer Allin, owner of 2613 13th  
6 Street, Northwest.

7 CHAIRPERSON HILL: Okay. All right. Ms. Share, so  
8 again you need the same waiver; is that correct, for this one?

9 MS. SHARE: That is correct.

10 CHAIRPERSON HILL: And could you explain again for this  
11 one why -- I mean, it's -- could you please explain why you need  
12 the waiver?

13 MS. SHARE: Yes. So we are requesting a special  
14 exception from Subtitle E, Section 206.2 from the rooftop  
15 architectural element requirements of Subtitle E, Section 206.1(a)  
16 to add two dormers for a new third-story addition.

17 CHAIRPERSON HILL: No, I'm sorry. Why do you need the  
18 waiver again? Can you explain that?

19 MS. SHARE: So in the course of adding a third-story,  
20 two windows are needed and in a mansard roof, two dormers are  
21 needed to be added to the mansard third story. Was that your  
22 question?

23 CHAIRPERSON HILL: You were telling me about the text  
24 amendment. There's a waiver for the --

25 MS. SHARE: That's correct. I'm sorry. It's again, the

1 same one from the amendment to the -- in the Zoning Code recently  
2 adopted by the Office of Zoning, recommended by the Office of  
3 Planning.

4 CHAIRPERSON HILL: Okay. All right. So as in the  
5 previous case with 20325, and I'm speaking to my fellow Board  
6 members here, I don't have any issue with the waiver that's being  
7 requested. Do either of you have any problems with the waiver?  
8 And if so, please raise your hand. Okay. I don't see any  
9 problems with it, so we're going to go ahead and approve the  
10 waiver request for the filing deadline.

11 Again, for the record, Ms. John is not participating on  
12 this.

13 Ms. Share, if you could go ahead and present your case  
14 to us again?

15 MS. SHARE: All right. Thank you. Thank you. So  
16 again, my name is Tahani Share from Landis Architects/Builders. I  
17 am representing Spencer Allin, the owner of the property at 2613  
18 13th Street. We are requesting a special exception from Subtitle  
19 E, Section 206.2 from rooftop architectural element requirements  
20 of Subtitle E, Section 206.1(a) to add two dormers to a new third-  
21 story addition.

22 Mr. Young, do you have the architectural drawings?  
23 Okay. So the subject property is located on Square 2862, Lot 71.  
24 It's an interior unit that has a lot -- so it's actually the  
25 property over here and it has a lot area of 1,900 square feet and

1 located in RF-1 Zone. The scope of the project is renovation and  
2 an addition, and a third story addition, and converting to two  
3 flats which are all confirming with all Zoning requirements in  
4 terms of lot coverage, height, and setback.

5 The special exception request is mainly for the third-  
6 floor addition to add windows. In the existing mansard roof, two  
7 dormers are needed. Again, so this is the existing without  
8 dormers. Can we go next? Front elevation. This is the existing  
9 and as you can see, the proposed would only add (audio  
10 interference) the two dormers. Next?

11 These are the plans. Cellar or basement plan, the  
12 first-floor plan, second, those are existing; and we're adding a  
13 third story and those are the two dormers in the front. Next  
14 please? So this is a section that shows the existing mansard roof  
15 with the addition at the back and then the mansard roof is here.  
16 Next?

17 More views from 13th Street which shows this is actually  
18 the property that was the dormers, and it is -- from this side it  
19 is on 13th Street and from the other side it's on Euclid, but this  
20 is the elevation from 13th Street.

21 So in adding the two dormers, we believe that we meet  
22 the criteria set for special exceptions. The new dormers will not  
23 have a negative impact on the adjacent neighbor's right of light,  
24 air, and privacy. They will not have a negative impact on the use  
25 and enjoyment of neighboring properties and with the way the

1 dormers are designed, they will not visually intrude on the  
2 character and scale of the surrounding structures. They will, in  
3 fact, match other dormers that are currently existing on similar  
4 properties in the area and on the -- on that row.

5 Also note that there will be no change to the existing  
6 mansard roof in terms of its height or slope. It will be laying  
7 as one plane connecting the four properties together.

8 We met with the ANC. We went first to the Zoning and  
9 Planning and Development Committee and they voted in support of  
10 the application on November 16th and then the full ANC voted to  
11 support the recommendation on December 3rd. I can stop here and  
12 let me know, please, if you have any questions.

13 CHAIRPERSON HILL: Okay. Does anybody have any  
14 questions for the applicant and if so, please raise your hand?

15 All right. I'm going to turn to the Office of Planning.

16 CHAIRPERSON HILL: Oh, I'm sorry. Mr. Smith?

17 MEMBER SMITH: I just have a quick clarification and we  
18 can go back to the -- just the elevation. So the image on the  
19 first page, I just need a clarification for myself. So this image  
20 shown here with the property with a second-floor bay window --

21 MS. SHARE: Right.

22 MEMBER SMITH: -- on the first page it looks like what's  
23 shown as a property without bay window.

24 MS. SHARE: Can we go back?

25 MEMBER SMITH: I just want to make --

1 MS. SHARE: Yeah. Can we go back and look at it?

2 MEMBER SMITH: I just want to make sure we have the  
3 right property.

4 MS. SHARE: Yeah. No, it's (audio interference).

5 MEMBER SMITH: So is the actual property, the property  
6 on the far left of that image?

7 MS. SHARE: Yeah, it's the left. Right, yes and it  
8 currently has existing bay windows, correct.

9 MEMBER SMITH: Okay. Okay. I just wanted to --

10 MS. SHARE: Yeah, yeah.

11 MEMBER SMITH: Just for clarification.

12 MS. SHARE: Right.

13 MEMBER SMITH: So that's all I had, Mr. Chairman.

14 CHAIRPERSON HILL: All right, Mr. Smith. Okay. From  
15 the Office of Planning, please?

16 MS. MYERS: Hi. Crystal Myers with the Office of  
17 Planning. The Office of Planning is recommending approval. I do  
18 want to note that in our report we refer to an earlier version of  
19 the plans. After we finalized the report, the applicant notified  
20 us about an updated version of the plans. It was a very small  
21 change. Actually, it was about the bay windows. It was just a  
22 correction, and I took a look at it, no problems, so the Office of  
23 Planning continues to be supportive and stands on the record of  
24 the staff report.

25 CHAIRPERSON HILL: Okay. All right.

1 Does the Board have any questions for the Office of  
2 Planning?

3 Does the applicant have any questions for the Office of  
4 Planning?

5 MS. SHARE: No, thank you. I would like to thank them,  
6 actually both -- for both cases. They did a really good job in  
7 follow-up, and emailing us, and keeping us in the loop. Thank  
8 you.

9 CHAIRPERSON HILL: Okay. Thank you.

10 Mr. Young, do you have anyone here wishing to testify?

11 MR. YOUNG: Yes, we have two people.

12 CHAIRPERSON HILL: Okay. I see Mr. Flanigan or at least  
13 I see his name.

14 MR. YOUNG: Yeah. We also had Philip Robey, but I -- it  
15 looks like he's dropped off.

16 CHAIRPERSON HILL: All right. Mr. Flanigan, can you  
17 hear me? You might be on mute, Mr. Flanigan. Mr. Flanigan? I  
18 don't know why we're having so much trouble. I mean, are we  
19 having trouble with Webex today?

20 MR. YOUNG: I think he might have dropped off as well.  
21 I mean, he's on here, but it doesn't seem like he has his mic or  
22 anything on anymore.

23 CHAIRPERSON HILL: Okay. So you don't have anyone on?

24 MR. YOUNG: No, it was just Mr. Flanigan and Mr. Robey  
25 again. Those were the only (audio interference) --

1 CHAIRPERSON HILL: And neither --

2 MR. YOUNG: -- on my list.

3 CHAIRPERSON HILL: And neither are there now?

4 MR. YOUNG: Correct.

5 CHAIRPERSON HILL: Okay. All right. So you can go  
6 ahead then and excuse -- well, I guess you don't have any  
7 witnesses, so just, if you could, bring us back to the applicant.  
8 Thank you.

9 Ms. Share, do you have any comments?

10 MS. SHARE: No, thank you. No.

11 CHAIRPERSON HILL: Okay. All right. I guess, is the  
12 owner there?

13 MS. SHARE: Spencer, are you in? Maybe he also dropped  
14 out.

15 MR. ALLIN: Can you not hear me?

16 CHAIRPERSON HILL: Yes, we can hear you.

17 MS. SHARE: Yes.

18 MR. ALLIN: Oh. Okay. Good, sorry.

19 CHAIRPERSON HILL: All right. So Mr. Spencer (sic), did  
20 you watch the previous case?

21 MR. ALLIN: I haven't been able to be in front of a  
22 computer. I've only been listening.

23 CHAIRPERSON HILL: Did you hear the previous case?

24 MR. ALLIN: I did hear all the previous -- correct.  
25 Yes, I did.

1           CHAIRPERSON HILL: Okay. So, Mr. Spencer, as you know  
2 now there seems to be some opposition. I mean, I see those  
3 letters of support in the case, that there was opposition to your  
4 project in the neighborhood and so if this were to pass, I really  
5 would encourage you to work with, in particular, just  
6 communication. Mr. Spencer, can you hear me?

7           MR. ALLIN: Yes, understood. I hear you.

8           CHAIRPERSON HILL: I would encourage you to work, at  
9 least, you know, very much on communication with those people that  
10 were in opposition as well as the other people in the neighborhood  
11 there concerning construction and doing your best to be a good  
12 neighbor as this project moves forward if it were to move forward.  
13 Do you understand what I'm asking of you?

14          MR. ALLIN: Yes, absolutely. Understood.

15          CHAIRPERSON HILL: Okay. All right. Ms. Share, also, I  
16 guess --

17          COMMISSIONER HOOD: (Audio interference).

18          CHAIRPERSON HILL: -- you're going to be working -- oh,  
19 Mr. Hood, you have something to say?

20          COMMISSIONER HOOD: Yeah. I just want to echo your  
21 comments, Mr. Chairman, because it is (audio interference) and I  
22 understand the residents' concerns, so I want to also second what  
23 you said, and I think it's very important that he work very  
24 closely to them because this is a tight area. There's already a  
25 lot of impact up there, so I want to make sure that I echo what

1 | you said to the gentleman. Thank you, Mr. Chairman.

2 | CHAIRPERSON HILL: Mr. Spencer, did you hear Chairman  
3 | Hood's comments?

4 | MR. ALLIN: Yes. Yes, I did, and I follow and  
5 | understand.

6 | CHAIRPERSON HILL: Okay. So you're assuring us you're  
7 | going to be a good neighbor; is that what you're saying?

8 | MR. ALLIN: Correct. We --

9 | CHAIRPERSON HILL: All right.

10 | MR. ALLIN: We've tried to reach out. We've provided  
11 | phone numbers and we'll continue to try to communicate and do the  
12 | best we can with the adjacent neighbors.

13 | CHAIRPERSON HILL: Okay. Ms. Share, are you going to be  
14 | architect through this project?

15 | MS. SHARE: Correct, yes.

16 | CHAIRPERSON HILL: Okay. Please, again, if you can do  
17 | your best to, you know, keep the community apprised as well as  
18 | work with them during construction if this were to pass. Okay?

19 | MS. SHARE: Yes. Well, this is not just -- I just want  
20 | to comment and say this is just not, you know, my understanding of  
21 | this. I am -- so Ethan Landis is the co-owner of Landis  
22 | Construction, the company that I work with, and we honestly pride  
23 | ourselves with our communication with -- on all construction  
24 | projects whether we own them or not that we keep, you know, in  
25 | contact with the neighbors and try to be as, you know, least

1 disruptive as possible and communicate effectively with them and  
2 we promise that we will continue to do this on these specific two  
3 projects.

4 CHAIRPERSON HILL: Okay. Great. All right, Ms. Share.  
5 Thank you.

6 MS. SHARE: Thank you.

7 CHAIRPERSON HILL: All right. I'm going to go ahead and  
8 excuse -- I'm going to go ahead and close the hearing and excuse  
9 everyone from the room.

10 Okay. So I mean, as is the case with the last case and  
11 I wanted to hear from you guys as well, I believe that what is  
12 before us again is the dormers and -- I mean, I know it is. It's  
13 the dormers. It's the same as the previous case in that the  
14 massing isn't being changed. They're allowed to do the second  
15 unit by right. It's whether or not the dormers are going to meet  
16 the criteria for us to grant the relief requested.

17 I believe that they are meeting the relief requested. I  
18 mean, they're not unduly impacting light, air, or privacy.  
19 They're just two dormers. Are they visually intruding on the  
20 character of the neighborhood? No, I don't believe so. I think  
21 that they, you know, look similar to any of the other dormers.  
22 They're not exactly the same, but they look similar so we, the  
23 Board, don't have an opportunity or option to do anything other  
24 than look at what is before us and that is the dormers and whether  
25 they meet the standard for us to grant the relief requested.

1           The Office of Planning who we also give great weight to  
2 has given their recommendation as to how they're meeting the  
3 standard as has the ANC. And so I feel that, you know, I agree  
4 that they, the applicants, put forward an application that I can  
5 agree with in terms of how they're meeting the standard to approve  
6 the relief requesting so I'm going to be voting in favor.

7           Mr. Hood, I'm going to start with you. Do you have  
8 anything to add?

9           COMMISSIONER HOOD: I don't have anything to add on this  
10 case, but I will say there are cases though, Mr. Chairman, where  
11 we have relief requested and the outcome is not always what we  
12 think it should be. So I -- to me, I'm characterizing all this in  
13 my mind of how we actually get there, but this is one of those  
14 cases where I think the relief will get the outcome and I don't  
15 think there are any impacts or anything of that nature to the  
16 community. While I know they're upset about other issues, but  
17 there are some cases because I want to make sure I expand on what  
18 you said. There are some cases where the only things that the  
19 Board can look at where there are some detrimental impacts and  
20 you'll probably see some eventually in the very near future; so  
21 I'll leave it at that, and I'll be voting in support of this --  
22 this case which I think warrants our approval.

23           CHAIRPERSON HILL: All right. Thank you, Chairman Hood.

24           Mr. Smith?

25           MEMBER SMITH: Yes, Mr. Chairman. I don't have anything

1 else to add on to this case. I would be in support of the special  
2 exception. I do believe its meeting the standard (audio  
3 interference).

4 CHAIRPERSON HILL: Okay. I'm going to make a motion  
5 then to approve Application No. 20326 as captioned and read by the  
6 Secretary and ask for a second, Mr. Smith.

7 MEMBER SMITH: Second.

8 CHAIRPERSON HILL: The motion has been made and  
9 seconded, Mr. Moy. Could you please take a roll call vote?

10 MR. MOY: Thank you, Mr. Chairman. So when I call your  
11 name, if you would please respond with a yes, or a no, or abstain,  
12 to the motion made by Chairman Hill to approve the application for  
13 the relief requested. The motion is seconded by Mr. Smith.  
14 Zoning Commission Chair, Anthony Hood?

15 COMMISSIONER HOOD: Yes.

16 MR. MOY: Mr. Smith?

17 MEMBER SMITH: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MR. MOY: We have a Board seat vacant and a Board member  
21 not participating. Staff would record the vote as 3 to 0 to 2.  
22 This is on the motion of Chairman Hill to grant the application  
23 seconded by Mr. Smith. Also in support, Zoning Commission Chair  
24 Anthony Hood. Again, the vote count is 3 to 0 to 2. The motion  
25 carries.

1 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

2 All right. Do you guys think we -- let's do one more  
3 case. Are you guys okay with one more case and then we'll take a  
4 break? Okay. All right.

5 Ms. John, are you joining us again?

6 VICE CHAIR JOHN: Yes, Mr. Chairman. I'm here.

7 CHAIRPERSON HILL: Okay. Great. Wonderful. Thank you.

8 All right. Mr. Moy, you can go ahead and call our next  
9 case.

10 MR. MOY: Okay. So this would be Case No. 20327 of 1214  
11 Fairmont Street, N.W., LLC. Captioned and advertised for a  
12 special exception under the residential conversion requirements,  
13 Subtitle U 320.2 to construct a third story and a three-story rear  
14 addition and convert the existing principal dwelling unit into a  
15 three-unit apartment house in the RF-1 Zone. This is at premises  
16 1214 Fairmont Street, Northwest, Square 2862, Lot 82.

17 CHAIRPERSON HILL: All right. Ms. Wilson, are you --  
18 could you introduce yourself?

19 MS. WILSON: Alex Wilson from Sullivan & Barros on  
20 behalf of the applicant.

21 CHAIRPERSON HILL: All right. Ms. Wilson, who is with  
22 you here today?

23 MS. WILSON: I'm here with Matt Scorzafava who is a  
24 representative of the owner and Adam Crain, architect, and Mr.  
25 Sullivan is also here, but I'll be presenting.

1 CHAIRPERSON HILL: Who is the architect?

2 MS. WILSON: Adam Crain.

3 CHAIRPERSON HILL: I don't see -- oh, I see him. Okay.  
4 Okay. All right. Ms. Wilson, if you could go ahead and present  
5 your case to us as to how you believe you're meeting the standards  
6 for us to grant the relief requested. I'm going to put 15 minutes  
7 on the clock there and you can begin whenever you -- oh, Mr. Moy,  
8 did you have a question? No. And you can begin whenever you  
9 like.

10 MS. WILSON: Great. Thank you. We do have a very brief  
11 presentation if Mr. Young could pull it up. Could you please go  
12 to page 2? Thank you. We are requesting relief to add a third  
13 unit pursuant to U 320.2. The property is currently improved with  
14 a three-story building and the rear addition has already been  
15 permitted by DCRA and this project has been under active  
16 construction in accordance with that permit. So there has been  
17 significant interaction with the adjacent neighbors already as a  
18 result of that and we have had no objections from those neighbors,  
19 and I believe the permit approval was for two units which is  
20 permitted as a matter of right, so our only request today is for a  
21 third unit pursuant to U 320.2. Next slide, please? Thank you.

22 The application safely meets the requirements of U 320.2  
23 as there is an existing building on the property. The applicant  
24 is proposing three dwelling units and the property has at least  
25 900 square feet of land area per unit. The general special

1 exception criteria are met in this case as the Zoning Regulations  
2 permit conversions to three units so long as the requirements of U  
3 320.2 are met, which they are in this case, and the difference  
4 between two units which is permitted as a matter of right and  
5 three units is not enough to create an adverse impact to the use  
6 of neighboring properties. Next slide, please?

7 I would add we made some changes to the original plans  
8 based on feedback from the ANC. There was a ZPD meeting which I  
9 believe nearby neighbors attended and the issues raised at the ANC  
10 meeting regarding trash location, roof deck location and cellar  
11 entry were promptly addressed within days of the first ANC meeting  
12 even though the building had already been permitted. This speaks  
13 to the owner's desire to be a good neighbor. And the ANC was  
14 pleased with those changes as evidenced by the unanimous  
15 resolution in support. The applicant sent packets to the directly  
16 adjacent neighbors and have been in contact with them and we've  
17 had no objection from those neighbors.

18 The Office of Planning is recommending approval and the  
19 addition itself is permitted as a matter of right and the request  
20 for relief safely meets the special exception requirements for the  
21 conversion. Thank you.

22 CHAIRPERSON HILL: Okay. Mr. Scorzafava, are you there?

23 MR. SCORZAFAVA: Yes, I'm here.

24 CHAIRPERSON HILL: Can you -- do you -- can you turn on  
25 your camera for a moment? Is that possible?

1 MR. SCORZAFAVA: Yeah. Sorry, yes. Can you see me  
2 okay?

3 CHAIRPERSON HILL: Yeah, I can see you. I'm sorry, Mr.  
4 Scorzafava. So I just wanted to get a name with the face. I've  
5 seen -- you know, I've seen you before and so I just -- at least  
6 the name I've seen you before. You look -- you look kind of --

7 Mr. SCORZAFAVA: I believe we had a hearing last week.

8 CHAIRPERSON HILL: Oh, that's what it was. Okay. All  
9 right. Okay. Oh, and Mr. Crain also I've seen you before. Okay.  
10 All right. Does the Board have any questions for the applicant?  
11 No? All right. I'm going to turn to the Office of Planning.

12 MS. ELLIOTT: Good morning again, Mr. Chairman, members  
13 of the Board. I am Brandice Elliott representing the Office of  
14 Planning for BZA Case 20327. This is a special exception request  
15 for a conversion. There are additions proposed, but all of those  
16 additions comply with the development standards and the Zoning  
17 Regulations. So the height complies. The third-story addition  
18 would be setback 6 feet from the front building facade, so it  
19 doesn't interfere with any existing architectural features.

20 The rear addition is no more than 10 feet beyond  
21 adjacent properties, so it complies with all development standards  
22 and the Office of Planning is recommending approval of the request  
23 -- the special exception request for the conversion. Happy to  
24 take any questions.

25 CHAIRPERSON HILL: Okay. Does the Board have any

1 | questions for the Office of Planning? No? Okay.

2 | Does the applicant have any questions of the Office of  
3 | Planning?

4 | MS. WILSON: No, thank you.

5 | CHAIRPERSON HILL: Mr. Young, is there anyone here to  
6 | testify?

7 | MR. YOUNG: We do. I will see if Mr. Flanigan is back  
8 | on.

9 | CHAIRPERSON HILL: So there's one. Is there someone  
10 | else, Mr. Young?

11 | MR. YOUNG: We had Mr. Flanigan and Mr. Robey, but I  
12 | still don't see Mr. Robey back on.

13 | CHAIRPERSON HILL: Okay. Give me a second here. Okay.  
14 | Mr. Flanigan, can you hear me? I can't hear you. Sorry. No.

15 | MR. FLANIGAN: How about now?

16 | CHAIRPERSON HILL: Now, I can hear you.

17 | MR. FLANIGAN: All right. Well, it's the same deal.  
18 | You know, I just want to make sure we don't have a monstrosity.  
19 | That's it. You know, like at 1230 Fairmont Street which has got  
20 | this huge pop-up that looks terrible. So I just want to make sure  
21 | that it's, you know, the (audio interference) looks good, doesn't  
22 | mess up the neighborhood. I mean, I just want to make sure it's a  
23 | good job. That's the whole point of this, me showing up here and  
24 | Phil showing up here. We just want to make sure things are done,  
25 | you know, not pop-ups and just done kind of out of -- I'm going to

1 say out of place with the neighborhood's architecture. The place  
2 is -- if you're around Columbia Heights around, it's beautiful  
3 houses and unfortunate pop-ups definitely do ruin the  
4 architecture. So yeah, that's -- I sent you a letter and that's  
5 the main reason I'm here. Did you get that letter I sent to you?

6 CHAIRPERSON HILL: Yes, we did.

7 MR. FLANIGAN: Okay. Well, that summarizes all my  
8 points. You know, there's obviously a big, big one on 1248  
9 Fairmont Street. I don't know how that happened. We call it the  
10 doll house. It's huge. So I just want to make sure we don't end  
11 up with a monstrosity that is done poorly. So that's -- I prefer  
12 not the pop-up. I prefer they keep the house as it is, but, you  
13 know, and gut it and do it -- you know, you can do it that way,  
14 but I guess that's your call obviously and it's probably not going  
15 to happen.

16 CHAIRPERSON HILL: No, that's all right. So Mr.  
17 Flanigan, before -- you did introduce yourself at the beginning  
18 for the record. Could you please --

19 MR. FLANIGAN: I live on --

20 CHAIRPERSON HILL: -- do so?

21 MR. FLANIGAN: I live on 1300 Fairmont Street. William  
22 Flanigan. 1300 Fairmont Street.

23 CHAIRPERSON HILL: Okay. Great. Okay. Mr. Flanigan,  
24 yeah, and I appreciate that you've come -- I appreciate that  
25 you've taken the time out of your day and Chairman Hood has a

1 question in a minute and, you know, I know that you've had a  
2 couple of projects already that you've spoken to. Did you have an  
3 -- and I don't know, it's all right if you haven't, but did you  
4 have an opportunity to go to the ANC meeting?

5 MR. FLANIGAN: You know, actually I did go to the ANC  
6 meeting and it was already voted on, at least the one I saw, the  
7 one on November 5th, a Thursday. It was approved, so. I think it  
8 was on a -- or was it October? One of them. Whatever. It was  
9 approved, I know that, and it was done. So yeah, I think I did go  
10 to that ANC meeting because I remember this property popping up.

11 So how does that work when you're trying to fight it at  
12 an ANC level? It just seems like it just gets approved and that's  
13 it, it's a done deal.

14 CHAIRPERSON HILL: Yeah, Mr. Flanigan. I mean, this --  
15 again, to kind of speak to what you spoke to in the previous  
16 hearing, I mean, the ANCs, they don't just approve things and  
17 often times they, I don't want to say have more flexibility than  
18 us, but they, you know, bring in to the concerns of the  
19 neighborhood that sometimes are outside the scope of the  
20 regulations.

21 So they might even have a little bit more flexibility to  
22 oppose something and so -- but the ANC is where you as, you know,  
23 a community member has the opportunity at a really grassroots  
24 level to give your voice to your neighbors that have run for their  
25 Commission and then the ANC is who gives us our report who then we

1 have to give great weight towards. And so as far as the massing  
2 of this property, they're doing everything within the Regulations.  
3 Like, have you seen the drawings yet?

4 MR. FLANIGAN: Yeah. Actually, I did. I did review it.  
5 Listen, I'm a rookie. This is my first one here, so I figured I'd  
6 learn something out of this, worst case, as far as how the whole  
7 process works. Yes, I've seen it. You know, I just -- like I  
8 said, I prefer not to have another sore (audio interference). I  
9 don't think I can make a -- that can make a difference. I'm just  
10 trying to voice my concerns on the neighborhood keeping its charm  
11 as far as the architecture of these houses which are gorgeous.

12 CHAIRPERSON HILL: Sure.

13 MR. FLANIGAN: So that's -- if they gut it, I'm all for  
14 it. You know, if they remodel, I'm all for it. I just want to  
15 make sure it just keeps the architecture. That's what got me down  
16 here 10 years ago. Well, this place is what it is now because of  
17 how beautiful the houses -- the architecture is spectacular around  
18 here. You know, so I didn't think -- you know, that's my main  
19 concern which is why I'm showing up here. It's probably not  
20 making a difference, but it's voicing my concerns and learning the  
21 process, you know.

22 CHAIRPERSON HILL: Sure.

23 Chairman Hood, you had a question?

24 COMMISSIONER HOOD: Yeah. Mr. Flanigan, we appreciate  
25 you coming down and providing testimony, but let me ask you.

1 | Where are you in relationship to the church? I think the house  
2 | that you were talking about is the one right across from the  
3 | church?

4 |           MR. FLANIGAN: I'm actually -- yeah, I'm on the Fairmont  
5 | side. So I guess I'm on the corner looking at the corner. So I'm  
6 | like -- if you look at -- I'm on the Fairmont side and to the left  
7 | the church would be. So I have a direct view of the church. I'm  
8 | the corner lot.

9 |           COMMISSIONER HOOD: So you look directly across your  
10 | house directly at the church?

11 |           MR. FLANIGAN: The church. Oh, actually I look directly  
12 | at 1248 Fairmont Street. If you go Google Maps --

13 |           COMMISSIONER HOOD: Okay.

14 |           MR. FLANIGAN: -- you can see.

15 |           COMMISSIONER HOOD: So --

16 |           MR. FLANIGAN: So, go ahead.

17 |           COMMISSIONER HOOD: So my question, in your letter you  
18 | talk about 1248. Is that the house on the corner?

19 |           MR. FLANIGAN: No, 1248 -- yeah, 1248. Yeah, the one on  
20 | (audio interference). Yes, that's the big house on the corner  
21 | that was done about three years ago. It's actually --

22 |           COMMISSIONER HOOD: So you --

23 |           MR. FLANIGAN: It's five units. It's not -- it's five  
24 | units.

25 |           COMMISSIONER HOOD: Right. So I don't think that was a

1 BZA case. So you are not thinking that you coming down here does  
2 not make a difference. It makes a big difference because I can  
3 tell you that 1248 also called into question for me to ask how did  
4 that get done. That goes to what I said earlier about the relief  
5 versus what the outcome is. We got a lot of comments on that  
6 property.

7           It's there now, but that's why we're trying -- we're  
8 going to eventually -- we're trying to figure this thing out  
9 because I know that raised a lot of eyebrows, that house across  
10 and I noticed you noted it in your submission and that's exactly  
11 what this Commission, and I'm sure others, are not trying to  
12 achieve. So anyway, it doesn't do anything now. It's there, but  
13 I appreciate you coming down to testify.

14           MR. FLANIGAN: It worked out. It worked out. You guys  
15 did a great -- it did work out. It's beautiful. It's a beautiful  
16 house. Thank God, it worked out. No, I -- but the one on 1230  
17 not so good and I'm not -- I have a, you know, a view on the top  
18 of my top floor and I think everybody has a sun deck, whatever you  
19 call it, and you see these ugly pop-ups and it's not the 1248  
20 Fairmont, it's the 1230 Fairmont that just -- I mean, I don't know  
21 what happened there. It's just this aluminum siding, whatever,  
22 and I'm trying to avoid that because everybody sees it whether --  
23 they're not on the street level, but people -- residents see that  
24 when they're up on top of their roof or their, you know, balcony,  
25 or whatever. It's an eyesore, you know. So --

1 COMMISSIONER HOOD: Okay.

2 MR. FLANIGAN: -- yeah. I mean --

3 COMMISSIONER HOOD: I get you.

4 MR. FLANIGAN: -- but you --

5 COMMISSIONER HOOD: I get you why --

6 MR. FLANIGAN: -- can see that that's where I'm at, you  
7 know, from the (audio interference).

8 COMMISSIONER HOOD: I get you. While you say it worked  
9 out, while you say it worked out, we have other neighbors that say  
10 something totally different so that's why we have to try to  
11 balance it. So, but I appreciate -- what I'm -- my point is --

12 MR. FLANIGAN: (Audio interference).

13 COMMISSIONER HOOD: -- I appreciate you coming down and  
14 giving us that information because those are things -- your  
15 testimony is not lost. That's my point. So thank you, Mr.  
16 Flanigan.

17 MR. FLANIGAN: Oh, no. I really appreciate this because  
18 I like to learn. You know, I'm in a position where I can learn  
19 now and honestly this is very educational. I mean, it's  
20 definitely worth my time, how it works and, you know, (audio  
21 interference) need my (audio interference) for. That's what I  
22 mean, working out. So anyways, yeah. I mean, yeah, so I sent my  
23 letter. I summarized it, so I guess I made my statement. I just  
24 wanted to make sure you guys got it because I never got a confirm  
25 on that too. But yeah, this has been very educational. I'm all

1 ears. This is very interesting how this whole process works, and  
2 I appreciate your work guys. I understand there's rules and the  
3 rules are the rules, you know. I get it.

4 COMMISSIONER HOOD: Thank you, Mr. Chairman.

5 CHAIRPERSON HILL: Thank you, Mr. Hood -- Chairman Hood.  
6 Mr. Flanigan, Mr. Hood is the Chairman of the Zoning Commission so  
7 he's the one who gets to help set the rules that we try to follow.

8 MR. FLANIGAN: Yeah, got it.

9 CHAIRPERSON HILL: All right. Let's see. Was there  
10 anyone else, Mr. Young?

11 MR. YOUNG: No, that was it.

12 CHAIRPERSON HILL: All right. Does anyone have any  
13 further questions from Mr. Flanigan?

14 Does the applicant have any questions for the witness?

15 MS. WILSON: No, thank you.

16 CHAIRPERSON HILL: All right. Mr. Flanigan, you have a  
17 good day.

18 MR. FLANIGAN: You, too. Thank you very much for your  
19 time. Bye-bye.

20 CHAIRPERSON HILL: Bye.

21 Mr. Young -- okay. Great.

22 Does the Board have any questions for the applicant?

23 Okay. All right. I'm going to ahead and close the hearing and  
24 the record.

25 Mr. Young, if you could excuse the applicant.

1           Since I've been talking a lot, I'm going to let somebody  
2 else start if that's all right. Who would like to start the  
3 deliberation? Mr. Smith, I'll start with you since, you know,  
4 you're helpful.

5           MEMBER SMITH: I don't know how helpful I am, but I  
6 appreciate the lovely comments.

7           So I would support the special exception. I do believe  
8 that the applicant has demonstrated that it meets the criteria for  
9 a special exception for a residential conversion. The criteria,  
10 A, the building to be converted or expanded is in existence on the  
11 property at the time which, of course, it is. C, there shall be a  
12 minimum of 900 square feet of land area for each existing and new  
13 dwelling unit. There will be about 951 square feet for each  
14 dwelling unit.

15           And I do believe that the proposed additions, the rear  
16 addition and also the third-floor addition is in keeping with the  
17 general purpose and intent of the Zoning Regulations and it  
18 doesn't have an adverse impact on the neighborhood and the  
19 surrounding properties because of the recessed nature of the  
20 third-floor addition. It's recessed back from the faux mansard  
21 roof so there would be very minimum visual intrusion along the  
22 street there.

23           And also, the rear addition is in keeping with the  
24 Regulations regarding additions on the rear. It is no more than  
25 10 feet from the rear of the adjacent property, so it has a very

1 minimum impact to the light and air of the surrounding properties.  
2 So I would be in support of the special exception regarding it  
3 because of it has a very minimum impact in my opinion.

4 CHAIRPERSON HILL: Okay. Thank you, Mr. Smith.

5 Chairman Hood?

6 COMMISSIONER HOOD: I don't have anything to add. I  
7 think the record supports this application for this one unit.

8 CHAIRPERSON HILL: Ms. John?

9 VICE CHAIR JOHN: I concur. The application is very  
10 straightforward, and the addition meets all of the developmental  
11 requirements and the only thing the applicant is here for is for  
12 the conversion under Section 320.2 and importantly, it meets the  
13 square-foot per unit requirements. It has 951 square feet. And I  
14 agree with the Office of Planning's report and give great weight  
15 to their analysis. I appreciate the witness testimony, but as you  
16 noticed Mr. Chairman, this is a matter of right and there do not  
17 seem to be any adverse impact on neighboring properties so I can  
18 support the application.

19 CHAIRPERSON HILL: All right. Thank you, Ms. John. All  
20 right. I'm going to make a motion to approve Application No.  
21 20327 as captioned and read by the Secretary and ask for a second,  
22 Ms. John.

23 VICE CHAIR JOHN: Second.

24 CHAIRPERSON HILL: The motion is made and seconded. All  
25 those in -- Mr. Moy, can you please take a roll call vote?

1           MR. MOY: Thank you, Mr. Chairman. So when I call your  
2 name, if you would please respond with a yes, or no, or abstain to  
3 the motion made by Chairman Hill to approve the application for  
4 the relief requested and the motion is seconded by Vice Chair  
5 John. Zoning Commission Chair, Anthony Hood?

6           COMMISSIONER HOOD: Yes.

7           MR. MOY: Mr. Smith?

8           MEMBER SMITH: Yes.

9           MR. MOY: Vice Chair John?

10          VICE CHAIR JOHN: Yes.

11          MR. MOY: Chairman Hill?

12          CHAIRPERSON HILL: Yes.

13          MR. MOY: And we have a Board seat vacant. Staff would  
14 record the vote as 4 to 0 to 1 and this is on the motion of  
15 Chairman Hill to approve the application, seconded by Vice Chair  
16 John. Also in support of the motion is Mr. Smith and Zoning  
17 Commission Chair Hood. Again, the motion carries by a vote of 4  
18 to 0 to 1.

19          CHAIRPERSON HILL: Okay. Great. Thank you.

20          Do you all want to take a little break, or you want to  
21 do another case? Nobody seems to care.

22          VICE CHAIR JOHN: Okay.

23          COMMISSIONER HOOD: I would say a lot, Mr. Chairman, but  
24 I have to yield to the Board.

25          CHAIRPERSON HILL: Well, I'm going to take a vote

1 | because I'm just confused. Do we want to take a break, or do we  
2 | want to do another one?

3 | VICE CHAIR JOHN: Would you like to take a break, Mr.  
4 | Chairman?

5 | CHAIRPERSON HILL: Pardon?

6 | VICE CHAIR JOHN: Would you like to take a break?

7 | CHAIRPERSON HILL: I don't -- I'm okay.

8 | VICE CHAIR JOHN: Okay. I can go one more.

9 | CHAIRPERSON HILL: All right. Let's go one more.

10 | COMMISSIONER HOOD: I'm okay. I can go another one.

11 | CHAIRPERSON HILL: All right.

12 | Let's do one more. Mr. Moy, you can call our next case.

13 | You all can go another one because you're not talking.

14 | COMMISSIONER HOOD: That is true, Mr. Chairman, so --  
15 | and I understand. I've been there. So if you need to take a  
16 | break, we can just take a break.

17 | CHAIRPERSON HILL: No, no, no. I'm okay. I'm okay.  
18 | I'd rather -- we've got a long day ahead of us, believe me.

19 | MR. MOY: All right. This next case before the Board is  
20 | Case Application No. 20329 of Ekop, E-K-O-P, I. Graham as amended  
21 | for special exception pursuant to Subtitle D, Section 5201 from  
22 | the side yard requirements, Subtitle D, Section 206.3. This would  
23 | construct a new semi-detached building with two principal  
24 | dwellings units, R-2 Zone at premises 1138 51st Street, Northeast,  
25 | Square 5201, Lot 809. And again, Mr. Chairman, there is a motion

1 to waive the 21-day deadline to file revised plans.

2 CHAIRPERSON HILL: Okay. Who is the applicant here? If  
3 you can raise your hand and speak up.

4 MR. GREVIOUS: Hello. This is Herbert Grievous. I'm  
5 representing the owner. I'm the architect.

6 CHAIRPERSON HILL: Okay. Mr. Grevious, are you able to  
7 use your camera?

8 MR. GREVIOUS: Well, it doesn't -- if -- yeah, I'm here.

9 CHAIRPERSON HILL: Oh, there we go.

10 MR. GREVIOUS: Now, I am.

11 CHAIRPERSON HILL: Okay. Great. Okay. Great. Who is  
12 here with you, Mr. Grevious?

13 MR. GREVIOUS: I'm here -- apparently on my own. My  
14 associate cannot get on the -- isn't getting on the website.

15 CHAIRPERSON HILL: Okay. Okay. Mr. (audio  
16 interference) --

17 MR. BANKS: Well, actually I'm kind of -- I'm here also.  
18 I'm from the architect's office, Andrei Banks.

19 CHAIRPERSON HILL: Okay. Mr. Banks.

20 MR. GREVIOUS: Okay.

21 CHAIRPERSON HILL: You seem to have -- there seems to be  
22 some feedback from somebody, so somebody -- Mr. Banks, do you have  
23 me on two speakers?

24 MR. BANKS: No, only on my computer.

25 CHAIRPERSON HILL: Mr. Grevious, can you -- could you

1 mute your mic, your --

2 MR. GREVIOUS: Excuse me?

3 CHAIRPERSON HILL: Could you mute your computer? Okay.  
4 You seem to be the echo for now. So, Mr. Grevious, and I  
5 apologize if I'm having a rough time with your name, I'll come  
6 back to your call. Commissioner, would you like to introduce  
7 yourself for the record?

8 COMMISSIONER HOLMES: Yes. Commissioner Antawan Holmes,  
9 Chair of ANC 7C and this development's in my single district,  
10 7C07. Thank you.

11 CHAIRPERSON HILL: Welcome, Commissioner.

12 COMMISSIONER HOLMES: Thank you.

13 CHAIRPERSON HILL: Okay. Mr. Banks, you're going to be  
14 presenting to us?

15 Okay. Mr. Moy --

16 MR. BANKS: Actually, Mr. Grevious is going to do the  
17 presentation and I'm just here to support.

18 CHAIRPERSON HILL: Okay. Mr. Moy, would you -- were you  
19 about to tell me about the waiver?

20 MR. MOY: No, actually my second recall --

21 CHAIRPERSON HILL: Mr. Grevious, if you could please  
22 mute your microphone until you speak because your microphone is  
23 what's repeating.

24 MR. MOY: Yeah. Mr. Chairman, I just wanted to -- yes,  
25 I'd just remind you, Mr. Chairman, that on November 4th, the Board

1 granted party status to a Mr. Yates. I don't see him on here, but  
2 I just want to make that known for the record.

3 CHAIRPERSON HILL: Mr. Young, is Mr. Yates here?

4 MR. YOUNG: Sorry. Who was it?

5 COMMISSIONER HOOD: Do you have the right case?

6 MR. YOUNG: Yeah, I don't --

7 CHAIRPERSON HILL: No, you're thinking about --

8 MR. YOUNG: I don't see any party status in this one.

9 CHAIRPERSON HILL: -- (audio interference) one.

10 COMMISSIONER HOOD: I don't think it's this case, Mr.  
11 Chairman.

12 CHAIRPERSON HILL: Right. I know -- Mr. Moy, I think  
13 you're thinking about a different case and we can talk about that  
14 at the break.

15 MR. MOY: Oh. Yeah, I'm sorry. I'm like ((audio  
16 interference)).

17 CHAIRPERSON HILL: (Audio interference).

18 MR. MOY: Sorry about that.

19 CHAIRPERSON HILL: No problem.

20 All right. Mr. Grevious, can you hear me?

21 MR. GREVIOUS: Yes, I can hear you.

22 CHAIRPERSON HILL: Okay. You can go ahead and present  
23 your case, please.

24 MR. GREVIOUS: All right. One moment, please. All  
25 right. The project -- presently there is a vacant lot and we're

1 --

2 CHAIRPERSON HILL: Wait, Mr. Grevious. I'm sorry. I  
3 forgot, you had a waiver. Here, could you mute your microphone  
4 again? Right. So you have a waiver for the third revised self-  
5 cert and then the burden of proof for the revised self-cert.  
6 Could you, Mr. Grevious, tell me why you revised your self-cert  
7 and your burden of proof?

8 MR. GREVIOUS: Yes, we were -- we initially made a  
9 submission that initially asked for three variances. However, by  
10 working with the Planning -- Office of Planning and the Zoning  
11 Administrator, we withdrew the request for the variances and now  
12 we're only asking for an exception, a special exception, for the  
13 side yard.

14 CHAIRPERSON HILL: Okay. Unless the Board has any  
15 issues with the waiver, I'm going to go ahead and approve it and  
16 if you have any issues, please raise your hand.

17 All right. Mr. Grevious, you can begin when you like.

18 MR. GREVIOUS: Okay. Could I have the slides please,  
19 Mr. Young? Okay. This is a -- this is our site plan, vicinity  
20 plan, and this is where the project is located. It's located at  
21 51st Street, Northeast. It's the second lot from the corner. On  
22 the -- on here we have a three-story apartment building. This is  
23 the lot, the parcel, and this is the houses, the house, the semi-  
24 detached house that we are proposing.

25 This is the -- originally it was a tax lot and it's

1 being -- and we're being -- revert form to a two -- two record  
2 lots so which -- by which we don't have to require -- we don't  
3 have to ask for a variance, and but what we do -- what we are  
4 asking for is the 8-foot side yard be reduced to 5 feet. To build  
5 a semi-detached house is a matter of right. One of the things  
6 that we noticed is that the five -- that the 8-foot side yard  
7 makes the house only 12 feet which is out of character with the  
8 rest of the houses in the neighborhood. Next slide, please?

9           This is the original plat of the two lots from the  
10 original 1926 subdivision, the one that in which we are -- which  
11 the Zoning Administrator and Planning has agreed to allow us to  
12 revert back to the former record lots. Next slide, please?

13           This is a project view of the lot. This is the  
14 apartment building. This is a single family home next door, and  
15 this is an overall view of the lot. Next slide, please?

16           Here we have the lot with the 8-foot -- we have our all  
17 required setbacks and here we have -- and this is what the  
18 building area that current -- that is -- if we build to Code as it  
19 presently exists. This is what it would be (audio interference).  
20 This is what we propose doing with the 5-foot lot, at these 5-foot  
21 side yards and this is a plan of what it would be when we would --  
22 if granted, the 5 feet side yard setback. Next slide, please?

23           Okay. This is a street aerial view of what the house in  
24 the -- what it would look like on the street. As you can see,  
25 we're on a -- this is a main street here. I believe this is --

1 I'm trying to remember correctly. This is East West Boulevard. I  
2 mean, East West Avenue, if I remember correctly, and this is 51st  
3 Street. This is the apartment building on the corner, and this is  
4 where we're proposing building the semi-detached house, houses,  
5 and these all are our neighboring houses. Across the street is a  
6 vacant lot and then these are townhouses here and then we have all  
7 single families around in the immediate area. Next slide, please?

8 This is a floor plan of the house. We have underground  
9 parking into the basement and there's a rec room. On the first  
10 floor we have a living room, eat-in kitchen, dining area, and a  
11 family room. On the second floor we have a master bedroom with a  
12 master -- master bedroom with bath and walk-in closet and then we  
13 have the hall bath and two bedrooms. Next slide, please?

14 These are existing semi-detached houses in the  
15 neighborhood. Next slide?

16 This, the semi-detached, is just around the corner and  
17 this one is about a block away from -- about a block away from the  
18 -- our proposed site. Okay. That was it. Are there any  
19 questions?

20 CHAIRPERSON HILL: All right. Mr. Grevious, thank you.  
21 If you could mute your microphone again, Mr. Grievous.

22 Does the Board have any questions for the applicant?

23 MEMBER SMITH: I have one question.

24 CHAIRPERSON HILL: Thank you, Mr. Smith.

25 MEMBER SMITH: Mr. Grevious, the image that you showed

1 of the -- it was like an elevation and it looks like there's some  
2 type of architectural rendering over the top of a Google image of  
3 the street. It doesn't look like that shows your proposed  
4 dwelling units to scale. Do you know what is the height of the  
5 adjacent apartment building and the single-family home to the  
6 south relative to your proposed semi-detached dwelling unit?

7 MR. GREVIOUS: I did not measure those; however, we  
8 would be just a little higher than a single-family building, but  
9 lower than the apartment building.

10 MEMBER SMITH: Okay. Thank you.

11 CHAIRPERSON HILL: All right. Does anyone have any  
12 questions for Mr. Grevious?

13 All right. Commissioner Holmes, can we go ahead and  
14 hear your testimony, please?

15 COMMISSIONER HOLMES: Sure. Thank you. So yes, at our  
16 meeting on November 12th we met with the applicant to discuss the  
17 said project and we did a vote of approval contingent upon meeting  
18 with the DCA and working with them to go over the details very  
19 similar that we do for all of our projects. The developer did  
20 meet with the DCA and -- out at the property to ask -- and DCA was  
21 asking for a CBA, as usual, to ask for hours of construction,  
22 opportunities for local hires as well as to make sure -- ensure  
23 that there was outreach to the most affected residents in the area  
24 and then as far as -- and for flooding remediation because that  
25 area has been known to have issues with water.

1           So the applicant was able to -- the applicant did  
2 present artifacts after the DCA meeting, after the ANC meeting,  
3 showing that their -- the sump pump that was going to be used for  
4 both buildings as well as we did see mail-in receipts for the one  
5 single dwelling and we saw just -- we saw one standard mailing for  
6 -- I'm assuming that was for the business that manages the  
7 apartment building, not to all the individual applicants itself.  
8 So, you know, that's -- we can go here or there on that part.

9           But unfortunately, like I said, the one thing that,  
10 again, we're concerned about most when all this development that's  
11 occurring during the pandemic is basically understanding what are  
12 the hours of construction and the opportunities because that area  
13 has other issues going on, none of which, as we've talked before,  
14 can be addressed through Zoning, but things that we'd like to make  
15 sure that are being highlighted.

16           So the community, I did talk to them last night just to  
17 make sure to get all this stuff right, that -- to make sure that I  
18 was representing all that they want and they're very close with  
19 this one. They just want to make sure they go -- they want to  
20 have a -- to come back and have a CBA with the developer in terms  
21 of how this project is going to be -- the logistics on how this  
22 project is going to be developed on this site.

23           So until then, like I -- they asked me to oppose, the  
24 ANC to oppose the request at this time, but they are looking  
25 forward to working with the applicant in the very near future to

1 get this addressed, and again, I welcome the applicant to come to  
2 one of our next meetings. We're having extra meetings because of  
3 some additional hearings from the last time we were here, so we  
4 have space for them.

5 CHAIRPERSON HILL: Commissioner, so I'm a little  
6 confused. The letter that we have from you, and I think you're  
7 clarifying it for me, but --

8 COMMISSIONER HOLMES: Yes, yes.

9 CHAIRPERSON HILL: -- you guys were voting in support if  
10 they could do things with DCA --

11 COMMISSIONER HOLMES: Yes, yes.

12 CHAIRPERSON HILL: -- for -- oh, I'm sorry. If they can  
13 create a DCA (audio interference) --

14 COMMISSIONER HOLMES: No, no, no. Sorry, start a CBA  
15 for DCA. Sorry, too Deanwood Citizens Association many acronyms.  
16 It's a Community Benefits Agreement for the.

17 CHAIRPERSON HILL: Got it. I'm sorry. I didn't know  
18 what DCA was.

19 COMMISSIONER HOLMES: Sorry.

20 CHAIRPERSON HILL: So you guys are in opposition right  
21 now; is that correct?

22 COMMISSIONER HOLMES: Sorry. Yes, sir.

23 CHAIRPERSON HILL: Okay. And you're in opposition  
24 because DCA didn't come to an agreement with the property owner?

25 COMMISSIONER HOLMES: The developer, the applicant, yes.

1 CHAIRPERSON HILL: Okay. Okay. And so I'm going to let  
2 my fellow Board -- well, does the Board -- well, first, Mr.  
3 Grevious, do you have any questions for the Commissioner?

4 MR. GREVIOUS: Yes. I'd like to make a comment  
5 concerning our participation. That was never discussed at the  
6 meetings that I attended and --

7 CHAIRPERSON HILL: All right.

8 MR. GREVIOUS: -- that, at this point, we will talk to  
9 the people who are actually going to -- we don't -- we're not  
10 developing this site. We're just designing the site and  
11 requesting the special exception. That part will be with the  
12 actual builder and the owner and we did not see ourselves as being  
13 at that stage at this point.

14 CHAIRPERSON HILL: Okay. So Mr. Grevious, you don't  
15 have any questions; is that correct?

16 MR. GREVIOUS: No, I do not have a question at this  
17 time.

18 CHAIRPERSON HILL: Okay. I have some questions for the  
19 Commissioner.

20 COMMISSIONER HOLMES: Yes?

21 CHAIRPERSON HILL: Mr. Grevious, you can -- good. Yeah,  
22 and then I'm going to kind of go around the Board.

23 Chairman Hood?

24 COMMISSIONER HOOD: Yes, let me go to Chairperson  
25 Holmes. Good morning, Chairperson Holmes. How are you?

1 COMMISSIONER HOLMES: Good morning, Mr. Hood.

2 COMMISSIONER HOOD: I've got a question for you.

3 COMMISSIONER HOLMES: Yes?

4 COMMISSIONER HOOD: I was following your letter all the  
5 way until you got to the reason you all, the ANC, is in opposition  
6 is because of the CBA.

7 COMMISSIONER HOLMES: Yes.

8 COMMISSIONER HOOD: So you know as -- what's being asked  
9 for, a CBA doesn't necessarily apply to the weight, the relief,  
10 and everything in this case. You understand that, right?

11 COMMISSIONER HOLMES: Sure.

12 COMMISSIONER HOOD: As long as they meet the relief,  
13 then the Board will be able to approve that whether you have a CBA  
14 or not, unlike a PUD.

15 COMMISSIONER HOLMES: Right.

16 COMMISSIONER HOOD: Okay. So I would just -- I guess  
17 what I'm encouraging the ANC to do is make sure that we're doing  
18 apples to apples and I'm encouraging -- I mean, that's fine if the  
19 ANC is going to work for a CBA. I applaud that and if the  
20 applicant is willing to do it, I applaud all that, but I want to  
21 see the ANC and make sure that give great weight to substance of  
22 the issues before the Board.

23 COMMISSIONER HOLMES: Right.

24 COMMISSIONER HOOD: So the way you have it --

25 COMMISSIONER HOLMES: Right.

1           COMMISSIONER HOOD: The way you have it now, you all are  
2 not in support of it because of a CBA which is not necessarily  
3 germane to this proceeding, so I would hope that the ANC would  
4 relook at that and I hope you get the CBA and work it out with the  
5 applicant, but --

6           COMMISSIONER HOLMES: Yes.

7           COMMISSIONER HOOD: -- I also want to see, Chairperson  
8 Holmes, the ANC (audio interference) great weight in this case as  
9 well. I want to see that you're giving great ((audio  
10 interference) because right now you just -- you're basically in  
11 opposition because of the CBA and one actually has nothing to do  
12 with this -- CBA has nothing to do with this proceeding.

13           COMMISSIONER HOLMES: Thank you. And as we go on, as I  
14 try to give these conversations to the community, I wanted to -- I  
15 try -- I understand what you're saying, apples to apples. I also  
16 want to let them know just to advocate for whatever the community  
17 is deciding. So with that one in particular being in my Single  
18 Member District with a very active civic association, I take all  
19 of those inputs into account that these are the things that they  
20 want. So they -- in terms of the project, liking the build, and  
21 seeing productive use of the lot, yes, the community wants that,  
22 and I get that.

23           So the CBA, I'll have to keep working with the community  
24 to make sure that we get the right things put in for this, but  
25 this is something that, you know, the community keeps going for

1 all the projects that could happen in the neighborhood. They want  
2 to see CBAs be done for every project that occurs.

3 COMMISSIONER HOOD: Okay. I understand. I understand  
4 that. I applaud you for that. Don't get me wrong.

5 COMMISSIONER HOLMES: No, I understand. Yeah.

6 COMMISSIONER HOOD: I just want to make sure your ANC,  
7 you being the leader, that you all get the great weight and that  
8 we are within the jurisdiction of what we're supposed to be doing  
9 because basically if you take the CBA -- our legal people will  
10 tell us, the CBA has nothing to do with our proceeding, but we  
11 still encourage the ANC -- I mean, the ANC to continue to do it as  
12 long as the applicant agrees with you all. So I hope you  
13 understand exactly where I'm coming from.

14 COMMISSIONER HOLMES: Uh-huh.

15 COMMISSIONER HOOD: I want you to all to be on record of  
16 giving great weight and I think you all are (audio interference).  
17 I hope you all can work that other issue out outside of our  
18 operation. So I'll leave it at that. I'm sure others may opine  
19 on that as well.

20 COMMISSIONER HOLMES: Thank you, Commissioner Hood.

21 COMMISSIONER HOOD: All right. Thank you.

22 COMMISSIONER HOLMES: I understand.

23 COMMISSIONER HOOD: Thank you.

24 CHAIRPERSON HILL: I'm going to end with Ms. John and  
25 then I got -- then I get to talk to the Commissioner for a minute.

1           So Mr. Smith, you got anything? Any questions?

2           MEMBER SMITH: I don't have any questions. I would just  
3 reiterate what Mr. Hood said just as a -- because I can't  
4 remember, Mr. Hood, if you were on a particular project that was  
5 within the boundaries of Mr. Holmes' ANC. I believe we just  
6 recently had a case from your ANC that you were also requesting a  
7 CBA and these same concerns that Chairman Hood brought forth, we  
8 also expressed to you as the -- as well as the -- your ANC there.  
9 So I reiterate what Chairman Hood says that if you can get a CBA,  
10 that's great, but the majority of the time it's outside of our  
11 purview, so I would just be careful with that going forward and  
12 just reiterate for you to provide that great weight specific to  
13 the case at hand.

14           CHAIRPERSON HILL: Ms. John?

15           VICE CHAIR JOHN: So thank you, Mr. Chairman. I don't  
16 really have much more to say, Commissioner. I believe what  
17 everybody is saying is that we can give great weight to the issues  
18 and concerns of the ANC if they're legally relevant and here the  
19 only issue before the Board is the side yard relief. So what  
20 you're -- what the ANC is requesting is not legally relevant to  
21 the side yard relief.

22           And so if we decided the case today, we would have to  
23 say we cannot give great weight to the ANC's concerns, issues and  
24 concerns, and so I believe that's what everybody is saying. Even  
25 though it's a good thing if the ANC can negotiate, you know, an

1 | agreement with the developer, but from the Board's perspective, we  
2 | just look to see if the application meets the standards in the  
3 | Regulation. So I mean, we appreciate your testimony and input.  
4 | That's all, Mr. Chairman.

5 |           CHAIRPERSON HILL:        Okay.        So Commissioner --  
6 | Commissioner Holmes, I didn't realize you were the Chair. So as  
7 | Chairman Hood, there's three chairs, and we need one more and we  
8 | can have a fourth and have a nice little dining table and sit  
9 | down. So to clarify, and I do want to have this opportunity to  
10 | kind of convey this to you so that you can share it with your  
11 | colleagues, again what my colleagues are saying is that we can  
12 | only give the issues and concerns -- we can only give the ANC the  
13 | valid issues and concerns that they bring forward to us, right.

14 |           So now we can't talk about a CBA and as Chairman Hood  
15 | just mentioned, it's great that you all can try and try to do  
16 | that. And so what I get confused about a little bit, and this is  
17 | where Chairman Holmes, you know, you all kind of get to figure out  
18 | yourselves is like, I think -- and this is where I don't know,  
19 | this is where I get myself in trouble again with OAG, but now OAG  
20 | is here and so I'm going to have a little bit of a discussion  
21 | because this is a good opportunity to have this discussion.

22 |           So just really quickly, OAG, the ANC is in opposition so  
23 | therefore there is going to be a full order; correct?

24 |           UNIDENTIFIED SPEAKER: Yes, sir. Yes, sir.

25 |           CHAIRPERSON HILL: Yeah. And so, Chairman Holmes, I am

1 curious of this. So the whole -- and I'm just having a  
2 conversation, but this whole full order/summary thing, you guys  
3 understand it, correct, at the ANC?

4 COMMISSIONER HOLMES: Yes, sir.

5 CHAIRPERSON HILL: Right. And what is it that you  
6 understand the full order versus the summary order to mean?

7 COMMISSIONER HOLMES: As discussed at the last meeting  
8 we had, the full order is basically, roughly, what, about eight  
9 months of having to go through the entire process if the ANC does  
10 not provide great weight for the project, and if the ANC does  
11 provide in support of the project that it is much less time to be  
12 able to do the full announcement of this procedure.

13 CHAIRPERSON HILL: Right. So again, what it does do,  
14 and this is what you, the ANC, I think understands is that it  
15 creates some kind of leverage for you for negotiations, right, or  
16 teeth, if you will, for negotiations with a developer. Would you  
17 agree with that?

18 COMMISSIONER HOLMES: Sometimes. Now, well, if you want  
19 to say in terms of the total project, yes. I mean, we've had some  
20 projects go the other way, so it's -- the community has different  
21 feelings about it, but in theory, yes.

22 CHAIRPERSON HILL: Well, the only reason why I'm  
23 mentioning this and the Chair of the Zoning Commission is with us  
24 as well now and this is something that I'm now getting more and  
25 more curious of that I see, is that -- and I'm just kind of having

1 a little bit of a discussion here with you, is that the ANCs are  
2 possibly -- they're talking about things that aren't necessarily  
3 within the Regulations and using that as leverage against people  
4 that are trying to get a project -- that -- a project done.  
5 That's one point of view, right.

6 So at least I'm kind of sharing that with you and the  
7 ANC is that if you guys were talking about things that you're  
8 supposed to be talking about, then I understand, right. But when  
9 you're talking about things that are outside even you all's  
10 purview and then voting no, it just -- it kind of -- I don't know  
11 if that's right is what I guess I'm trying to say in having an  
12 open discussion, right, and I'm just giving you my opinion.

13 COMMISSIONER HOLMES: So I'll go back to what I was  
14 saying with Commissioner Hood. Again, you know, unpaid elected  
15 official. I go to all -- and I live in this community so this is  
16 -- Deanwood, this is actually my Single Member District and we've  
17 had a lot of projects over here in 7C. So I'm a conduit for the  
18 people. If the community -- I always try to -- because great  
19 weight is given to the ANCs, I try to make sure that gets  
20 disbursed so that civic associations who are really the most  
21 lowest affected community members can have a -- actually have a  
22 say because in the past there have been ANC commissioners that  
23 have not listened to the people and have done what they wanted to  
24 do. I wanted to change that when I became the Chair. I'm not  
25 trying to -- so; we'll get to the big part.

1           So basically, in terms of this project, I push it to the  
2 community. The community have their own community development --  
3 economic development boards. They make their own decisions. They  
4 just tell me what they want. This is what they want. This is  
5 what we're -- and the ANC, I said as the Chair, we support what  
6 the community wants. So this is what the community wants.

7           In terms of the ANC, we can look -- we'll look at  
8 projects and we'll have our comments, but we really try to make  
9 sure the community is the one who is giving us the input on how to  
10 move forward with these projects and if this is what they want,  
11 then this is what we put in our letters of support or our decision  
12 papers.

13           CHAIRPERSON HILL: Okay. And I've got to be honest with  
14 you now and I'll stop this because I know this is going a little  
15 bit - the only reason why it's important is this is going to  
16 continue to happen and also, Chairman Hood, this is going to  
17 continue to happen. Like, I'm not even necessarily disagreeing  
18 with Chairperson Holmes. I'm just saying there is now an  
19 interesting discussion that is being played out that I am becoming  
20 more and more aware of and since you're the Chair of the Zoning  
21 Commission --

22           COMMISSIONER HOLMES: Uh-huh.

23           CHAIRPERSON HILL: -- I'm not -- I'm actually not taking  
24 one side or the other. I'm just --

25           COMMISSIONER HOLMES: Uh-huh.

1           CHAIRPERSON HILL:  -- saying that there is something  
2 that is being discussed and that it's happening out before our  
3 eyes and so that's all I'm saying.  And I don't know, Chairman  
4 Hood, if you've got a comment or not, and then I'm going to move  
5 on.

6           COMMISSIONER HOOD:  You know I have a comment.  I  
7 actually agree with Chairman Holmes 100 percent, but I think  
8 there's a missed opportunity here because now if you had a PUD,  
9 Chairman Holmes, as you know because you've been in front of us  
10 before, we will be fighting for those, for the CBA, but you don't  
11 have a PUD and I understand.  One thing about it, if you listen to  
12 the community, you'll always be elected, but here's the other  
13 thing about that.

14           We want to make sure that whatever we do is in the best  
15 interest of the community and not put the community on promised  
16 land thinking that there's something that they're going to get out  
17 of something, and it doesn't happen because first of all, it's not  
18 in our jurisdiction to do that, at least on this Board.  Now, the  
19 Zoning Commission is a different story.

20           So I understand what you're saying, but then also it's  
21 about education as well.  Some of the things that we should be  
22 asking for, especially in the PUD, we don't -- and in this case,  
23 and I can't do it as eloquently as Board Member John did it, but I  
24 can do it in Anthony Hood's way, she's exactly right.  We have to  
25 do what's legally -- I think she said legally relative or

1 relatively legal. I forgot how you said it, but I like the way  
2 she worded that. But I think it's a missed opportunity though  
3 again, Chairperson Holmes, is that while I understand you're  
4 listening to the community, we're supposed to, and -- let me back  
5 up.

6 About 25 years ago, exactly what you said is what I  
7 wanted. I was the president of a civic association, and I think  
8 it's important to listen to the civic association and listen to  
9 all your civic associations and bring it back to the ANC and the  
10 ANC representative, like you're doing today, so I applaud your  
11 efforts, but it's a missed opportunity in putting us on promised -  
12 - we don't want to put anybody on promised land thinking that a  
13 CBA has anything to do with what's in front of the Board today, a  
14 variance or a special exception, because it doesn't and I think  
15 that's where I am.

16 I know you get it and I know you're bringing what the  
17 community -- I know what your situation, your circumstance, and  
18 your position is, but we also want to make sure that we take back  
19 to the community, not that we're disagreeing or being  
20 argumentative, is that this is what the Regulations state, and  
21 this is what the statutes say, and this is what we have to do.

22 Now, if you go in front of the Zoning Commission for a  
23 PUD, yes. We can answer blah, blah, blah, blah for the pushing  
24 the envelope, but in the BZA we can't do that. So I'll leave it  
25 at that and keep up the good work.

1 COMMISSIONER HOLMES: Thank you, sir.

2 CHAIRPERSON HILL: Ms. John?

3 VICE CHAIR JOHN: So I just wanted to add one thing and  
4 I'm going to throw this back at us because the only reason that  
5 this leverage exists is because the orders take so long to get out  
6 and so if the orders, you know, could be issued in two months,  
7 this would not be a point of contention because there would be no  
8 leverage. And so I don't know -- OAG, you don't have to respond  
9 now, but I don't know if there's a work-around in situations like  
10 this where there is no legally relevant basis for an opposition  
11 and there's no issue to which the Board can give legal weight.

12 So I will just throw that out as a suggestion and I  
13 applaud the Commissioner's interest in representing the citizen's  
14 associations because that's really very important, but then we  
15 have to look at it from the perspective of the developer at the  
16 same time. He's before the Board. He's made a case that the only  
17 thing he needs is side yard relief. He's putting up two  
18 buildings, and so there's a lot of cost that goes into that. And,  
19 you know, an eight-month delay affects financing, it ultimately  
20 affects the residents themselves.

21 So these are some of the things we need to take into  
22 consideration and as the Chairman said, this is not a PUD. This  
23 is a straight garden variety uncomplicated application for side  
24 yard relief and he's only asking for 3 feet of relief. So I think  
25 the Chairman expressed clearly how this sits with the Board and I

1 don't want to belabor it, but I've seen this come up over, and  
2 over, and over. Some of the cases are more complicated than this  
3 one and with this one you can sort of see it very, very clearly.  
4 So we're not beating up on you. I think this case just -- it sort  
5 of jumps out at you.

6           So anyway, thank you for your service and thank you for  
7 coming forward today and we'll just have to see where we go with  
8 this. I think it's structural. I think this is something that  
9 maybe OAG can address. Not to take away the leverage, but I don't  
10 know. I feel for a developer who just wants to put up a building  
11 and needs a 3-foot side yard relief and that's all he's asking  
12 for. He's resolved all of the other big issues and has worked  
13 with the Office of Planning and here we are. You know, the last  
14 step, 3 feet and he's not able to put up a building without that  
15 relief because it would be too narrow, so that's where we are.  
16 Thank you, Mr. Chairman.

17           CHAIRPERSON HILL: All right. And Commissioner, I'll  
18 let you respond in one second. I'll let you respond in one  
19 second. And OAG, I don't want an answer to this, but yeah, I  
20 mean, we have actually mentioned this one before in terms of if  
21 the ANC is bringing up issues and concerns that are outside of  
22 their or our purview what happens, right. And Chairman Holmes, I  
23 mean, I've seen you now a bunch of times. I guess I've been  
24 thrown back up for another three-year term, so maybe you'll see me  
25 some more. I don't know if I'm going to pass or not. The point

1 is, this is something to kind of work through and talk about.

2           And I also just don't know where I land on some of  
3 these, you know, discussions, but definitely, you know, to echo  
4 everything that everyone said, you know, thank you for your  
5 service and that, you know, everybody is just trying to do the  
6 best they can to represent their community and their neighborhood.  
7 And I know you guys are, but like every ANC is different, and so  
8 then you get to kind of our level where we have to then look at  
9 things through the Regulations that we're given.

10           And, you know -- yeah, now I remember your last case.  
11 Right. It was the one with the fence, you know. And so like  
12 whether or not the fence is there or not there, then that's  
13 another discussion that you guys get to have at your level. And I  
14 don't know if you listened to -- I can't believe we're having this  
15 long conversation, I'll stop, but if you listen to the previous  
16 cases, again, some of the stuff that I was talking about with the  
17 ANC is exactly what we're talking about now; is that at your  
18 level, you guys can talk about the fence, and at our level we  
19 can't talk about the fence, right. So I don't know what is the --  
20 what is a better solution, so.

21           But Chairman Hood -- I mean, Chairman Holmes, I'll let  
22 you respond to everything and then I'm going to move on.

23           COMMISSIONER HOLMES: Well, the previous one, and we're  
24 still working on that, see you next week, the previous one, the  
25 fence that -- it kind of goes through some of the underlying

1 problems with a lot of -- it would be a long conversation like  
2 you're just saying right now. Talk about the prostitution, the  
3 drugs, everything else that goes around that not in your purview.

4 But these projects with a little bit of -- little bit  
5 more community outreach could help not only just take care of the  
6 issue but could take care of some other stuff and I get that  
7 conversation spreads across more than just Zoning, but people see  
8 this as an opportunity. There's going to be improvement on this  
9 project, improvement on this lot and they want to see it, you  
10 know, done right with real community involvement and I think  
11 that's where a lot of the communities are just starting to get a  
12 lot frustrated and want us -- you start seeing a lot of these CBAs  
13 go along with the project.

14 And I get what you're all saying, but this -- there's  
15 going to be a lot and there's a lot of things going on in the  
16 council now, I'll keep it short. But yeah, I think this is just -  
17 - this is going to continue to keep being discussed every time we  
18 have a project, that we want to make sure the developer is coming  
19 and is going to do the project right, especially now that  
20 everybody's home all the time. They're seeing stuff all the time  
21 and they want to make sure things are being done well and that's a  
22 lot of the input I'm getting.

23 Like, I know people that live over by there. They have  
24 little kids. All this noise that may be occurring during school  
25 hours will be upsetting. I'm having that two doors from me right

1 now, but that's a much longer discussion that can't be solved here  
2 about (audio interference) Planning and Zoning. That's a whole  
3 bigger discussion than this. Let's just try to figure out this  
4 one and see what we can do to try to get there. Thank you.

5 CHAIRPERSON HILL: All right. Thank you, Chairman.

6 All right. Does anybody have any final questions of the  
7 Chairman?

8 All right. I'm going to go to the Office of Planning.

9 MR. JESICK: Thank you, Mr. Chairman and members of the  
10 Board. My name is Matt Jesick. I'll be presenting the testimony  
11 for the Office of Planning for Case 20329 and we can rest on the  
12 record in support of the requested special exception relief. I  
13 did want to note one typo in the written OP report. On the front  
14 page we referenced Section D 302. We should have referenced  
15 Section D 206.3 as the area for which the applicant is seeking  
16 relief. But with that, I'm happy to take any questions. Thank  
17 you.

18 CHAIRPERSON HILL: All right. Thanks, Mr. Jesick.

19 All right. Does the Board have any questions for the  
20 Office of Planning?

21 Does the applicant have any question for the Office of  
22 Planning? Mr. Grevious, you can just shake your head yes or no.

23 MR. GREVIOUS: Oh, I'm back. No, I do not have any  
24 questions. Thank you.

25 CHAIRPERSON HILL: Thank you, Mr. Grevious.

1 Chairman Holmes, do you have any questions for the  
2 Office of Planning?

3 COMMISSIONER HOLMES: No, thank you.

4 CHAIRPERSON HILL: All right. Okay. Then I'm going to  
5 go ahead and close the hearing.

6 Mr. Young, if you could please excuse everyone from the  
7 hearing room?

8 MR. YOUNG: I just wanted to let you know that we did  
9 have two people signed up to testify, but they are not in the  
10 waiting room, so.

11 CHAIRPERSON HILL: Okay. I'm sorry. Thank you, so  
12 much. So now I'm going to ask for the record, and you've answered  
13 the question, is there anyone here wishing to testify?

14 MR. YOUNG: We do not have anyone on the call.

15 CHAIRPERSON HILL: Okay. All right. Thank you, Mr.  
16 Young.

17 All right. So again, I'll close the hearing and excuse  
18 everyone from the hearing room.

19 Okay. I'm enjoying this version. So, Mr. Smith, I'm  
20 going to let you start again if that's okay with you.

21 MEMBER SMITH: (Indiscernible) what I can say about this  
22 particular project. So I appreciate the concerns raised by Mr.  
23 Holmes regarding the position of dealing with community at his ANC  
24 at large. But just to reiterate some of these concerns as far as  
25 the CBA, we cannot weigh at this Board. So what we have before us

1 is just an evaluation to me of the special exception relief at  
2 hand for the relief from the 8-foot side yard setback requirements  
3 and I do believe that the applicant has demonstrated that it does  
4 meet the -- it does meet the minimum requirements for the relief.

5 I do believe that the proposed building, being that it  
6 is shorter than the apartment building to the north and it is not  
7 out of character with the neighborhood as far as height and I will  
8 say it is within the by-right height for that particular zone, it  
9 is in character with the greater Deanwood neighborhood. I do  
10 believe that this is fairly straightforward, and I would be in  
11 support of the special exception.

12 CHAIRPERSON HILL: Chairman Hood?

13 COMMISSIONER HOOD: Mr. Chairman, I think I was (audio  
14 interference) of (audio interference) the side yard relief. I  
15 already noted it in the record, and I think this is a very  
16 straightforward case and I thank Board Member John, Board Member  
17 Smith and yourself, and I'll just let it stand on what's in the  
18 record and move forward, and I'll be voting in support of this  
19 application.

20 CHAIRPERSON HILL: Ms. John?

21 VICE CHAIR JOHN: So, Mr. Chairman, I'll just reiterate  
22 my previous comments and agree with Mr. Hood and Mr. Smith that  
23 this is a fairly straightforward application, and I can vote in  
24 favor of the application. Thank you.

25 CHAIRPERSON HILL: Okay. I am going to also -- I just -

1 - I mean, so I think we had a robust discussion about something  
2 that, Chairman Hood, perhaps we can -- you and I could have a  
3 conversation perhaps because I know one-on-one, we're allowed to  
4 have conversations. I mean, I just find it very interesting some  
5 of the things that we're now seeing in terms of feedback that  
6 we're getting from the ANC and/or different parties, you know, in  
7 terms of how they are either doing negotiations and whether or not  
8 those negotiations are, again, things that are within our purview  
9 and so that's something that, I guess, we'll just table for  
10 another time.

11 But in terms -- sure, Chairman Hood?

12 COMMISSIONER HOOD: So Mr. Chairman, I'm sure that Ms.  
13 Rice at OAG will -- I'm sure there's some legal statutes, some  
14 legal reasons out there about this. I remember going through this  
15 some years ago with Mr. Bergstein, but I'm sure -- I mean, I think  
16 it's -- we can have that conversation, but I'm sure there's some  
17 legal reason, you know, and I stay in my lane, but I guarantee  
18 there's some legal reason that we cannot (audio interference) some  
19 of the things.

20 Because believe me, I've tried some of those things, I'm  
21 sure, and the Commission has done -- I mean, you know, all of us  
22 Board members and Commission, previous Commission Board members  
23 and Commission members have tried certain things and we also -- it  
24 sounds great moving forward and then there's -- I'm sure there's a  
25 legal reason why we can't do what we're doing. But I will tell

1 | you this and I hope Mr. Holmes is still listening, when it goes  
2 | awry, the judge doesn't come back and give the ANC a remand order.  
3 | They come back and give it to the Board, or the Zoning Commission  
4 | and I'll leave it at that. Thank you, Mr. Chairman.

5 | CHAIRPERSON HILL: All right. Thank you, Chairman Hood.

6 | All right. I'm going to go ahead and make a motion to  
7 | approve Application No. 20329 as captioned and read by the  
8 | Secretary and ask for a second, Ms. John.

9 | VICE CHAIR JOHN: Second.

10 | CHAIRPERSON HILL: The motion has been made and  
11 | seconded.

12 | Mr. Moy, could you take a roll call, please?

13 | MR. MOY: Yes. Thank you, Mr. Chairman. So when I call  
14 | your names, if you would please respond with a yes, no, or abstain  
15 | to the motion made by Chairman Hill to approve the application for  
16 | the amended relief being requested and the motion is seconded by  
17 | Vice Chair John. Zoning Commission Chair, Anthony Hood?

18 | COMMISSIONER HOOD: Yes.

19 | MR. MOY: Mr. Smith?

20 | MEMBER SMITH: Yes.

21 | MR. MOY: Vice Chair John?

22 | VICE CHAIR JOHN: Yes.

23 | MR. MOY: Chairman Hill?

24 | CHAIRPERSON HILL: Yes.

25 | MR. MOY: We have a Board seat vacant. Staff would

1 record the vote as 4 to 0 to 1 and this is on the motion made by  
2 Chairman Hill to grant the application, seconded by Vice Chair  
3 John. Also in support, Mr. Smith and Zoning Commission Chair,  
4 Anthony Hood. Motion carries 4 to 0 to 1.

5 CHAIRPERSON HILL: Okay. Great.

6 All right, everybody. Let's go ahead and take like a  
7 15-minute break. Yeah. Or 10. Yeah, 10, 15 minutes and see  
8 where we get. Okay? Thank you.

9 (Whereupon, the above-entitled matter went off the  
10 record and then resumed at approximately 12:33 p.m.)

11 CHAIRPERSON HILL: All right. Let's see. Does anybody  
12 else have -- now, I don't know what to do because at 1 o'clock, I  
13 mean I -- let me actually let the Board know. I mean, I do have a  
14 call that I have to figure out how to deal with between 1:00 and  
15 2:00. So I guess if you all are capable of making it until the  
16 phone call, then we'll break for lunch. Does that sound fair?  
17 Okay. All right.

18 All right. Mr. Moy, you can go ahead and call our next  
19 case.

20 MR. MOY: All right. Thank you, Mr. Chairman. So for  
21 the record, the Board is back in session after a quick recess and  
22 the time is at or about 12:33. So the next case application  
23 before the Board for a hearing is Application No. 20330, 5608  
24 Broad, LLC. Captioned and advertised for a use variance from the  
25 use provisions of Subtitle U, Section 201.1. This would permit

1 the conversion of an existing storage space into a fitness center  
2 in the R-1-B Zone at premises 5608 Broad Branch Road, Northwest,  
3 Square 197, Lot 78. As a preliminary, Mr. Chairman, there's an  
4 untimely notice to lessees and yeah, so I'll just leave that at  
5 that.

6 CHAIRPERSON HILL: Okay.

7 Can you bring everybody in, Mr. Young?

8 Who is testifying on behalf of the applicant, if you  
9 could please speak up?

10 MS. STANNARD: I think that would be me, Tracy Stannard.  
11 Can you see me?

12 CHAIRPERSON HILL: I cannot see you, but I can hear you.

13 MS. STANNARD: Okay. How do I change it so you can see  
14 me?

15 CHAIRPERSON HILL: I think at the bottom there should be  
16 a little button that says, "Start video."

17 MS. STANNARD: Oh, there we go. Okay. Is it working  
18 now? There I am. Hey.

19 CHAIRPERSON HILL: Yep.

20 MS. STANNARD: Hey.

21 CHAIRPERSON HILL: Welcome.

22 MS. STANNARD: Thanks.

23 CHAIRPERSON HILL: Hello.

24 MS. STANNARD: Hello.

25 CHAIRPERSON HILL: Who else is with you, Ms. Stannard?

1 MS. STANNARD: Brendan Herbert should be here. He's the  
2 operator of the D.C. Health Coaches, so likely --

3 CHAIRPERSON HILL: MR. Herbert, could you introduce  
4 yourself please for the record?

5 MR. HERBERT: Yes, everybody. Brendan Herbert here,  
6 owner of D.C. Health Coaches here to support this.

7 CHAIRPERSON HILL: When you say, "support this," Mr.  
8 Herbert are you --

9 MR. HERBERT: Can everybody hear me okay?

10 CHAIRPERSON HILL: I can hear you. When you say  
11 "support," Mr. Herbert, are you the applicant?

12 MS. STANNARD: I believe the landlord is the applicant -  
13 -

14 MR. HERBERT: Yes.

15 MS. STANNARD: -- and then he's the tenant.

16 CHAIRPERSON HILL: I gotcha. I gotcha. Mr. Herbert,  
17 where are you located now?

18 MR. HERBERT: We mainly do in-person appointments at  
19 houses and (audio interference). We do a lot of personal training  
20 in-home. So the business -- DC Health Coaches is actually  
21 registered as a (audio interference) a house. We're trying to --  
22 that's sort of the process we're going through now is trying to  
23 turn this into a -- turn a basement of basically (audio  
24 interference) to a permanent space for us or semi-permanent.

25 CHAIRPERSON HILL: Got it. Mr. Herbert, you're kind of

1 breaking up just a little bit, so just so you know if you want to  
2 speak a little slowly perhaps.

3 MS. STANNARD: Or Brendan, you can come up here if you  
4 want to, if you want to come into my office.

5 CHAIRPERSON HILL: No, why don't you all just --

6 MR. HERBERT: Sure. Sure, I would be happy to do (audio  
7 interference).

8 CHAIRPERSON HILL: Why don't you all just stay apart  
9 right now --

10 MR. HERBERT: Okay. I'll stay right here.

11 CHAIRPERSON HILL: -- (audio interference) and if  
12 there's a problem, I can let you know. The name of the business  
13 is what, Mr. Herbert, again?

14 MR. HERBERT: DC Health Coaches, LLC.

15 CHAIRPERSON HILL: Do you have a website, Mr. Herbert?

16 MR. HERBERT: Yep, we do. DCHealthCoaches.com.

17 CHAIRPERSON HILL: All right. You're in the District?  
18 You're a business in the District?

19 MR. HERBERT: We are a business in the District.

20 CHAIRPERSON HILL: Well, I hope you're doing as best you  
21 can during COVID.

22 MR. HERBERT: Thank you, very much. We're certainly  
23 making some adjustments.

24 CHAIRPERSON HILL: Right. Right. So Ms. Stannard,  
25 okay, you know where you -- what you probably need to work us

1 through, right, in terms of how you're meeting the standard for  
2 you -- for us to grant the relief requested. Are you an attorney,  
3 Ms. Stannard?

4 MS. STANNARD: No. No, I'm not.

5 CHAIRPERSON HILL: Are you -- so you're somehow related  
6 with the business and you're taking this on --

7 MS. STANNARD: Yes, yes.

8 CHAIRPERSON HILL: -- pro se?

9 MS. STANNARD: Yes.

10 CHAIRPERSON HILL: Okay. I learned that word "pro se" a  
11 long time ago. Did I use that right, Ms. John?

12 Oh, the OAG is nodding. The OAG is nodding. I  
13 understand. All right.

14 VICE CHAIR JOHN: Thank you. Thank you for talking to  
15 the real lawyers here.

16 CHAIRPERSON HILL: All right. I'm going to walk over --  
17 I'm going to walk over and tell my wife I used the term correctly.  
18 I don't know if that'll help me or not, but --

19 VICE CHAIR JOHN: Okay.

20 CHAIRPERSON HILL: -- let's see. So all right. Ms.  
21 Stannard --

22 MS. STANNARD: Uh-huh.

23 CHAIRPERSON HILL: -- so I guess as long as you  
24 understand what you're trying to argue --

25 MS. STANNARD: Uh-huh.

1 CHAIRPERSON HILL: -- in terms of how you're meeting the  
2 criteria for the relief that's being requested, that would be  
3 helpful.

4 MS. STANNARD: Okay.

5 CHAIRPERSON HILL: And focusing again on the variance  
6 relief that you're asking for and how you're meeting the three  
7 prongs of that test --

8 MS. STANNARD: Okay.

9 CHAIRPERSON HILL: -- would be, I think, the best place  
10 for you to argue. But why don't you go ahead and tell us a little  
11 bit about the project and why you think you meet the criteria for  
12 us to grant the relief and I'm going to let you begin whenever you  
13 like.

14 MS. STANNARD: Okay. Hold on. I might need to find my  
15 notes on that, on my application.

16 CHAIRPERSON HILL: Sure thing.

17 MS. STANNARD: So well, the project -- it's the -- the  
18 building is the Broad Branch Market which has been on this corner  
19 for 100 years, a little more than 100 years now and we have  
20 operated the market, myself and my business partner, since 2008.  
21 The second floor of the building is the BZA approved child  
22 development center. It's a Montessori school. And then the  
23 basement of the building has just been storage that we've used,  
24 that the Montessori school used, for the past, whatever, 12, 13  
25 years.

1           So we've known the DC Health Coaches for a while and  
2 they needed a place when the weather was foul to just meet-up for  
3 their boot camp that they hold over at Lafayette Elementary  
4 because when Lafayette went under construction, they lost the gym  
5 and so we allowed them to use the basement space for that and it  
6 just has progressed to seeming to be a viable operation, so we're  
7 hoping that they can move into the basement with a permanent or  
8 semi-permanent approval from BZA.

9           Now, I'm trying to find my notes on the three-prong that  
10 I submitted. Hold on one second. My burden of proof. So hang on  
11 one second. Let me just read through this for a second.  
12 Exception -- hardship --

13           MR. RICE: Mr. Chair, while the applicant is trying to  
14 find her notes, just so you know, we do have an outstanding  
15 request for waiver in this case from the notice requirements.

16           CHAIRPERSON HILL: Okay. Thank you. Oh. Okay. All  
17 right. So this is actually our untimely notice issue. So I'm  
18 going to go to the Board real quick to speak to -- this was filed  
19 20 days instead of the 40 days, and this was posted correctly,  
20 correct, Ms. Stannard?

21           MS. STANNARD: Pardon me?

22           CHAIRPERSON HILL: You posted this correctly --

23           MS. STANNARD: Yes.

24           CHAIRPERSON HILL: -- yes?

25           MS. STANNARD: Yes, uh-huh.

1 CHAIRPERSON HILL: Okay. And you did go to the ANC,  
2 correct?

3 MS. STANNARD: Yes, and the -- there is only one other  
4 tenant, as I mentioned, in the building other than us, the market.  
5 It's the preschool upstairs, and they were aware of the  
6 application months ago.

7 CHAIRPERSON HILL: Okay. All right. I don't have an  
8 issue with the waiver and unless the Board has any issues, and you  
9 can raise your hand, I'm going to go ahead and approve the waiver  
10 for the lack of notice. Okay. Good. Thank you. Thank you, Mr.  
11 Rice, for pointing that out to me. All right. Ms. Stannard?

12 MS. STANNARD: Okay. Back to the burden of proof --

13 CHAIRPERSON HILL: Actually, Ms. Stannard --

14 MS. STANNARD: Uh-huh.

15 CHAIRPERSON HILL: -- could you wait for just 30  
16 seconds? I'm sorry.

17 MS. STANNARD: Yeah, sure. Go ahead.

18 (Whereupon, the above-entitled matter went off the  
19 record and then resumed.)

20 CHAIRPERSON HILL: All right. I'm sorry, Miss. Go  
21 ahead again.

22 MS. STANNARD: That's okay. All right. So in my best  
23 legal understanding of my burden of proof; so it's a use variance  
24 for the basement lower level. The first prong, as you said, is  
25 the physical characteristics of the property creates exceptional

1 and undue hardship for the owner in using the property consistent  
2 with the Zoning Regulations. So my argument is that the property  
3 is zoned R-1-B which means it's a single-family dwelling and the  
4 property is already not used as a single-family dwelling. The use  
5 of the grocery store is grandfathered in because it predates --  
6 from my understanding it predates the Zoning Code. So it would be  
7 a challenge for us to create a house in the basement or even a  
8 residence in the basement given the current commercial use of the  
9 building. Okay. Should I move on to the second prong?

10 CHAIRPERSON HILL: Sure.

11 MS. STANNARD: Okay. The second prong is granting the  
12 application will not be of substantial detriment of public good,  
13 i.e. traffic, noise, lighting. So we actually argue that it's  
14 actually better for the public good, that it is offering a  
15 healthy, you know, safe place to work out in the neighborhood  
16 where people can walk to.

17 The Health Coaches are already supported widely in the  
18 neighborhood with their boot camp outside and since most people  
19 come from the neighborhood even to the store, most of our business  
20 is pedestrian traffic, or bikes, or scooters, or whatever.

21 And noise and lighting, we don't anticipate a problem  
22 because it is a basement and it has two small windows, but it's  
23 all below grade mostly. Okay. Ready for three?

24 CHAIRPERSON HILL: Okay.

25 MS. STANNARD: Okay.

1 CHAIRPERSON HILL: Sure. I'm sorry. Please go ahead.  
2 I'm just looking -- I'm looking through the record as you're  
3 talking.

4 MS. STANNARD: (Audio interference) purpose is in  
5 relation to (audio interference). I think this is the one that's  
6 most like esoteric. You know, the intent of the Zoning  
7 Regulation, I think, is to create and protect a neighborhood  
8 experience. You know, the R-1-B is all about family living and we  
9 as the market on the corner certainly have added value to that  
10 experience in the neighborhood as well as the preschool upstairs  
11 which has already been approved. So we think that adding a  
12 fitness space in the building sort of rounds out the whole  
13 experience and it's what people (audio interference) for, so. So  
14 we think it's good for the neighborhood and creating a  
15 neighborhood experience. That's it. Thank you.

16 CHAIRPERSON HILL: Okay. That's it? Sure. Okay. All  
17 right. We're going to be talking about this for a little while,  
18 Ms. Stannard, so does anybody have any immediate questions for the  
19 applicant?

20 Well, I'll do a quick one. Ms. Stannard, what are you  
21 using it for now?

22 MS. STANNARD: Storage and it does have some gym  
23 equipment in there that we use, the people that work here at the  
24 market.

25 CHAIRPERSON HILL: Okay. And you own the building; is

1 that correct?

2 MS. STANNARD: I'm in the owner group, yeah.

3 CHAIRPERSON HILL: You're in the owner group? Okay.  
4 All right. Okay.

5 I'm going to turn to the Office of Planning.

6 MR. MORDFIN: Good afternoon Chair and members of the  
7 Board. I'm Stephen Mordfin, and we do support this application  
8 and I can go through the criteria. We do find that this is an  
9 extraordinary exceptional situation in that this is a commercial  
10 building that was designed that way in 1919 and it's been used  
11 that way ever since. The basement was never intended for  
12 residential use and then -- and with an active market above it, it  
13 creates issues in terms of noise. The access to the basement is  
14 through an entrance off Northampton Street; however, that also  
15 takes you past the trash room for that market which is a little  
16 bit different than going past a trash room, we believe, for a  
17 residence and it creates -- it would not be a pleasant experience  
18 to live next to the trash room of a market.

19 Therefore, we find that there is an extraordinary  
20 exceptional situation due to the trash room, due to the noise from  
21 employees, the equipment they use, the patrons in the market that  
22 would be walking above them and we do think that that would result  
23 in an undue hardship because to accommodate somebody living down  
24 there to -- you could avoid maybe the trash room by creating  
25 another entrance, although the applicant has indicated that that

1 would have some structural implications for the building to have  
2 to enter it from a different place or to create a staircase in the  
3 middle of the building, but also living below an active  
4 residential -- an active market is really different than what the  
5 R-1-B is actually designed, which is for one family dwellings.

6 We don't think that this would result in a detriment to  
7 the public good. This building has been used as the daycare  
8 center as approved by the BZA and as the market and with the  
9 establishment of the fitness center in the basement, we don't  
10 think that that would really have an adverse effect on the  
11 surrounding neighborhood. Most of the patrons are expected to  
12 come from the neighborhood. They're not going to drive there  
13 which would minimize the impact on the streets surrounding the  
14 subject property.

15 So we don't think there were -- we don't see that there  
16 would be a substantial detriment to the public good and we don't  
17 see that it would result in a substantial (audio interference) to  
18 the intent of the Zoning Regs because currently it's used as  
19 storage space for the market which is a legally nonconforming use  
20 and, you know, convert the use from that to this other use that is  
21 otherwise is not permitted by the Zoning Regs, we don't feel that  
22 that is going to have a negative effect on the community because  
23 this would be a use that would be serving the community without  
24 being a big draw from people coming from all over, maybe  
25 Washington or the Metro area.

1           So therefore, we find that the applicant has met the  
2 criteria for the (audio interference) application and recommend  
3 that the Board approve the use variance as requested. Thank you,  
4 and I'm available for questions.

5           CHAIRPERSON HILL: Okay. Does anybody have questions  
6 for the Office of Planning? And if so, raise your hand please.

7           Sure. Ms. John?

8           VICE CHAIR JOHN: So, Mr. Mordfin, were there any other  
9 possible uses that the applicant looked at?

10          MR. MORDFIN: I'm not aware that they looked at any  
11 other uses --

12          VICE CHAIR JOHN: Okay.

13          MR. MORDFIN: -- than storage that it was being used for  
14 previously.

15          VICE CHAIR JOHN: Okay. Thank you.

16          CHAIRPERSON HILL: I guess, Mr. Mordfin, even that -- I  
17 mean, like there is another use and the use is storage. So that,  
18 the Office of Planning, didn't think was a use?

19          MR. MORDFIN: Well, it is a use. Actually, it's an  
20 accessory use to the existing market. So right now, I guess, the  
21 use is an accessory use to the market. So it can be used for  
22 that, obviously, because that's what they've been using it for.

23          CHAIRPERSON HILL: That's okay. I'm just struggling  
24 with the first prong and like, you know, how they can't use this  
25 for something, right, and that was, I guess, the issue with

1 getting the variance. Again, they can't use it for anything and  
2 that's therefore why they need the variance. I'm not necessarily  
3 disagreeing with you, but do you have any or could you just  
4 reiterate again what you just said?

5 MR. MORDFIN: It's currently being used for storage for  
6 the existing nonconforming market that is upstairs on the first  
7 floor. That is the use of the space now which the applicant can  
8 continue just because it predates the zoning. They are looking to  
9 use it for -- I guess more actively use the space than a storage  
10 space. It's a basement.

11 MS. STANNARD: Yeah. Can I add to that?

12 CHAIRPERSON HILL: Sure.

13 MS. STANNARD: We used all of the basement for storage.  
14 This is just one corner of the basement that's -- that we don't  
15 really need. So we started looking -- well, actually, we actually  
16 did start looking before even the boot camp guys came to us how we  
17 could use the space more viably and get some rent out of it  
18 potentially and, you know, we just didn't come to anything.

19 You know -- I mean, first of all, every use would  
20 require BZA approval or any use other than any accessory use for  
21 the market, and accessory use for the market other than storage is  
22 really hard to accomplish because of the structural issues that we  
23 talked about, like how we actually get to the basement and back  
24 out. You know, like we couldn't really put customers down there  
25 and back out. Like, we couldn't send them down there to shop. So

1 | it's just one corner of the basement that we're looking at that we  
2 | don't need for storage, you know, so.

3 |           CHAIRPERSON HILL: And then, Mr. Mordfin, because this -  
4 | - you know, the variance would go with the property regardless of  
5 | who the owner is and just to clearly -- so that I understand it,  
6 | it would just be for a fitness center; is that correct?

7 |           MR. MORDFIN: That's correct. That's the only use, if  
8 | the Board approves it, that they could use it for unless they  
9 | converted it, the whole thing, to something that's permitted by  
10 | the Zoning Regs.

11 |           CHAIRPERSON HILL: Okay. And what are those things?

12 |           MR. MORDFIN: (Audio interference) --

13 |           CHAIRPERSON HILL: What are those things that --

14 |           MR. MORDFIN: -- all buildings --

15 |           CHAIRPERSON HILL: -- (audio interference)?

16 |           MR. MORDFIN: -- are a single-family residence.

17 |           CHAIRPERSON HILL: Right. That's it?

18 |           MR. MORDFIN: Yeah.

19 |           CHAIRPERSON HILL: Okay. Okay. All right. Are there  
20 | other uses outside of that?

21 |           MR. MORDFIN: As permitted as a matter of right or by  
22 | special exception in the R-1-B, it could be established within --  
23 | on the property. Special exceptions ones obviously would need  
24 | approval by the BZA, but they could do any of those. They're not  
25 | limited to just this use that they have applied for. They could

1 go through all the (audio interference) and --

2 CHAIRPERSON HILL: And I apologize. I mean, what are  
3 some of those special exception uses?

4 MR. MORDFIN: Let me look those up for a second. Hold  
5 on. One second, because off the top of my head, I don't remember.  
6 So in the R-1-B, the uses -- okay. They are in -- the uses that  
7 they could put in there -- let's see. Within the building, it  
8 could be institutional uses, religious-based uses. Those are  
9 things like a church or something like that. Public education,  
10 public recreation centers. Let's see, emergency --

11 CHAIRPERSON HILL: Can you tell me what you're -- where  
12 you're looking at in the Regulations?

13 MR. MORDFIN: I'm in Subtitle U, Chapter 2.

14 CHAIRPERSON HILL: Okay. I'm listening again, sorry.

15 MR. MORDFIN: Okay. Those are some of the uses that  
16 they could put in there. What else? Public schools. They could  
17 have mass transit facilities, temporary use -- there are some  
18 temporary uses that they could do, but that -- for construction  
19 and things like that.

20 And for special exception uses, you could do an  
21 accessory apartment, community-based institutional facilities.  
22 These are things that require special exception use; continuing  
23 care facilities which are residentially based. Daytime uses such  
24 as -- well, like they have now, the child development center or  
25 they could have an elderly development center, emergency shelters,

1 health care facilities. So those are uses that they could do --

2 CHAIRPERSON HILL: No, I got it. I got it.

3 MR. MORDFIN: -- (audio interference).

4 CHAIRPERSON HILL: I mean, I'm looking at the  
5 Regulations now, so.

6 Okay. Ms. Stannard --

7 MS. STANNARD: Uh-huh.

8 CHAIRPERSON HILL: -- again, like I don't know if -- and  
9 I'm not saying whether I'm one way or the other for this. I'm  
10 just going to talk through this a little bit, but --

11 MS. STANNARD: Yeah. Okay.

12 CHAIRPERSON HILL: -- you do know the difference, or do  
13 you know the difference between asking for a variance and asking  
14 or a special exception?

15 MS. STANNARD: No.

16 CHAIRPERSON HILL: Okay.

17 MS. STANNARD: Not really.

18 CHAIRPERSON HILL: Okay.

19 MS. STANNARD: I was --

20 CHAIRPERSON HILL: So --

21 MS. STANNARD: When I applied for this, I was advised by  
22 the Zoning Office that I had to apply for a variance of use.

23 CHAIRPERSON HILL: Got it. So a special exception is an  
24 easier criteria --

25 MS. STANNARD: Right.

1 CHAIRPERSON HILL: -- for us to approve whereas a  
2 variance -- a special exception is actually allowed within the  
3 Zoning Regulations.

4 MS. STANNARD: Uh-huh.

5 CHAIRPERSON HILL: A variance means you're going outside  
6 of the Zoning -- we're accommodating you because you can't do  
7 anything else other than what you're trying to do here.

8 MS. STANNARD: Right.

9 CHAIRPERSON HILL: And so the special exceptions are  
10 under U, Chapter 2, 203, and then they list -- is that right, Mr.  
11 Mordfin?

12 MR. MORDFIN: Yes.

13 CHAIRPERSON HILL: All right. Where it lists all the  
14 things you could do by special exception --

15 MS. STANNARD: Uh-huh.

16 CHAIRPERSON HILL: -- right? You still have to come to  
17 us, but special exception is an easier bar to reach than a  
18 variance. I'm just throwing that out. I don't know whether  
19 you're going to get there or not, but I'm just letting you know.

20 Do you, Ms. Stannard, have any questions for the Office  
21 of Planning?

22 MS. STANNARD: No, I don't.

23 CHAIRPERSON HILL: Mr. Mordfin, did you talk to the  
24 applicant -- I'll get you, Chairman Hood. Did you talk to the  
25 applicant about other uses of their special exceptions or you just

1 were trying to figure out what they needed to do if they wanted to  
2 have this fitness center?

3 MR. MORDFIN: What we did is we evaluated against what  
4 they requested. We didn't suggest other things that they could  
5 potentially do. We looked at the application as filed.

6 CHAIRPERSON HILL: Got it. Okay.

7 All right. Chairman Hood?

8 COMMISSIONER HOOD: Mr. Mordfin, I apologize for asking  
9 you to repeat. Do I sound muffled, Mr. Chairman?

10 CHAIRPERSON HILL: No, I think you're okay.

11 COMMISSIONER HOOD: Okay. I've been having some  
12 problems in trying to open files now. But anyway, Mr. Mordfin, I  
13 heard you mention the reason why Office of Planning was granting  
14 approval for this and what was it, something dealing with trash  
15 again? And I'm -- forgive me because I was trying to get some  
16 files open.

17 MR. MORDFIN: Well, part of it had to do with the way  
18 you access the basement off of Northampton Street which would  
19 access this space and that is adjacent to the trash --

20 CHAIRPERSON HILL: No, I got to --

21 MR. MORDFIN: -- (audio interference) --

22 CHAIRPERSON HILL: I got to (audio interference) --

23 MR. MORDFIN: -- which is -- it's a food market, so the  
24 odors, you know -- that would be -- we thought that, you know, for  
25 something that's residential or anything else, to actually go past

1 that would not be a pleasant experience and we thought that that  
2 created an exceptional situation because unless the applicant  
3 relocated and redesigned the interior of their building, that that  
4 created a kind of uniqueness that -- you don't usually walk past  
5 the garbage room to a place that's typically found in a  
6 residential zone. Usually you have that someplace out and it's  
7 usually not so (audio interference).

8 CHAIRPERSON HILL: Mr. Mordfin? Mr. Mordfin, can I  
9 interrupt you one second? I apologize to the Board. Could I just  
10 take a quick 10-minute break and I'll come back? I just need a  
11 quick 10-minute break. Thank you.

12 (Whereupon, the above-entitled matter went off the  
13 record and then resumed.)

14 CHAIRPERSON HILL: All right. So let's see. Where were  
15 we? Right. Mr. Mordfin, you were explaining about the trash and  
16 why it was actually a -- helping to meet the first prong in terms  
17 of this application, correct?

18 MR. MORDFIN: Yes. To expand on that, we thought that  
19 going past the trash room of a food business is something of a  
20 detriment to other uses that could potentially be in there and so  
21 that, we thought, was something that was unique because, you know,  
22 if the entrance to the building were someplace else, that wouldn't  
23 be the consideration, but in this place, within this old building,  
24 that is where it is.

25 And to reconfigure the building, we also thought would

1 be a hardship to reconfigure, add staircases to the center of the  
2 building which the applicant said would present some structural  
3 concerns, so that's why we agreed with that assessment.

4 CHAIRPERSON HILL: So they'd have to really reconfigure  
5 the building to move that trash somewhere else?

6 MS. STANNARD: Oh, yeah. There's no place to put the  
7 trash. You know, these --

8 CHAIRPERSON HILL: So I --

9 MS. STANNARD: Yeah. There's no place to put the trash  
10 other than there. The other side of the building -- I mean, my  
11 trash company would love it if I would put it someplace else, but  
12 the other side of the building is all dedicated to the preschool.  
13 It's their entrance and their play yard. So other than in front  
14 of the building, there's not really a spot for trash that --

15 CHAIRPERSON HILL: Okay.

16 MS. STANNARD: If you can envision that.

17 CHAIRPERSON HILL: Is there any --

18 MS. STANNARD: I mean, it's not a great design, you  
19 know, anyway. It's not a great design where the trash is, but it  
20 is where it is.

21 CHAIRPERSON HILL: Do you have anything in the record  
22 that shows us a little bit? Like, pictures of where the trash is  
23 or?

24 MS. STANNARD: Yeah. So --

25 CHAIRPERSON HILL: Hold on.

1 MS. STANNARD: -- the photos I submitted show the  
2 entrance. The first photo is the front of the market and then the  
3 second photo is the steps going down into the basement.

4 CHAIRPERSON HILL: Okay. Can you point me --

5 MS. STANNARD: I think (audio interference) --

6 CHAIRPERSON HILL: -- to an exhibit? I only see the one  
7 that's in front of the market.

8 MS. STANNARD: Oh. I don't know. Do I have an exhibit  
9 number? I don't know.

10 CHAIRPERSON HILL: I see color --

11 MS. STANNARD: Do you not have -- do you not have three  
12 color photos?

13 CHAIRPERSON HILL: I only have one.

14 MS. STANNARD: Oh.

15 CHAIRPERSON HILL: Oh, wait a minute. Wait a minute. I  
16 got another one here.

17 MS. STANNARD: Okay. So the second one shows the  
18 entrance on the side with the steps going down.

19 CHAIRPERSON HILL: Yeah.

20 MS. STANNARD: The double doors there, that's our trash  
21 room. And then as you go around the corner, the single door is  
22 the entrance that the gym would use. I mean, that's -- it's  
23 really our fire stair, so it's a --

24 CHAIRPERSON HILL: I understand. I'm looking at 29A.  
25 And by the way, the market looks darn cute.

1 MS. STANNARD: Thank you.

2 CHAIRPERSON HILL: I don't see any --

3 MS. STANNARD: It is darn cute.

4 CHAIRPERSON HILL: -- any --

5 MS. STANNARD: I'm sorry.

6 CHAIRPERSON HILL: I don't --

7 MS. STANNARD: I don't have exhibit numbers.

8 CHAIRPERSON HILL: Well, 29A does not show me double  
9 doors.

10 MS. STANNARD: Oh. Do you want me to hold it up so you  
11 can see it?

12 CHAIRPERSON HILL: No.

13 MS. STANNARD: No? You don't see that photo?

14 CHAIRPERSON HILL: (Audio interference).

15 MS. STANNARD: So that's the stairs that go down and  
16 then that's the double door of the trash room. You don't have a  
17 photo that looks like that in your file?

18 CHAIRPERSON HILL: Have you all seen that one? I  
19 haven't seen that one.

20 VICE CHAIR JOHN: Yes.

21 COMMISSIONER HOOD: Yeah, we have that photo, but I  
22 don't see -- well, I don't see the -- I still don't see the trash.  
23 I'm sorry.

24 MS. STANNARD: Well, the trash is behind that double  
25 door.

1 COMMISSIONER HOOD: Oh, behind the double -- okay.

2 MS. STANNARD: Yeah. It's a --

3 CHAIRPERSON HILL: Right. And where is the --

4 MS. STANNARD: It's a room.

5 CHAIRPERSON HILL: Where is the entrance into the gym?

6 MS. STANNARD: There. See, so these are the --

7 CHAIRPERSON HILL: It doesn't have --

8 MS. STANNARD: These are the --

9 CHAIRPERSON HILL: Just past the trash double doors?

10 MS. STANNARD: -- trash room doors. That would be --  
11 yes. You see?

12 VICE CHAIR JOHN: Okay.

13 CHAIRPERSON HILL: Yeah.

14 VICE CHAIR JOHN: And where is the trash in relationship  
15 to that picture? I can't pull up my pictures for some reason.

16 MS. STANNARD: The trash is in this room here.

17 VICE CHAIR JOHN: And --

18 MS. STANNARD: So our trash men empty this every day  
19 because it's not a very big trash room and we do generate a good  
20 bit of trash and they bring it -- they pull the toters up these  
21 stairs out to the trash truck.

22 VICE CHAIR JOHN: And where is the entrance to the  
23 Montessori school? Is the Montessori school --

24 MS. STANNARD: Oh, it's on the very opposite side of the  
25 building. So if you're looking at the building here, right --

1 VICE CHAIR JOHN: Uh-huh.

2 MS. STANNARD: -- so this side is where the trash  
3 entrance is. This is the Northampton side. There's a little  
4 driveway here and that -- just past there is the Montessori school  
5 entrance. It's on the side at the top of their driveway.

6 VICE CHAIR JOHN: And is the Montessori school in the  
7 basement?

8 MS. STANNARD: No.

9 VICE CHAIR JOHN: Okay.

10 MS. STANNARD: Well, they have a storage room in the  
11 basement, yes. So they have an elevator that goes from the  
12 basement to their first-floor lobby and then the second story --  
13 the second-floor classrooms.

14 VICE CHAIR JOHN: But it's not in the basement?

15 MS. STANNARD: Yeah. They have a storage room in the  
16 basement, yes.

17 VICE CHAIR JOHN: Okay. Thank you.

18 MS. STANNARD: Uh-huh.

19 COMMISSIONER HOOD: Mr. Chairman, can I go back to my  
20 initial question to Mr. Mordfin? So Mr. Mordfin, thank you for  
21 reiterating that. Let me ask you. In your analysis typically  
22 when you're looking at a use variance, do you -- is that how you  
23 all look at whether or not it qualifies for a variance or not?  
24 I'm just asking. The scenario that you used today, typically is  
25 that kind of how you look to see, whether to go past trash,

1 | whether it's hard to get to. I'm just curious. I don't do enough  
2 | of these, so help me.

3 |           MR. MORDFIN: Well, we usually look at it as, you know,  
4 | can it be used for something else and is -- you know, and I think  
5 | that the trash room kind of does put a damper on using it for  
6 | other things that may be permitted as a matter of right or special  
7 | exception. That creates the problem, that it can't be used  
8 | something so easily as a matter of right. It's a combination of  
9 | the trash room, you've got the upstairs first floor. There is the  
10 | market with the noise and the commotion that comes with that, so  
11 | it's those two things we thought created a uniqueness that makes  
12 | it difficult to use it for other things that aren't going to be --  
13 | won't mind having the trash room next to them such as the use as  
14 | proposed by the applicant.

15 |           COMMISSIONER HOOD: Okay. Thank you, Mr. Mordfin.  
16 | Thank you, Mr. Chairman.

17 |           MEMBER SMITH: I have a question, Mr. Chairman.

18 |           CHAIRPERSON HILL: Sure. Go ahead, Mr. Smith.

19 |           MEMBER SMITH: So Ms. Stannard, thanks for providing the  
20 | clarification of the picture.

21 |           MS. STANNARD: Uh-huh.

22 |           MEMBER SMITH: The door to the trash room there, is that  
23 | open regularly or is it locked, and it's only unlocked upon the  
24 | trash company being able to access to get the trash out?

25 |           MS. STANNARD: Well, we carry the trash down the stairs

1 inside and out that door that the gym would use and put the trash  
2 and that's all day long. You know, it's just as needed that we go  
3 up and down with trash.

4 MEMBER SMITH: Okay.

5 MS. STANNARD: Yeah. So it's generally locked, but we  
6 have a key, you know, and then the trash men come and ask us for  
7 our key, so.

8 MEMBER SMITH: Okay. Thank you.

9 MS. STANNARD: Yeah.

10 VICE CHAIR JOHN: So can I ask another question? Did  
11 you say you go through the space that the gym would use to take  
12 the trash out or you go through another --

13 MS. STANNARD: Well, we go down the -- I'm sorry. We go  
14 down the fire stair. So the gym would go in that door and then  
15 through the fire stair there's another door to the basement, a  
16 fire door to the basement to that room where they would have their  
17 small workout gym, yeah.

18 VICE CHAIR JOHN: But you don't have to go through the  
19 workout -- the space for the gym to take the trash out?

20 MS. STANNARD: No, no.

21 VICE CHAIR JOHN: Okay. Thank you.

22 MS. STANNARD: Yeah.

23 VICE CHAIR JOHN: I misunderstood what you said. Thanks  
24 so much.

25 MS. STANNARD: Yeah. Uh-huh.

1 CHAIRPERSON HILL: Okay. Anybody else for the Office of  
2 Planning? All right.

3 Is there anyone here, Mr. Young, (audio interference)?

4 MR. YOUNG: We do not have anyone.

5 CHAIRPERSON HILL: Okay. Okay. I don't know. Does the  
6 Board have any questions? Do they want anything? No? Okay.

7 COMMISSIONER HOOD: I keep wondering -- you know what, I  
8 was going to ask Mr. Mordfin to show me some other (audio  
9 interference) that we had an analysis like that before. I don't  
10 think -- if the Board doesn't need it, you all do this more than  
11 me, I don't think I need it. I just want to throw that out there  
12 if somebody else would like to see that. If not, I don't need  
13 anything.

14 CHAIRPERSON HILL: I mean, I don't know. I mean, I'll  
15 be quite honest since we're kind of talking about this. You know,  
16 the only thing I might be interested in is more photos on the  
17 whole trash situation kind of like going down there and how the  
18 trash really is a, you know, is a unique situation that can't be  
19 changed, you know. I suppose that would be something that might  
20 be helpful, but if you all think you know what you -- if you all  
21 think you know where you are and you don't think you need any more  
22 information, then I also don't necessarily want to hold up the  
23 discussion.

24 Yeah, so I don't know if that would or wouldn't be -- I  
25 mean, really in terms of the variance, again, what I'm kind of

1 stuck on, again, is that first prong and how they can't do  
2 something else with the space, right. But if that trash room  
3 really is, you know, can't be moved and is really something that  
4 wouldn't be able to allow the use under something of a special  
5 exception rather than a variance and you all might want to look at  
6 that, and that's fine. Otherwise, we can close the hearing.

7 COMMISSIONER HOOD: I'll be frankly honest, Mr.  
8 Chairman. That's my struggle and that's why I wanted to see how  
9 this is -- I don't do this every week unfortunately. Well, maybe  
10 it's unfortunate. But I can just tell you, I'm not sure what's  
11 always looked at in each of these cases and I'm not sure if this  
12 is a high hurdle. Well, I know it's a high hurdle, but I'm not  
13 sure if that -- does the argument stand the test of time and does  
14 the case (audio interference) precedes this, or comes behind this,  
15 or goes along with this, is that justifiable? That's what I -- I  
16 heard what Mr. Mordfin said and I'm just -- I don't know. I don't  
17 know. I'm (audio interference).

18 CHAIRPERSON HILL: Okay. Let's do this. I'm going to  
19 ask Mr. Moy a procedural question and then, Ms. John, you have  
20 your hand up.

21 So Mr. Moy, may I ask you a procedural question again?

22 MR. MOY: Yes, sir.

23 CHAIRPERSON HILL: So in OAG, so if we were to close the  
24 hearing and start deliberations and during deliberations, we  
25 thought we might want more information, then we could reopen the

1 record, ask for the information and then have deliberations again;  
2 is that correct?

3 MR. MOY: Yes.

4 CHAIRPERSON HILL: The OAG --

5 MR. MOY: You've done --

6 CHAIRPERSON HILL: The OAG is shaking his head yes.

7 MR. MOY: Yeah, and then --

8 MR. RICE: Yes, that's correct.

9 MR. MOY: And not only that, you have done that in the  
10 past.

11 CHAIRPERSON HILL: Right. We don't do it a lot, so I  
12 forget.

13 MR. MOY: No, no. It's very rare.

14 CHAIRPERSON HILL: Okay. Okay. All right. Well, then  
15 that's my -- then I say let's go ahead and do that unless, Ms.  
16 John, you were about to say something else.

17 VICE CHAIR JOHN: I was just going to ask the applicant  
18 if this particular space was used for storage before, how did it  
19 become vacant. You're on mute, Ms. Herbert (sic).

20 MS. STANNARD: Hi. Sorry. Well, there's a lot of space  
21 down there and, you know, honestly there was -- in the way we  
22 operated the market, maybe there was more need for space. You  
23 know, we don't hold as much inventory as we (audio interference).  
24 We operate a much tighter store, especially now in this economy.  
25 The pre-school had a lot more stuff down there than they do.

1 They've moved a lot of their stuff out of there also just to other  
2 locations.

3           So it's -- that particular space that we're looking at  
4 was never really full. Like, we would have folding tables down  
5 there and like I said, some equipment. Like, a rowing machine and  
6 a -- like an elliptical thing and some weights just that employees  
7 would use, but it was never really full. Like, that area was  
8 never really full.

9           VICE CHAIR JOHN: And describe the windows. Do you have  
10 windows down there?

11           MS. STANNARD: Yeah. There are two windows that are --  
12 they're egress windows, so they're a -- yeah, I think they would  
13 qualify as egress windows, but they're below -- the building is  
14 below grade down there so they're -- they start maybe like, I  
15 don't know, chest high and go up, you know. So there's two in  
16 that particular area. There's three altogether down there. One  
17 is in another room that it's partitioned where our laundry is and  
18 -- for the pre-school and the market with a little -- and a little  
19 cold kitchen down there that isn't working, that isn't operational  
20 either.

21           VICE CHAIR JOHN: Uh-huh. And so if you were to use  
22 this as a residence for the -- you know, to --

23           MS. STANNARD: Yeah.

24           VICE CHAIR JOHN: -- comply with the Zone, you could go  
25 down those steps and you would be in the area where the gym would

1 | be and there would be two egress windows in that area where the  
2 | gym would be?

3 |           MS. STANNARD: Yeah. So the thing about -- one of the  
4 | issues of making it a residence is that, in theory, it would have  
5 | to be locked and the other part of the basement egresses through  
6 | this part. So we'd have to create a hallway, I guess, for the  
7 | egress from the other side whereas when the gym plans to move in,  
8 | they don't need that. They just have -- you know, it's just in  
9 | that space. It's just open.

10 |           VICE CHAIR JOHN: Okay. All right. Thank you.

11 |           CHAIRPERSON HILL: Ms. Stannard, I don't know if we're  
12 | going to get to this part or not, but again what you just said --

13 |           MS. STANNARD: Uh-huh.

14 |           CHAIRPERSON HILL: -- might be something that might be  
15 | helpful to see --

16 |           MS. STANNARD: Okay.

17 |           CHAIRPERSON HILL: -- in terms of where you said the  
18 | egress and if you tried to turn it into a residence --

19 |           MS. STANNARD: Uh-huh.

20 |           CHAIRPERSON HILL: -- how that would create an  
21 | exceptional situation.

22 |           MS. STANNARD: Uh-huh.

23 |           CHAIRPERSON HILL: And then also again, the trash. More  
24 | clarity on how that trash can't be moved --

25 |           MS. STANNARD: Uh-huh.

1 CHAIRPERSON HILL: -- and how it has to be where it is,  
2 again creating an exceptional situation.

3 MS. STANNARD: Uh-huh.

4 CHAIRPERSON HILL: Right?

5 MS. STANNARD: Okay.

6 CHAIRPERSON HILL: So I don't know if we're going to get  
7 there, but those are the two things that you might be asked to  
8 provide.

9 MS. STANNARD: Okay.

10 CHAIRPERSON HILL: Right?

11 MS. STANNARD: Uh-huh.

12 CHAIRPERSON HILL: Is there anything else that -- and  
13 again, now what we're going to do is we're going to get into  
14 deliberations here and see kind of where we are and see if we need  
15 further information or not, right?

16 MS. STANNARD: Oh. Okay.

17 CHAIRPERSON HILL: So before I let Ms. Stannard go, is  
18 there anything else that you all might want from her if we do end  
19 up asking for more things just so we can have a dialogue here with  
20 her or is that clear enough?

21 MEMBER SMITH: Mr. Chairman, I think -- to your point, I  
22 think it would be helpful to have some type of floor plan, and it  
23 can be drawn, that shows the layout, the interior layout of the  
24 first floor of the space in question for us to get a better grasp  
25 of how things are laid out on the first floor.

1 MS. STANNARD: Uh-huh. Uh-huh.

2 MEMBER SMITH: Or even the second floor if you felt like  
3 that would help the argument, advance the argument, that you're  
4 attempting to make here.

5 MS. STANNARD: Okay. And are you asking for me to show  
6 you this now or to submit? I don't --

7 CHAIRPERSON HILL: I understand, Ms. Stannard.  
8 Actually, Ms. Stannard --

9 MS. STANNARD: How would you (audio interference) --

10 CHAIRPERSON HILL: -- don't go anywhere. Don't go  
11 anywhere.

12 MS. STANNARD: Okay.

13 CHAIRPERSON HILL: We might bring you back in.

14 MS. STANNARD: Okay.

15 CHAIRPERSON HILL: Okay? All right.

16 MS. STANNARD: Okay.

17 CHAIRPERSON HILL: So but --

18 MS. STANNARD: If I might add one other thing about the  
19 trash, I -- you know, I wasn't the developer of this building. He  
20 was a former partner, a business partner of ours, who is no longer  
21 involved in the market, but I have a feeling that that trash is  
22 where it is because of the neighbors. You know, because they  
23 didn't want it out where people could see it. You know, so like -  
24 - and I can -- when I provide more information if you ask for it,  
25 I can show that, but I think it's because it is tucked away, you

1 know.

2 I mean, you definitely notice it, especially in the  
3 summer, when you go by it, but the neighbors don't, you know. And  
4 we do, you know -- we do keep it tucked away, you know, because we  
5 are literally right next door to single-family dwellings.

6 CHAIRPERSON HILL: Ms. Stannard, I had a couple  
7 questions (audio interference). (Audio interference) is that how  
8 did you find out about the gym?

9 MS. STANNARD: How did I find out about them?

10 CHAIRPERSON HILL: How did this opportunity come to be?

11 MS. STANNARD: Well, like I said, when I was introducing  
12 the story, the boot camp guys are from the neighborhood. You  
13 know, they grew up in the neighborhood, they run the boot camp at  
14 Lafayette Elementary School across the street. So when Lafayette  
15 went under construction, they were not -- they were no longer  
16 allowed to meet over there when it was inclement weather. You  
17 know, like, they let them meet up there. So boot camps meet up  
18 and then they get their workout and then they go out in the street  
19 or they go out with their ropes or whatever, you know, and they do  
20 their workout.

21 So when they were thrown out of Lafayette, I said to  
22 them -- at the time, I had also had a Lafayette little Spanish  
23 class in the basement that also used to work in the gym. Anyway,  
24 the Lafayette gym and I said, "You could meet up there." So  
25 that's how it started. You know, and they all met there for like

1 5, 10 minutes in the cold weather or the rain and then they would  
2 go out and they would do their workout. So then we (audio  
3 interference), "Well, why don't you put a gym down there?" You  
4 know, like maybe you should. Maybe it would work that way, you  
5 know. Maybe it's a viable business.

6 CHAIRPERSON HILL: Right. And as you said, they're  
7 local to your community and your neighborhood?

8 MS. STANNARD: Yeah. Yes.

9 CHAIRPERSON HILL: Okay. All right. I guess I (audio  
10 interference). Just to reiterate this, Ms. Stannard, again you're  
11 arguing the variance in X 1002.1(b), okay. Right. Which is again  
12 by "reasons of exceptional narrowness, shallowness, or shape of  
13 the specific piece of property at the timing of the original  
14 adoption of the Regulations or by reason of exceptional  
15 topographical conditions or other extraordinary exceptional  
16 situations or conditions of the specific piece of property."

17 Meaning the trash, the layout of the downstairs  
18 basement, all the physical characteristics; right. That leads to  
19 your practical difficulty that you can't use the property in the  
20 way that the Zoning Regulations allow you.

21 MS. STANNARD: Right.

22 CHAIRPERSON HILL: So that's (audio interference). And  
23 (audio interference) the Office of Planning has made their  
24 argument and we totally are going to have -- and we believe that  
25 they've made a good argument, but I'm saying this is where we're

1 kind of struggling, or at least I think some of us are struggling,  
2 as to why you can't use this property or this area even within the  
3 special exception criteria, right. You need a variance.

4 MS. STANNARD: Uh-huh.

5 CHAIRPERSON HILL: Okay? And so that's why we're  
6 talking about the trash and the other things that the Office of  
7 Planning is pointing out and why Mr. Smith wants to see the layout  
8 and how you would be unable to -- it would be unreasonable to ask  
9 you to change the layout, right --

10 MS. STANNARD: Uh-huh.

11 CHAIRPERSON HILL: -- in order to do what's required  
12 within zoning. So there you go. Okay. And you'll be able to  
13 listen now to what we -- what happens next.

14 MS. STANNARD: Okay.

15 CHAIRPERSON HILL: Do you have any questions before we  
16 let you go?

17 MS. STANNARD: No. No, I'm good.

18 CHAIRPERSON HILL: Okay.

19 I forget. Mr. Young, did I say was there anybody in  
20 support or opposition?

21 MR. YOUNG: You did ask. We don't have anyone.

22 CHAIRPERSON HILL: Okay. Okay. All right. Okay.  
23 Well, then I guess I'll go ahead and close the hearing.

24 MR. YOUNG: Also, Mr. Chairman, you're --

25 CHAIRPERSON HILL: Ms. Stannard, just kind of hang

1 around --

2 MR. YOUNG: Your audio is starting to be --

3 CHAIRPERSON HILL: -- (audio interference).

4 MR. YOUNG: -- a little muffled, so I would suggest  
5 maybe that you log out and log back in after this case maybe.

6 COMMISSIONER HOOD: Yeah, Mr. --

7 CHAIRPERSON HILL: Okay.

8 COMMISSIONER HOOD: Mr. Young, it may be -- Ms.  
9 Stannard, if you put yours on mute, that may take care of that  
10 situation. There we go.

11 MS. STANNARD: Okay.

12 COMMISSIONER HOOD: Put yourself on mute, Ms. Stannard  
13 and Chairman, I'll put myself on mute and Chairman, let's -- keep  
14 talking. I think you're good.

15 CHAIRPERSON HILL: Okay. All right. The other thing  
16 that happened now and I think -- and I'm sorry, I'm going to --  
17 Webex sucks. Webex sucks. Like, you used to be able to see  
18 whether you're on mute or not on mute or the video is not on mute.  
19 Now, I don't have any idea what's going on, right. Okay. In  
20 fact, actually maybe there's another way that I do this. Sorry.  
21 Okay. There. Okay. It seems as though, and now I'm going to  
22 point this out to you, Chairman Hood. If you click the thing that  
23 says "participants" -- oh, never mind. No, never mind. It didn't  
24 work. Forget it. Never mind.

25 COMMISSIONER HOOD: Mr. Chairman, when I'm chairing the

1 | hearings, I have my own set of problems so today is your day, so  
2 | I'm just going to be quiet.

3 |           CHAIRPERSON HILL: All right. Okay. So Ms. Stannard,  
4 | thank you so much. We're going to close the hearing and we're  
5 | going to see what happens next.

6 |           Okay. All right. So the hearing is closed. The  
7 | hearing is closed and I -- you can hear me. I'm going to take off  
8 | my jacket. I don't know where we are, okay. So you all tell me  
9 | where we are. All right? I could -- if you all kind of seem to  
10 | think you know, then we can do that and/or if we want a little bit  
11 | more information, we can do that. I'm going to start to go around  
12 | the table and I'm going to start with Ms. John because she often  
13 | has a little bit of a clear idea, usually, where she kind of is.  
14 | Ms. John?

15 |           VICE CHAIR JOHN: I don't know about that, Mr. Chairman.  
16 | So I am sort of leaning towards supporting the application and  
17 | agreeing with the Office of Planning based on all of the  
18 | discussion this morning, and the information about the location of  
19 | the trash, and the difficulty of reconfiguring the space, and the  
20 | fact that this is just dead space and there doesn't seem to be any  
21 | use that might be appropriate for a special exception.

22 |           And basically storage, it's not being used for storage.  
23 | It's not needed. It's just sitting idly there doing nothing and  
24 | so I sort of agree with OP's analysis of the first prong. I would  
25 | like to see the diagrams to see if I'm understanding it correctly

1 and I'm aware that this is a nonconforming use, has been in  
2 existence before the Regulations, the 1958 Regulations, and so  
3 it's become a conforming use, but then there's the issue of  
4 expanding this nonconforming use as Board counsel tells us.

5           However, in this case, I sort of agree that there is no  
6 special exception criteria. I was thinking maybe a Montessori  
7 school because that's allowed in the Regulations as an accessory  
8 use, but just looking through the special exceptions, I didn't  
9 really see anything that would work and so the space would just be  
10 dead space, but that's sort of where I am. You know, my mind can  
11 be changed.

12           CHAIRPERSON HILL: Yeah. No, Ms. John, I mean we all  
13 know that life is an interesting thing, and I don't know who is  
14 going to be here and who isn't going to be here as the future  
15 moves on, and so if you think that you kind of have an idea as to  
16 where you are and you don't need additional information, then I'm  
17 happy to have your counsel here today. Right?

18           So Chairman Hood, where do you think you kind of are?

19           COMMISSIONER HOOD: So again as to -- the counsel  
20 information we've gotten from counsel, gives me some concern.  
21 I've heard many cases over the 20-some odd years, and I have to be  
22 frankly, honest. I'm glad you went to Board Member John because  
23 this case, I am speechless over. That's all I -- and normally  
24 that never happens, but I'm just trying to figure out -- that's  
25 why I asked Mr. Mordfin again about the trash. I don't know

1 whether that's a stretch or what it -- I'm really -- I really  
2 don't understand where I am on this one, honestly, and I've never  
3 had that happen in all these years.

4           Because I do understand what we're trying to accomplish.  
5 I do understand about neighborhood boot camps, but there's a  
6 threshold that we need to go over because I can tell you, this  
7 then becomes precedent setting for the BZA, so I am concerned how  
8 we get over that. Again, I'm all in favor of the boot camp. I'm  
9 all in favor of them doing what they do, but we also have  
10 Regulations that we have to follow and right now I just don't see  
11 it. So again, I thank you for going to Board Member John. That  
12 probably was not helpful and that's all I have right now.

13           CHAIRPERSON HILL: No, it was a little helpful and  
14 before I get to Mr. Smith, again, you know, it being a  
15 nonconforming use, and it being the old building that it is, and  
16 it being a market that it's been for a long time, and it being  
17 that like, you know, it's a market. There are people walking up  
18 above you and, you know, it -- and then the Office of Planning's  
19 argument that, you know, where the trash is and the reconfiguring  
20 of the building makes it to where we're at a variance, right.

21           And so I do think that this is kind of -- I think this  
22 is actually pretty unique in that I don't think it's necessarily a  
23 whole lot of precedent-setting. I mean, I don't know how many  
24 100-year-old markets are going to pop up before us with kind of  
25 like, you know, this type of situation although I -- since I get

1 to see OAG now a little bit, you know, and on the dais. You know,  
2 OAG this is just going to be like on the dais. I can turn over  
3 and look at you as opposed to like just a blank screen. Although  
4 when it's face on, it's not as easy. Like, you know, the side  
5 you're a whole lot easier to ignore than when you're face on, so.

6 But so, you know, I don't know. I mean, I don't know  
7 how precedent-setting it is, right, and I guess I can ask. I  
8 don't know what I'm going to ask her or if I'm going to ask yet,  
9 but now I'm going to turn to Mr. Smith because I'm kind of leaning  
10 over with Ms. John, I suppose, but I could take more information  
11 and we can see where we are and then, I don't know.

12 MEMBER SMITH: I am -- I'm seriously -- I'm really  
13 struggling with this. So my thought process with this one is a  
14 use variance should be a very high hurdle and I recognize that  
15 this particular property has been a market for -- since when, 1919  
16 or the building existed since 1919 and the property was zoned  
17 residential.

18 My concern, and this is where I agree with Chairman Hood  
19 about precedent-setting, is I think this is the second case that  
20 I've heard as far as being on the Board with a use -- where it was  
21 a situation of a use variance where there was a discussion about  
22 the space not being usable. It was an empty space, it's dead  
23 space, and I struggle with having that be an argument to grant a  
24 use variance because there are a lot of dead spaces, I'm sure, in  
25 Washington, D.C. or that could be considered dead space.

1           A rowhouse where I'm not using the basement, does that  
2 mean that because I'm not using the basement or I have a  
3 measurable use of the basement for my purposes now, does that mean  
4 that it rises to the level of, "Why not submit a request for a use  
5 variance so that I can put X particularly use within the  
6 property?"

7           My concern is that yes; this has existed since 1919.  
8 This is a nonconforming use and to me the way that I am  
9 interpreting zone ordinances and nonconformities is that you don't  
10 want to see (audio interference). The intent is for the  
11 nonconforming use to go away. To me, we're attempting to create  
12 an additional nonconforming use. Well, it wouldn't be  
13 nonconforming because they would be getting a variance, but a use  
14 that is prohibited per the zoning ordinance within the RA zone  
15 within this building.

16           I am struggling with the argument of it being located  
17 near a door where the trash is located. We have approved  
18 accessory dwelling units that are located within alleys where  
19 people traditionally put trash. I don't find the argument of  
20 being located near trash storage all that compelling for them not  
21 to continue to use it as an accessory use for the market in some  
22 way, shape, or form, or for a use as described that you can get  
23 with a special exception.

24           So I am leaning to no, honestly, and the only way that I  
25 would probably lean from a no is if the applicant comes back with

1 a floor plan that shows the extraordinary situation that OP is  
2 attempting to opine on in their staff report and what I think the  
3 applicant is attempting to argue. So I'm a no, currently.

4 CHAIRPERSON HILL: Okay. Well, Chairman Hood, do you  
5 want to get some more information and see where we get or what do  
6 you want to do?

7 COMMISSIONER HOOD: I was just listening to Board member  
8 Smith and maybe that'll help me, give me a comfort level, if we  
9 see the floor plan. Maybe I can envision what obviously I can't  
10 see now. Another thing I was going to throw in, Ms. Stannard  
11 mentioned that that's where the neighbors wanted things to go, the  
12 trash. So is that self-inflicted? So those are some of the  
13 things that are running through my mind. I think what Board  
14 member Smith mentioned would be very helpful to me as well.

15 CHAIRPERSON HILL: Okay. I'd like to talk to the  
16 applicant again then and also the Office of Planning. So unless  
17 the Board has an objection, I'd like to reopen the record and the  
18 hearing and bring in the applicant and the Office of Planning  
19 please, Mr. Young. And I guess the person who owns the gym.

20 MR. HERBERT: Hi. This is Brendan Herbert from DC  
21 Health Coaches. Are you asking for Tracy to come back on?

22 CHAIRPERSON HILL: Yes.

23 MS. STANNARD: Hi. I'm here.

24 MR. HERBERT: Okay.

25 CHAIRPERSON HILL: Okay. Ms. --

1 MR. HERBERT: Okay. Okay.

2 CHAIRPERSON HILL: -- Stannard, can you --

3 MR. HERBERT: Okay.

4 CHAIRPERSON HILL: Can you -- can --

5 MS. STANNARD: Video. Yeah, hold on. Okay.

6 CHAIRPERSON HILL: Yeah. Hey, Mr. Mordfin. Can you  
7 hear me?

8 MR. MORDFIN: Yes, I can hear you.

9 CHAIRPERSON HILL: Okay. So Ms. Stannard --

10 MS. STANNARD: Uh-huh.

11 CHAIRPERSON HILL: -- what the Board is trying -- what  
12 the Board is struggling with is whether or not you're meeting the  
13 variance criteria.

14 MS. STANNARD: Right.

15 CHAIRPERSON HILL: And in particular, the first prong of  
16 the variance test. I know you're not a land use attorney and the  
17 Office of Planning is very kind and competent -- kind is the wrong  
18 word -- it's their job, but they do a good job, and they are kind,  
19 I suppose, trying to help people you know with what they're trying  
20 to do, right. So I would --

21 MS. STANNARD: Yeah.

22 CHAIRPERSON HILL: What we're trying to see is, you  
23 know, how your -- how this space is meeting the exceptional  
24 condition, the first prong, and if you can show us some floor  
25 plans as to how maybe it's going to be too expensive to move it

1 around. You know, I mean the Office of Planning understands what  
2 we're now looking for --

3 MS. STANNARD: Okay.

4 CHAIRPERSON HILL: -- and, you know, a little bit more  
5 about -- I mean, for me, I guess, a little bit more about the  
6 trash situation although I must agree with Mr. Smith. I mean, the  
7 doors seemed pretty much closed to me and you don't really see the  
8 trash and you just have to walk past some white doors, you know,  
9 to get --

10 MS. STANNARD: Uh-huh.

11 CHAIRPERSON HILL: -- downstairs, but how -- maybe if  
12 you can articulate a little bit better how the trash is a unique  
13 situation --

14 MS. STANNARD: Okay.

15 CHAIRPERSON HILL: -- and you can ask the Office of  
16 Planning's help in what we're trying to see and understand --

17 MS. STANNARD: Uh-huh.

18 CHAIRPERSON HILL: -- and I'm going to ask Mr. Mordfin  
19 if he understands how you might be able to at least answer some  
20 questions from the applicant about what we're talking about.  
21 Correct, Mr. Mordfin?

22 MR. MORDFIN: Yes, yes.

23 CHAIRPERSON HILL: Okay. All right.

24 MS. STANNARD: Okay. Would like me to send you the  
25 floor plans? Can I --

1 CHAIRPERSON HILL: I'd like you to talk --

2 MS. STANNARD: No?

3 CHAIRPERSON HILL: I'd like you to talk to the Office of  
4 Planning --

5 MS. STANNARD: Okay.

6 CHAIRPERSON HILL: -- and kind of understand what we're  
7 trying to get, and then the Office of Planning might be able to  
8 articulate what we're trying to get, and then you can submit what  
9 we're asking for.

10 MS. STANNARD: Okay.

11 CHAIRPERSON HILL: Okay?

12 MS. STANNARD: Yeah.

13 CHAIRPERSON HILL: Which again, currently seems to be  
14 the floor plans for the first and second floor showing how you're  
15 in a unique situation that you need a variance and then the only  
16 thing for me is like, I kind of would like some more pictures  
17 about how the trash area is also an exceptional situation as to  
18 how you're meeting the variance standard. Okay?

19 MS. STANNARD: Oh. Uh-huh. Okay.

20 CHAIRPERSON HILL: So those two things.

21 MS. STANNARD: Okay.

22 CHAIRPERSON HILL: And however, after you talk to the  
23 Office of Planning, they might have another idea if there's  
24 something that you might need, like to submit, to strengthen your  
25 case.

1 MS. STANNARD: Okay.

2 CHAIRPERSON HILL: Okay?

3 MS. STANNARD: Okay. Yep.

4 CHAIRPERSON HILL: Because currently it seems like you  
5 don't have the votes. Okay?

6 MS. STANNARD: Okay. Uh-huh.

7 CHAIRPERSON HILL: All right. And then again, Mr.  
8 Mordfin, again, I don't think we need an additional report from  
9 the Office of Planning, but again, you know, why they can't do any  
10 of the special exception stuff, right. You know, just come before  
11 us for a special exception rather than a variance and you might  
12 want to explain that to the applicant as to what's the difference  
13 between a special exception and a variance and how that is a lower  
14 bar with which to -- a lower hoop to jump through.

15 MR. MORDFIN: Okay.

16 CHAIRPERSON HILL: Okay? All right. When do you think  
17 -- and I'm just going to talk to the two of you, when do you  
18 think, Ms. Stannard and Mr. Mordfin, what's a good timeline for  
19 you?

20 MS. STANNARD: I could chat tomorrow. Today's a little  
21 crazy this afternoon. Is -- I mean, or do you want me to do it  
22 today so we can get back to you today?

23 CHAIRPERSON HILL: No, no, no, no. I mean, Mr.  
24 Mordfin's a busy guy. You know, I'm just trying to talk --

25 MS. STANNARD: Yes.

1 CHAIRPERSON HILL: You know; I'm just trying to --

2 MS. STANNARD: Me, too.

3 CHAIRPERSON HILL: -- figure out if this can -- yes,  
4 we're all busy people, you know.

5 MS. STANNARD: Yeah, I know.

6 CHAIRPERSON HILL: Okay.

7 MS. STANNARD: It's good. So, but --

8 CHAIRPERSON HILL: And so like --

9 MS. STANNARD: -- (audio interference).

10 CHAIRPERSON HILL: But the -- I'm looking at just kind  
11 of what the calendar is like and how -- you know, I mean if there  
12 was some -- I mean, I suppose -- are we -- Mr. Moy, do we have  
13 something on the 20 -- are we having a hearing on the 23rd?

14 MR. MOY: Absolutely.

15 CHAIRPERSON HILL: The 23rd?

16 MR. MOY: Yes. Yeah, yeah, yeah, yeah. Yeah, you  
17 signed off on it, sir. I caught you in a weak moment. Okay? I  
18 think I may have mentioned it.

19 CHAIRPERSON HILL: Fine. Fine. Fine, fine, fine. So  
20 is there -- so if -- is there any way they can get back before us  
21 by the 23rd so at least there's an answer before the end of the  
22 year?

23 MR. MOY: Yeah. I think if the applicant can submit  
24 what the Board is requesting by -- today is the 9th. By let's say  
25 Thursday, December 17th --

1 MS. STANNARD: Okay.

2 MR. MOY: -- then the Board can make a decision on the  
3 23rd.

4 CHAIRPERSON HILL: Okay. The submission by when? I'm  
5 sorry, Mr. Moy.

6 MR. MOY: Let's just give the applicant and OP some  
7 time. If they -- if the applicant can make their filing by  
8 Thursday, which would be next Thursday, September -- September --  
9 December 17th, then the Board can decide this on the 23rd.

10 CHAIRPERSON HILL: Okay. Mr. Mordfin, will that work  
11 for you?

12 MR. MORDFIN: Yes.

13 CHAIRPERSON HILL: Okay. So Ms. Stannard, please go  
14 ahead and reach out to Mr. Mordfin and --

15 MS. STANNARD: Okay.

16 CHAIRPERSON HILL: -- get us what we need by the 17th --

17 MS. STANNARD: Okay.

18 CHAIRPERSON HILL: -- and then we'll have a decision on  
19 the 23rd.

20 MS. STANNARD: Okay. Great. Thank you.

21 CHAIRPERSON HILL: Okay?

22 MS. STANNARD: Yep.

23 CHAIRPERSON HILL: Okay. Thanks.

24 MS. STANNARD: Thanks.

25 CHAIRPERSON HILL: So long. So the hearing is closed

1 | except for those two things that we asked for, the floor plan and  
2 | the trash stuff, and if there's something that comes out of the  
3 | discussion with the Office of Planning. So you can submit three  
4 | things. Other than that, the record is closed.

5 |           MR. MOY: And you're not asking for any responses from  
6 | any parties, correct?

7 |           CHAIRPERSON HILL: No responses from anybody.

8 |           MR. MOY: Okay. All right.

9 |           CHAIRPERSON HILL: Okay? Okay. All right. Thank you  
10 | all, very much.

11 |           Okay. I'm going to talk to my Board members. So there  
12 | is still -- and I'm sorry, it's going to be really long. Like, so  
13 | we want to take lunch, right. Everybody is nodding their head.  
14 | Okay. So we'll go ahead and take lunch. If we can do it in 45  
15 | minutes, I guess that would be great and I say that because --  
16 | yeah, 45 minutes. Is that doable? Or you think we can do it in  
17 | half an hour?

18 |           Let's try to come back at 1:30. I'm sorry. Jiminy  
19 | Cricket, 2:30. Okay? Let's try to come back at 2:30.

20 |           Mr. Moy?

21 |           MR. MOY: Yes?

22 |           CHAIRPERSON HILL: Mr. Moy --

23 |           MR. MOY: Yes?

24 |           CHAIRPERSON HILL: -- the 24th is Christmas Eve.

25 |           MR. MOY: Yes.

1 CHAIRPERSON HILL: Have you seen the movie Scrooge?

2 MR. MOY: I've heard of it.

3 COMMISSIONER HOOD: I want to --

4 CHAIRPERSON HILL: All right.

5 COMMISSIONER HOOD: I want to commend the Board for  
6 working on the 23rd, man. This is a great service you all are  
7 doing for the city.

8 CHAIRPERSON HILL: Yeah. Whoever is the Commissioner on  
9 the 23rd, Mr. Moy, you go ahead and switch Chairman Hood over  
10 there now. Okay?

11 All right. I'll see you guys at 2:30. Thank you. Bye.

12 (Whereupon, the above-entitled matter went off the  
13 record and then resumed at approximately 2:38.)

14 CHAIRPERSON HILL: All right. Mr. Moy, you can call us  
15 back in whenever you get a chance and then call our next case.

16 MR. MOY: Thank you, Mr. Chairman. The Board of Zoning  
17 Adjustment is back in session after a brief lunch recess and the  
18 time is at or about 2:38.

19 The next case application before the Board for a hearing  
20 is Application No. 20317 of Julia Shepherd as amended for a  
21 special exception under Subtitle E, Section 5201, from the rear  
22 addition requirements of Subtitle E, Section 205.4 and pursuant to  
23 Subtitle X, Chapter 10, for variances from the lot dimension  
24 requirements of Subtitle E, Section 201.1 and from the lot  
25 occupancy requirements of Subtitle E, Section 304.1 which would

1 construct a new three-story attached structure with two dwelling  
2 units in the RF-1 Zone at 454 Ridge Street, Northwest, Square 513,  
3 Lot 926.

4 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.

5 Is the applicant here and, if so, could you identify  
6 yourself?

7 MR. HEISEY: Yes, Mr. Chairman. I'm Joel Heisey. I  
8 represent the applicant, Julia Shepherd, and Aubrey Grant who is  
9 the architect for the project should also be in the room  
10 somewhere, and I believe Ms. Shepherd is also. She will be  
11 attending, but I don't believe she plans on speaking.

12 CHAIRPERSON HILL: Okay. Mr. Heisey, do you want to use  
13 your camera?

14 MS. SHEPHERD: This is Julia Shepherd. I am on the  
15 line.

16 CHAIRPERSON HILL: Okay. Mr. Grant, is that -- okay.  
17 Mr. Heisey, I can see you. Mr. Heisey, could you please introduce  
18 yourself for the record first?

19 MR. HEISEY: Sure. It's Joel Heisey. I'm representing  
20 the applicant for the proposal of 20317 at 454 Ridge Street,  
21 Northwest.

22 CHAIRPERSON HILL: All right. Mr. Grant, could you  
23 introduce yourself for the record, please?

24 MR. GRANT: Hi. I'm Mr. Grant. I'm Aubrey Grant. I am  
25 the architect for Ms. Shepherd at 454 Ridge Street, Northwest.

1 CHAIRPERSON HILL: All right. Mr. Shepherd -- Ms.  
2 Shepherd, since you're there, could you also introduce yourself  
3 for the record?

4 MR. HEISEY: You're on mute, Ms. Shepherd.

5 CHAIRPERSON HILL: Ms. Shepherd? You're on mute, Ms.  
6 Shepherd.

7 MS. SHEPHERD: Okay. Am I unmuted?

8 CHAIRPERSON HILL: I can hear you now.

9 MS. SHEPHERD: Okay. I can't -- there's no icon to make  
10 me visible.

11 CHAIRPERSON HILL: That's all right. If you can just  
12 introduce yourself for the record.

13 MS. SHEPHERD: I'm Julia Shepherd, owner of 545 Ridge  
14 Street, Northwest.

15 CHAIRPERSON HILL: Okay. Mr. Heisey, are you going to  
16 be presenting to us?

17 MR. HEISEY: I will.

18 CHAIRPERSON HILL: Okay. I'm going to ask everybody,  
19 and I can't see whose microphone is muted or not, if you could  
20 just mute yourself unless you're speaking, that would be helpful.  
21 And then Mr. Heisey, if you could -- when you're walking us  
22 through the application and the relief that you're requesting, I  
23 guess if you could first speak to the lot dimension relief and  
24 then we can kind of go to the lot occupancy relief, and you can go  
25 ahead and begin your presentation whenever you'd like.

1           MR. HEISEY:  And that's exactly the -- where I was going  
2 to go because without the lot dimension relief, the rest is a moot  
3 point.  I had sent something into Paul.  There was a PDF that kind  
4 of summarized some of the key exhibits.  If we don't have them,  
5 I'll reference them as we go through here anyway.  I'd just like -  
6 - the whole impetus for this project is that Ms. Shepherd is a  
7 long-time resident to the area, and she wants to age in place and  
8 the current house is an 1890's Victorian which doesn't lend itself  
9 to that and she wants to build a new property.  She has MS with a  
10 certain -- there's associated health risks and she wants to  
11 provide a place that her family can move into, lead their separate  
12 lives as well as being nearby to assist her as well.

13           The existing lot is a through lot.  It's a tax lot that  
14 goes from M Street through to Ridge Street.  This originally used  
15 to be two lots and I guess the easiest thing is -- well, let me  
16 start with this.  Exhibit -- the photos, so you have a sense of  
17 what we're talking about.  Exhibit 29 and Exhibit 32 are  
18 photographs of the lot that we're specifically talking about.

19           There has been a structure on this portion of the lot  
20 since the early or the late 1800s actually, and somewhere between  
21 2004 when it was shown on a photograph of the D.C. survey and  
22 between 2009 in Google's maps, the structure had been razed.  So  
23 now it is a vacant lot which you can see on the other photographs  
24 with a set of buildings to the east and a similar structure to  
25 what used to be on this lot to the west, which is in very poor

1 repair and, at some point, will probably, if not fall down, be  
2 razed.

3           The need for the subdivision comes about because this  
4 is, like I said, a through lot which is currently a tax lot  
5 combining two of the underlying lots; one facing M Street and one  
6 facing Ridge Street. We have tried for a year working with the  
7 Zoning Administrator and the Surveyor's Office to get this lot  
8 plot recorded, but the underlying lot to the existing tax lot is  
9 also a tax lot. Now, that tax lot has existed for years. I went  
10 back, there's a deed back as far as 1948 that shows the deed for  
11 that which would be Exhibit 33 in this list.

12           I'm sorry. The lot is not meeting current standards.  
13 Like I said, it goes back to as far -- there's a Baist map of 1892  
14 that shows a lot with a two-story framed structure on it. The  
15 Surveyor's Office of D.C. in 1957 has the same property and then  
16 there's another Baist map of 1965 that shows a structure on this  
17 property.

18           The property can't be altered or, you know, enlarged by  
19 subdividing any additional lot area. We're a few feet square  
20 short. I think it's like 13 square feet short. We need 100  
21 square feet meter, but we're too narrow as well. So this presents  
22 a hardship in the fact that if this subdivision and the variance  
23 for the lot size is not approved, it basically becomes an  
24 undevelopable lot, it would be unbuildable, and then you would be  
25 sitting there with a vacant lot for who knows how long.

1           So I would hope -- I didn't know if you want to take a  
2 pause here and if you see there's a strong enough argument to  
3 proceed with that, the rest of the -- then goes on to the building  
4 that would be built on the lot.

5           CHAIRPERSON HILL: You can go ahead and move on if you'd  
6 like, Mr. Heisey.

7           MR. HEISEY: Okay. So assuming that, you know, the  
8 variance that this would be allowed, that we could get a  
9 subdivision that would become a buildable lot, what is being  
10 proposed is a three-story building in the front and then  
11 originally it was a primary dwelling unit in the front with an  
12 accessory building in the rear, very similar to what is currently  
13 the structures to the east. If you are going through here, the  
14 original plat which was Exhibit 5 shows how the original plan was  
15 as two separate buildings. That did not require a lot occupancy  
16 relief or the 10-foot building relief. However, it did require a  
17 relief for the height of an accessory structure.

18           In discussions with the Office of Planning, they thought  
19 gaining relief for the height of an accessory building would be a  
20 very high burden that they would not be in support of even though  
21 it is the same height as the immediately adjoining property. So  
22 their solution was, if you would go to the revised plat, it's --  
23 that's a good question. I don't have that specifically. It was  
24 in my other presentation.

25           The revised plat -- let me look up real quickly here

1 | where that is on the exhibits, 3, 4 -- ah, okay. I'm not finding  
2 | it very -- real quickly here. I'm sorry. But the revised plat is  
3 | the OP's suggestion, was to connect the two buildings with --  
4 | using a meaningful connection which is essentially a hallway  
5 | connecting the two and then that becomes one building and then the  
6 | -- it eliminates the need for a height variance for the rear  
7 | portion of the building.

8 |           But because of adding that corridor, it pushes the lot  
9 | coverage up to the 66.5 percent which we would need that, and  
10 | because now it's a connected building and not an accessory  
11 | building, it also means it extends 10 feet beyond the adjoining  
12 | building.

13 |           Now, this is exactly the same building type as 460 Ridge  
14 | Street and that is Exhibit 31. It shows -- that is the -- well,  
15 | actually I guess that is the new plat and that would show -- yes,  
16 | that shows the 460 building which has a main structure and a rear  
17 | structure with a meaningful connection. Our property is the one  
18 | that's outlined in red, is the proposal, and the one to the right,  
19 | which is east, is a development that was done several years ago  
20 | that there was supposed to be a meaningful connection and at the  
21 | time they allowed a trellis to be considered the meaningful  
22 | connection. It is just that the developer never built that  
23 | meaningful connection so they have two separate buildings, but it  
24 | should have been the same proposal as what we are proposing here.

25 |           I believe, just going through quickly, the other

1 agencies' reviews, HPRB reviewed this last year. They have  
2 approved it at their October meeting in 2019. The Department of  
3 Transportation has reviewed this, and they have no objections to  
4 the proposal. The Office of Planning, like I said, they had us do  
5 these revisions and they are supporting and prefer this proposal  
6 where the buildings are connected rather than having the dwelling,  
7 the principal dwelling and an accessory building. They prefer it  
8 as the single building with a meaningful connection. The ANC  
9 supported both the original design and we went back again with the  
10 revision and they supported unanimously for this design.

11 As far as we know, there is no opposition. The  
12 adjoining owners of the structure to the west, the existing two-  
13 story structure, they're supporting the project. And the owner to  
14 the east of those buildings, they are not objecting. They didn't  
15 want to support, but they said they had no objection. Actually,  
16 they said they didn't want to get involved. And then there's five  
17 other letters of support from adjoining neighbors.

18 This request does meet all of the thresholds requested  
19 for compatibility and size, height, everything that -- it meets  
20 the Zoning Regulations except for, like I said, the lot size which  
21 is an existing lot that has had a structure on it for years. The  
22 lot coverage which, again, is given mostly by OP's request that we  
23 make this a meaningful connection between the two structures and  
24 then the 10-foot, again, which is being driven by OP's request  
25 that we have those as two structures.

1           And if you (audio interference) plat recently submitted,  
2 you'll see that the rear structure lines up with the existing  
3 structure to the east, and more than likely when the adjoining lot  
4 to the west is developed, they will probably do the same thing as  
5 what we have because it almost identical in location and design to  
6 the property at 460 Ridge Street.

7           Other than that, I guess I don't need to belabor the  
8 point. If you have any questions, I'd be happy to take them and  
9 we look forward to your support for this proposal.

10           CHAIRPERSON HILL: All right. Mr. Heisey, thank you.  
11 Just real quick, in part of your presentation you had mentioned  
12 this meaningful connection and that was the trellis. Is that --

13           MR. HEISEY: Yes.

14           CHAIRPERSON HILL: -- the one that is 452 Ridge? I'm  
15 just curious because I was around for the whole trellis discussion  
16 about meaningful connection. Is that the 452 Ridge Street?

17           MR. HEISEY: Yes. They were supposed -- their original  
18 plans that was approved had a trellis connecting those two. At  
19 that point, a meaningful -- a trellis was considered a meaningful  
20 connection. The Zoning Administrator has since revised that, that  
21 he does not allow that as a meaningful connection. It has to be  
22 an enclosed conditioned space. So that's why we have, you know,  
23 presented the hallway. It's a single story. If you look at the  
24 sections -- I didn't really get through the floor plans.

25           CHAIRPERSON HILL: No, that's all right. My question is

1 -- so they didn't build the trellis?

2 MR. HEISEY: Correct.

3 CHAIRPERSON HILL: Okay.

4 MR. HEISEY: I'm not going to get into those --

5 CHAIRPERSON HILL: No, I'm going to ask --

6 MR. HEISEY: -- (audio interference).

7 CHAIRPERSON HILL: -- the Office of Planning because I'm  
8 just curious --

9 MR. HEISEY: Yeah, and I believe --

10 CHAIRPERSON HILL: -- how that --

11 MR. HEISEY: -- that's why that owner --

12 CHAIRPERSON HILL: -- (audio interference) --

13 MR. HEISEY: If you're -- if you know who that owner is,  
14 she has a history of saying one thing and doing quite another and  
15 I think that's why she --

16 CHAIRPERSON HILL: Oh. Come on, Mr. Heisey.

17 MR. HEISEY: -- (audio interference).

18 CHAIRPERSON HILL: Come on, Mr. Heisey. Don't get me  
19 into that kind of stuff.

20 MR. HEISEY: I know. I won't, but we've dealt with her  
21 for many years in Logan Circle.

22 CHAIRPERSON HILL: Again, you're still talking, Mr.  
23 Heisey. Okay.

24 So Mr. Moy?

25 MR. MOY: Yes. While there's a pause, Mr. Chairman, I

1 neglected to remind you that there was a request from the  
2 applicant to waive the 21 days filing --

3 CHAIRPERSON HILL: Right.

4 MR. MOY: -- for his revised materials on the record  
5 which is under Exhibit 26.

6 CHAIRPERSON HILL: Thanks.

7 MR. HEISEY: Oh.

8 CHAIRPERSON HILL: Okay.

9 MR. HEISEY: Mr. Moy, that was for when we had the  
10 hearing scheduled back in November --

11 MR. MOY: Okay. All right.

12 MR. HEISEY: -- and then they rescheduled. So I believe  
13 we made all the filing deadlines.

14 MR. MOY: Okay.

15 CHAIRPERSON HILL: Okay. So they don't need the waiver  
16 anymore? Okay. Okay.

17 Okay. And then, Mr. Heisey, your meaningful connection  
18 then, if I'm to understand it correctly, is not on the side of 452  
19 Ridge Street, correct?

20 MR. HEISEY: Correct. It's on the side of the 456 Ridge  
21 Street. It's to the west. It's --

22 CHAIRPERSON HILL: (Audio interference).

23 MR. HEISEY: -- a single-story connection.

24 CHAIRPERSON HILL: Got it. Okay.

25 All right. Does the Board have questions for the

1 applicant? Did somebody raise their hand? I'm sorry. I missed  
2 it if they did. No?

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

4 MS. THOMAS: Yes. Good afternoon, Mr. Chairman, members  
5 of the Board. Karen Thomas with the Office of Planning for Case  
6 No. 20317. The Office of Planning is recommending approval of  
7 this application as amended. We commend the applicant for taking  
8 our advice to reduce the relief that would have been necessary to  
9 get this project going.

10 As it stands, the only thing that kept it from being  
11 straight special exception would be the fact that it was a -- it  
12 is a tax lot and they're trying to build on the tax lot and so  
13 they would have -- they would require area variance from that  
14 section and so we recommended approval of that because it is an  
15 exceptional situation. It would render the lot unbuildable if  
16 they would be -- they weren't able to get relief from that. And  
17 otherwise, if it were a record lot, it would have been a straight  
18 special exception for what they were asking for.

19 So we support the relief being requested including the  
20 variance relief from the lot that I mentioned and lot occupancy  
21 and the special exception relief to go beyond the 10 feet where we  
22 suggested that they connect the buildings through -- with this  
23 walkway to the rear so that they can maintain it as one building  
24 and negate relief from height (audio interference). So if you  
25 have any questions, thank you.

1 CHAIRPERSON HILL: Okay. Does the Board have any  
2 questions for the Office of Planning?

3 Okay. Ms. Thomas, do you know -- because I'm -- do you  
4 know about the trellis at 452 Ridge Street?

5 MS. THOMAS: Yeah, I looked at the case. Yes, I can't  
6 remember exactly which case number it was, but it was approved  
7 with a trellis. In reality, which I saw as part of my site visit,  
8 there is no trellis and this project, the intent was really to  
9 have a character similar to the other row dwellings to the east of  
10 it so it would resemble. It's a string of row dwellings as part  
11 of one development that were built like how the applicant design  
12 is proposed. So yeah, but I don't see any trellis, to be honest.

13 CHAIRPERSON HILL: Were you -- and I know I'm going off  
14 on a little bit of a tangent because I was around for the whole  
15 trellis argument, discussion, meaningful connection thing. Like,  
16 was that something that was approved a while ago or you don't  
17 remember?

18 MS. THOMAS: It was approved a while ago. I can't -- it  
19 was 2015 thereabouts, I believe.

20 CHAIRPERSON HILL: Okay. Because I was started in July  
21 of 2015.

22 MS. THOMAS: Yeah, it was 2015.

23 CHAIRPERSON HILL: Okay. So then -- all right. Okay.  
24 So then they can build -- okay. Chairman Hood?

25 COMMISSIONER HOOD: Yeah. Well, I've been around for

1 the meaningful connection issue for a while, but I actually would  
2 like to see a copy of that order. I sure hope I wasn't on that  
3 case, but even if I was, I would just like to -- Ms. Thomas, and  
4 I'm not trying to put that into this case and go back. I'm just  
5 curious of when that case was. You said 2015. I know the  
6 meaningful connection actually started even long before that --

7 MS. THOMAS: Uh-huh.

8 COMMISSIONER HOOD: -- but I would like to have a copy  
9 of that order.

10 MS. THOMAS: Sure, I -- let me just switch around, look  
11 around in my comments as I lined them out and try and see if I can  
12 get it for you. (Audio interference) --

13 CHAIRPERSON HILL: Okay. My curiosity --

14 MS. THOMAS: -- (audio interference). Yeah.

15 CHAIRPERSON HILL: And my curiosity, again, Chairman  
16 Hood, as you take a look at it, is there was so much discussion  
17 about that kind of stuff and if people can actually get it, put  
18 the trellis up as a meaningful connection and then take down the  
19 trellis, it seems interesting to me.

20 COMMISSIONER HOOD: The way I understand, it was never  
21 done unless I missed something, and I -- and when I -- we talk  
22 about meaningful connections, this goes back to the bigger  
23 buildings downtown and we've had that whole history of making it  
24 one building and that's been going on for a while. I'm just  
25 curious about why this one was never done. That's my issue.

1 CHAIRPERSON HILL: All right. Okay.

2 All right. So back to this case. So again, does anyone  
3 have any questions for the Office of Planning?

4 Does the applicant have any questions for the Office of  
5 Planning?

6 MR. HEISEY: No. We're good, Mr. Chairman. Thank you.

7 CHAIRPERSON HILL: Okay.

8 Mr. Young, is there anyone here wishing to speak in  
9 support or opposition?

10 MR. YOUNG: We don't have anyone.

11 CHAIRPERSON HILL: Okay. All right.

12 Okay. I guess that's it.

13 Mr. Grant, I just want to say it seems like a very  
14 interesting design -- design solution that you came up with and I  
15 commend you for it.

16 MR. GRANT: Thank you.

17 CHAIRPERSON HILL: All right. Okay. Any final thoughts  
18 or questions before I release the applicants? No one is raising  
19 their hand.

20 Mr. Heisey, anything at the end?

21 MR. HEISEY: No, sir. Thank you. I appreciate your  
22 listening to us and considering this.

23 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Heisey.  
24 We'll see you next time, I'm sure.

25 MR. HEISEY: I'll be back.

1 CHAIRPERSON HILL: All right. I'm going to go ahead and  
2 release the applicant.

3 All right. Are you guys all ready to deliberate? And  
4 if not, raise your hand. Okay. I can start. I thought it was  
5 interesting. I mean, I really thought it was an interesting case.  
6 I thought that the applicant did meet the criteria with which we  
7 can approve this application. I would agree with the analysis  
8 that the Office of Planning has provided as well as that of the  
9 ANC and DDOT.

10 As I kind of just mentioned a couple of times, I've been  
11 around for the meaningful connection stuff and I do think it is a  
12 meaningful connection, and so I will be able to vote in favor of  
13 the application. I'm going to go around the table if I can.  
14 Chairman Hood, may I begin with you?

15 COMMISSIONER HOOD: Yes, Mr. Chairman. I think that  
16 this case warrants our approval especially dealing with the lot  
17 dimension, lot occupancy, and the building extension and I don't  
18 have anything further to add and I echo your comments as well.  
19 Thank you.

20 CHAIRPERSON HILL: Thank you, Chairman Hood.

21 Mr. Smith?

22 MEMBER SMITH: Mr. Chairman, I don't have anything  
23 further to add. I do believe that the applicant has demonstrated  
24 that it does meet the criteria for variance relief for both of the  
25 requested variances especially in light of the fact that this is a

1 tax lot that they're attempting to convert into a regular lot, and  
2 it is a fairly small lot, so I would be in support of both of the  
3 variances.

4 CHAIRPERSON HILL: Thank you.

5 Vice Chair John?

6 VICE CHAIR JOHN: I support the application as well  
7 based on the testimony today and OP's analysis and I'll give great  
8 weight to OP's analysis of how the application meets the criteria.

9 CHAIRPERSON HILL: All right. I'm going to go ahead and  
10 make a motion then to approve Application No. 20317 as captioned  
11 and read by the secretary and ask for a second, Ms. John.

12 VICE CHAIR JOHN: Second.

13 CHAIRPERSON HILL: The motion has been made and  
14 seconded.

15 Mr. Moy, could you please take a roll call?

16 MR. MOY: Yes. Thank you, Mr. Chairman. When I call  
17 your name, if you would please respond with a yes, no, or abstain  
18 to the motion made by Chairman Hill to approve the application for  
19 the relief requested. The motion is seconded by Vice Chair John.  
20 Zoning Commission Chair, Anthony Hood?

21 COMMISSIONER HOOD: Yes.

22 MR. MOY: Mr. Smith?

23 MEMBER SMITH: Yes.

24 MR. MOY: Vice Chair John?

25 VICE CHAIR JOHN: Yes.

1 MR. MOY: Chairman Hill?

2 CHAIRPERSON HILL: Yes.

3 MR. MOY: We have a Board seat vacant. Staff would  
4 record the vote as 4 to 0 to 1 and this is on the motion made by  
5 Chairman Hill to approve the application for the relief requested  
6 seconded by Vice Chair John. Also in support of the motion, Mr.  
7 Smith and Zoning Commission Chair, Anthony Hood. The motion  
8 carries 4 to 0 to 1.

9 CHAIRPERSON HILL: All right. Thank you, Mr. Moy. All  
10 right. So Mr. Moy, when you like, you can call our next one.

11 COMMISSIONER HOOD: Mr. Chairman, let me just say this  
12 for the record.

13 CHAIRPERSON HILL: Sure.

14 COMMISSIONER HOOD: I think the Zoning Commission and  
15 the Board spend a lot of time on these cases and when applicants  
16 come down in front of the Board and the Zoning Commission and make  
17 a good effort to say they want to do something, we expect for them  
18 to do it and that's just the issue I have when they go back, and  
19 we find out years later they haven't done it.

20 And that goes towards that conversation we had  
21 previously, and I think that's very (audio interference) by me  
22 when I hear as hard as you all work, as hard as Board members and  
23 Commission members work and people don't do what they say they'll  
24 do. It's a good faith -- we take them at their word, and we  
25 expect them to do what they're supposed to. That's all. That's

1 all I'm going to say on that. Thank you, Mr. Chairman.

2 CHAIRPERSON HILL: No, and Mr. Hood or Chairman Hood, I  
3 would also like to echo this in terms of that, again, I was around  
4 for the meaningful connection when it was, you know, just a  
5 lattice work, you know, that went from one building to another. I  
6 mean it's -- it was wood, or metal, or lattice and then there was,  
7 you know, how big the gaps were between the pieces of wood, right,  
8 and the fact that that's not even there, that does concern me.

9 VICE CHAIR JOHN: So Mr. --

10 COMMISSIONER HOOD: I agree.

11 VICE CHAIR JOHN: My question is was it an addition to a  
12 principal building and so it needed that meaningful connection to  
13 be an addition or not? Because if it wasn't built, then it  
14 wouldn't have met the -- wouldn't have complied with the permit or  
15 maybe they changed the permit. Who knows.

16 CHAIRPERSON HILL: I don't know how that happened. I  
17 mean, again, usually it's something about like, you know, you need  
18 to get -- the meaningful connection allows you for the height and  
19 for variance other things that you're trying to achieve with your  
20 program --

21 VICE CHAIR JOHN: Right.

22 CHAIRPERSON HILL: -- and so I don't know.

23 COMMISSIONER HOOD: Right. So to me it's a -- because  
24 also it gives you one building. It makes the -- that meaningful  
25 connection also makes it one building as well as we've already

1 heard, but my concern is compliance, and I would agree. Sometimes  
2 things do fall through the cracks, Board Member John.

3 VICE CHAIR JOHN: Yeah.

4 CHAIRPERSON HILL: All right.

5 Mr. Moy?

6 MR. MOY: All right. Thank you, Mr. Chairman.

7 So the next application before the Board, we have Case  
8 Application Number 20321 of 700 Randolph Street, Northwest, LLC,  
9 as amended for special exceptions under the residential conversion  
10 requirements of Subtitle E Section 320.2., under Subtitle E  
11 Section 5207.1 from the rooftop element requirements, Subtitle E  
12 Section 206.1, under Subtitle E Section 5201 from the lot  
13 occupancy requirements of Subtitle E Section 304.1, on the  
14 accessory building rear yard setback requirements, Subtitle E  
15 Section 5004.1, from the accessory building size restrictions,  
16 Subtitle E Section 5004.2, and pursuant to Subtitle X, Chapter 10,  
17 for area variance from the residential conversion requirements of  
18 Subtitle E Section 320.2(c). This would construct a second story  
19 addition to an existing accessory structure in the rear yard of an  
20 existing semi-detached single dwelling unit and to convert the  
21 existing principal dwelling unit into a three-unit apartment  
22 house, RF-1 Zone, at 700 Randolph Street, N.W., Square 3131, Lot  
23 20.

24 And other than that, Mr. Chairman, I believe there's a  
25 two-day deficient public notice and also a filing from the

1 applicant for revised plans outside the 21 day -- 21-day deadline  
2 that they did not ask for -- for you to address.

3 CHAIRPERSON HILL: Okay. First, let me let everybody  
4 introduce themselves. Who's going to be presenting? If you could  
5 raise your hand.

6 MR. WILLIAMS: Zach Williams.

7 CHAIRPERSON HILL: All right. Mr. Williams, can you go  
8 ahead and introduce yourself for the record?

9 MR. WILLIAMS: Yes. Zach Williams, the land use  
10 attorney with Venable, the agent for the applicant.

11 CHAIRPERSON HILL: Okay. Let's see. And who is here  
12 with you?

13 MR. WILLIAMS: Matt Medvene, the owner and applicant.

14 CHAIRPERSON HILL: Okay. Mr. -- is it McVeen?

15 MR. MEDVENE: Medvene. Medvene.

16 MR. WILLIAMS: It's Medvene.

17 MR. MEDVENE: Medvene. Yes.

18 CHAIRPERSON HILL: Yes. Okay. Mr. Medvene, can you  
19 introduce yourself for the record?

20 MR. MEDVENE: Yes. Good afternoon. My name is Matt  
21 Medvene. I am the homeowner and the applicant.

22 CHAIRMAN HILL: Mr. Medvene, you're the first person to  
23 testify in a moving car.

24 MR. MEDVENE: It is a unique scenario. I was hoping I'd  
25 eke by on that. I'm only 15 minutes away from getting back. But

1 | things didn't drag on as long as I thought they would. So I got  
2 | caught up in the middle in transit.

3 | CHAIRPERSON HILL: It reminds me of O.J.

4 | MR. MEDVENE: Fortunately, less people watched -- less  
5 | people chasing me.

6 | CHAIRPERSON HILL: I might be dating myself. I will be  
7 | dating myself some with that.

8 | All right. Let's see. Mr. Williams. All right. Let's  
9 | first go with notice.

10 | So there was a deficiency notice that was on the BZA's  
11 | part in terms of -- oh, no, no, no. Was the notice the Agency  
12 | referral? So you didn't send the Agency referrals out by a couple  
13 | of days; is that correct, Mr. Medvene?

14 | MR. MEDVENE: I don't think we send the Agency referrals  
15 | out.

16 | CHAIRPERSON HILL: Ms. Cain, is that -- is that us?

17 | MR. WILLIAMS: That's always the (audio interference),  
18 | Mr. Chairman.

19 | CHAIRPERSON HILL: Yeah. So it did go out. It was out  
20 | two days late and I do see that it went out to everybody it was  
21 | supposed to go out to. So I don't have any issues waiving that  
22 | requirement unless the Board does. And, if so, please raise your  
23 | hand.

24 | I don't see anybody raising their hands. So we're going  
25 | to go ahead and waive that requirement per Y101.9.

1           Then the other were the filing deadlines. You guys  
2 filed revised plans past the 21-day filing deadline.

3           Can you explain a little bit as to why those were late  
4 and if those are the plans that we're presenting in front of the  
5 ANC.?

6           MR. WILLIAMS: Yes. So we did file a motion in the  
7 record for that late filing and the filing was made at the request  
8 of OAG to clarify some measurements in our plans and we --  
9 basically that's all we did was clarify some inconsistent  
10 measurements. It didn't have any effect on our presentation or  
11 what -- on what we presented to the ANC.

12           CHAIRPERSON HILL: Okay. And how late was that  
13 deadline? How late was the filing deadline?

14           MR. WILLIAMS: We filed those plans several weeks ago, I  
15 believe.

16           CHAIRPERSON HILL: Okay. Because you'd -- you had  
17 spoken with OAG.

18           MS. CAIN: Mr. Chairman, the updated plans that he's  
19 referring to came in on December 3rd, based on the record. So  
20 those were --

21           CHAIRPERSON HILL: Oh.

22           MS. CAIN: -- (audio interference) 59.

23           CHAIRPERSON HILL: Okay.

24           MR. WILLIAMS: So that was -- we sent in two separate  
25 sets of updated plans. The first was prior to that. And then

1 | these most recent ones were just to correct a clarification, a  
2 | typo essentially on the survey, I believe.

3 |           CHAIRPERSON HILL: I see. All right. Well, if these  
4 | were the same plans that were presented to the ANC, I don't have  
5 | an issue with the clarification and/or the waiver of that.

6 |           Does the -- are there any Board members who do and, if  
7 | so, please raise you hand.

8 |           All right. I don't see any of that. Okay. So we're  
9 | going to go ahead and allow that.

10 |           Okay. So Mr. Williams again. Have you presented before  
11 | us, Mr. Williams?

12 |           MR. WILLIAMS: I have.

13 |           CHAIRPERSON HILL: Okay. So you're aware that  
14 | currently the Office of Planning is in denial or opposition. They  
15 | do not believe you're meeting the requirements.

16 |           MR. WILLIAMS: Correct.

17 |           CHAIRPERSON HILL: And so I guess you have a little bit  
18 | of an uphill battle to prove to us that you're meeting the  
19 | requirements.

20 |           So I'll go ahead and let you give your presentation, and  
21 | I would advise you to just, you know, really try to convince us as  
22 | to why you think you're meeting the criteria in order for us to  
23 | grant the application.

24 |           So I'll let you begin whenever you like.

25 |           MR. WILLIAMS: I have a presentation and I did send it

1 in yesterday morning. I think that -- there it is. All right.  
2 Thank you.

3 So this is a project located at 700 Randolph Street,  
4 Northwest, at the corner of Randolph Street and 7th Street in the  
5 Petworth neighborhood.

6 And this is -- the first slide is just a zoning map to  
7 orient everyone where this property is located. It's a corner lot  
8 in the RF-1 zone, as I said, on the southwest corner of Randolph  
9 Street and 7th Street, Northwest.

10 Next slide, please.

11 This is a -- this next slide is the survey, and we may  
12 come back to this. This is important because, as we get into our  
13 justification for the variance, what we're going to talk about is  
14 what makes this property so unique; what makes this property  
15 exceptional, warranting a variance.

16 And if you take a look, you can see that the property,  
17 actual property lines there which are just to the north and the  
18 east of the house structure, comprise about half of the land area  
19 that is enclosed with a retaining wall.

20 And if you look at this, you see the site from the  
21 street, the property appears to be more than twice as large as it  
22 actually is, in terms of the survey area.

23 We'll get into more of this and we'll talk more about  
24 this and we'll show some photos to explain the situation.

25 But, in fact, the public space area that's comprised

1 within this retaining wall, and is maintained by the property  
2 owner, is actually more land area than the property itself and  
3 results in a more than 5,000 square foot -- effectively and  
4 functionally a more than 5,00 square foot lot.

5 Next slide.

6 This is the property. This is a photo of the property  
7 from Randolph Street. You're looking straight at the front of the  
8 house there and you can see here what I was referring to. The  
9 property line is essentially just right -- just about adjacent to  
10 where that structure ends. And then all the rest of that area  
11 that's fenced in and the retaining wall is technically public  
12 space, but it functions as and looks to be part of the private  
13 property. It's used as part of the private property and you can  
14 see that, if you've been in this area of D.C. or you've seen this  
15 property, if you didn't know better, you would think this property  
16 was -- there was a house missing or a house had been there at some  
17 point in time. It is that large of an area within that retaining  
18 wall.

19 Next slide.

20 This is looking at the property from 7th Street. So  
21 you're looking at the side of the property here. And, again, you  
22 can see all that green area within that retaining wall. Again,  
23 that is all technically public space but functions and appears as  
24 though it's private space maintained by the owner.

25 You're also looking at the accessory garage here. And

1 our application relates to relief for the accessory garage. This  
2 is an existing condition right now.

3 This garage is unique in that it is adjacent to the  
4 alley but the access to the garage is via a curb cut on 7th  
5 Street, as you can see there. So we don't actually need to use  
6 the alley to access the garage.

7 There is two parking spaces in the garage and then  
8 there's space for two additional vehicles outside the garage, as  
9 you see them parked.

10 What we're proposing is a -- we'll get into our plans,  
11 is to do a second story addition on the footprint of this existing  
12 garage.

13 And, before I got to the next slide, I also want to  
14 highlight the -- the pretty drastic grade change between the  
15 garage and the main structure on the property. It's about a five-  
16 foot drop and we think that that helps to mitigate any potential  
17 impacts of the addition as well.

18 Next slide.

19 So here's the relief we're requesting. We are  
20 requesting essentially three separate things and, given recent  
21 changes in the zoning regulations, these function as three  
22 separate -- essentially three separate applications, if you will.

23 And we'll go through the OP report. I actually think  
24 the OP report is positive and supportive of two of the three of  
25 these areas of relief. And the first one is the accessory garage

1 addition. This is a special exception application for a second  
2 story addition. It is a request to have a second story on the  
3 same footprint as the original existing garage that we just looked  
4 at in that photo. And that's relief that's permitted as a special  
5 exception.

6 The next request for relief is the front porch deck.  
7 This is also a special exception, and this is a standalone special  
8 exception. This is not part of the apartment house conversion.  
9 The zoning regulations literally just changed on this and this is  
10 now handled separately and it's not something that has to be tied  
11 to the apartment house conversion. It is a standalone special  
12 exception, and we think that we meet those standards as well.

13 The third area of relief, and I think this is probably  
14 the one that we'll probably spend most of our time on today, is  
15 the request to convert to an apartment house and with three  
16 dwelling units with less than 900 square feet per dwelling unit.  
17 And this is two separate requests. This is a special exception  
18 for the conversion and a variance for the less than 900 square  
19 feet of land area per dwelling unit.

20 And just one thing I want to point out that we'll come  
21 back to is there is a little over 5,000 already completed finished  
22 floor area in this house that would be split between the three  
23 units.

24 Next slide.

25 There's the land area. The house there, the main house,

1 that's complete. That works been done. It was permitted. It is  
2 approved. It was by-right. It's already complete.

3           The request for relief from the BZA today is to add the  
4 addition, as you see it depicted there on the garage, and the --  
5 really the intent here is to create an addition that fills in  
6 this, if you will, sort of this -- this gap in the street front  
7 that's caused by the alley and the garage itself and to match the  
8 gable roof on the original house. That is not something that is  
9 easy or particularly cheap to do. We intentionally proposed that  
10 design to be in conformity with the existing house, which is a  
11 pretty interesting design, interesting architecture and to have  
12 something interesting, something that wasn't just another box on  
13 top of a box but something that added some character to the street  
14 that we thought was in conformity with the neighborhood.

15           Again there you can see the significant grade change  
16 from the garage to the main house which really mitigates a lot of  
17 the impact, we think.

18           Next slide.

19           (Audio interference) on the garage. This is again an  
20 existing single-story garage, accessory garage. It's 400 square  
21 feet. It has a height of ten feet. As I mentioned, it's  
22 accessible. We have a curb cut, not via the alley. So we don't  
23 need the alley; we don't need to use the alley to access it.

24           The lot occupancy with the garage and the building is 62  
25 percent. That's existing. That won't change.

1           The proposed addition is on the same footprint. It's a  
2 second story. We measure the height at seventeen and a half feet.  
3 There's some question about how the height should be measured and  
4 there's another, in fact, another text amendment that's being  
5 considered in the next few weeks to clarify where that height is  
6 measured.

7           I think whether you measure the height to the top of the  
8 structure or you measure it, as we did, at the median point of the  
9 gabled roof, the grade change I mentioned previously essentially  
10 comes out to the same measurement and we think it is mitigated  
11 again. Even though it's a second story, it really appears and  
12 functions as much less that as in comparison to the principal  
13 building.

14           This will not be a (indiscernible) on dwelling unit.  
15 We're not proposing that. We're not proposing an ADU. This is  
16 simply additional space, potentially some office space, home  
17 office, I should say, for the owner of the top dwelling unit,  
18 which right now is the applicant. The applicant lives in the  
19 house and lives in the dwelling unit currently on the top two  
20 levels and plans to continue to do so with his family into the  
21 future.

22           Next slide.

23           Special exception relief for the garage. As I said, the  
24 garage expansion is permitted with a special exception pursuant to  
25 Section 5201.2 in Subtitle E.

1           We need a special exception for three reasons. One is  
2 we are -- this garage is located less than 12 feet from the center  
3 line of the alley.

4           The next is that this would be a garage greater than 10  
5 feet in height in the portion of the radar of the primary house.

6           And, finally, the lot occupancy, as I mentioned earlier,  
7 is 62 percent.

8           Now two of those conditions are not going to change.  
9 We're not changing the footprint of the house -- of the garage, we  
10 should say, so the setback is the same as what it already is. We  
11 don't use the alley to access the garage, so I think that  
12 mitigates any issue with the setback and the lot occupancy is not  
13 going to change either. So it's really just the height question.

14           And, with special exceptions, as we all know, the  
15 question is does this unreasonably impact the neighbors. And we  
16 -- we don't think it does for a number of reasons.

17           The -- one, the adjacent row home is higher than this  
18 garage. Again, the grade change really mitigates a lot of its  
19 height.

20           It's not accessible via the alley so it doesn't create  
21 any impacts on the alley.

22           There's no change in the footprint and there's no  
23 adjacent windows in the house that's adjacent on the alley here,  
24 next to the garage.

25           And, as I'll get into a little later, the -- all of the

1 adjacent neighbors and community and the ANC fully support this  
2 request for relief. The ANC's letter is in the record and all --  
3 and many signature -- signed, I should say, letters in support  
4 from neighbors with their addresses are also in the record.

5 Next slide.

6 And the next variance is for the porch deck. This, as  
7 you can see, is illustrated in this rendering here. Everything  
8 you see in this photo is already existing except for the deck on  
9 top of the porch.

10 Next slide.

11 The porch deck is permitted with a special exception  
12 pursuant to Section 206.4 in Subtitle E.

13 This was previously handled as a waiver when we did an  
14 apartment house conversion and it's now been -- the regulations  
15 just changed. So it's no longer handled in that -- that section.  
16 It's a standalone special exception.

17 Again we don't see any impact here on adjacent  
18 properties. And what's interesting about this house is the  
19 original house actually had a side porch deck. The adjacent house  
20 was sort of a mirror image. It still has a side porch deck. And  
21 porch decks in this neighborhood are very, very common and that  
22 was a reason why the ANC and the neighbors supported this request.  
23 It's something that you see all over the neighborhood.

24 Next slide.

25 This is the original house, and you can see it had a

1 very -- a very unique architectural design. I've never seen  
2 anything like this in D.C. frankly.

3           The house, just to the left, is a mirror image. It's  
4 the same thing in reverse. That still exists today. You can see  
5 it had a side porch deck. It's not something you see very often  
6 in D.C. but it -- the original house had that element and -- so we  
7 think that further justifies the relief in this case.

8           Next slide.

9           The final area of relief, again, is the request to  
10 convert to an apartment house with three units.

11           Let's start with the special exception part of this  
12 because I think this is the -- a little bit more straightforward.

13           As you all know, to convert a residential dwelling to an  
14 apartment house, with three units, you need a special exception.  
15 And this is handled under Section 320.2 in Subtitle U.

16           Here, the applicant meets all of the requirements of the  
17 conversion except for the 900 square foot per dwelling unit  
18 requirement. That's why we've requested a variance and we'll get  
19 into that in a minute.

20           There's really no impacts here to the neighbors because  
21 the construction is essentially already complete. There only  
22 needs to be some minor interior tweaks to add access as a third  
23 dwelling unit. But, as the applicant will explain, the work is  
24 done, and there's really not much work that needs to be done here.

25           The property can accommodate parking for all of the

1 dwelling units. And, as I mentioned earlier, it's over 5,000  
2 square feet of finished floor area. This neighborhood has seen a  
3 lot of apartment conversions in the last few years. And just to  
4 name a few recent ones: 539 Randolph, that was a 4200 square foot  
5 structure; 618 Randolph, that was a 3400 square foot structure;  
6 and 612 Randolph, that was a 3400 square foot structure. Those  
7 are all interior lots, significantly less square footage and land  
8 area and those were all approved and supported by the  
9 neighborhood.

10 Next slide.

11 So let's get into the variance. The variance is  
12 required because we have 2,500 square feet of land area and we  
13 need 2,700, that'd be 900 per dwelling unit, to meet the special  
14 exception requirements.

15 This is something that has been brought to the BZA  
16 before. This is not something that is -- that is common but it's  
17 something that has been approved. There's a precedent for it.

18 And we think that we meet justification. We think we  
19 meet the standards and let me get into why.

20 First, I'll go through some of the familiar -- we've  
21 already talked about a number of these today. You've already  
22 heard a number of variance cases.

23 But very quickly, some of the standards requirements for  
24 a variance include exceptional topographical conditions and we  
25 think we have that here. I talked about the grade change. I

1 talked about the retaining wall; the public space area that  
2 functions as private space. (Indiscernible) exceptional practical  
3 difficulties and this as well. We have a lot that is essentially  
4 twice the size of what it appears, and we have four parking  
5 spaces. We have 5,000 square feet of finished floor area. We have  
6 much more than many of the apartment conversions that have been  
7 approved in this neighborhood over the last few years. And this  
8 lot can accommodate three units much, much better than these other  
9 conversions can and that results in a peculiar and, in our  
10 opinion, exceptional practical difficulty, an economic difficulty,  
11 for the owner if three units are not permitted.

12           The last item is there cannot be any substantial  
13 detriment to the public good. We think that this really aligns  
14 with the same discussion we had on the special exception part of  
15 the apartment conversion and, again, all of the neighbors fully  
16 support this request in this application. The ANC fully supports  
17 this application.

18           And so we think that speaks to the fact that there is no  
19 substantial detriment to the public good.

20           Finally, I just wanted to highlight a familiar case on  
21 variances that's -- that essentially the holding was that the  
22 required uniqueness does not necessarily have to be inherent in  
23 the land. It can arise from a confluence of factors including  
24 economic factors. The BZA can consider factors beyond just the  
25 topography of the land. The D.C. Court of Appeals has made that

1 clear.

2 So let's get into the justification of the next slide.

3 Like I said, this is -- we believe this is an  
4 exceptionally unique property. It's a corner lot. The fact that  
5 it's a corner lot is not unique, but it's a corner lot with  
6 significant undeveloped public green space that is fenced in by a  
7 retaining wall and a fence between the lot lines of Randolph  
8 Street and 7th Street with a sidewalk. This makes the lot appear  
9 and function as a more than 5,000 square foot property.

10 The lot has room for four parking spaces which is  
11 exceptional. It's unique to have a row home that has that much  
12 parking available.

13 There's a significant grade change and retaining wall.  
14 I keep saying it, but it's really the unique -- the unique  
15 characteristic of this property.

16 The finished floor area, I already talked about that.

17 The original house, before the changes were made, was  
18 close to 5,000 square feet. It's now a little bit over 5,000  
19 square feet. It's a huge house on this lot as compared to other  
20 homes in the neighborhood.

21 And, finally, there's no detriment to public good as  
22 illustrated by the support, unconditional support, from the ANC  
23 and neighbors as well.

24 One thing I will say is that the applicant is also as  
25 committed to making a contribution to an affordable housing

1 organization. This is something that -- is something that the  
2 neighborhood and the ANC is particularly interested in and the  
3 applicant agreed to do it. And so the applicant will be making a  
4 contribution given the request for a third unit, will be making a  
5 contribution to an affordable housing organization that's active  
6 in this Petworth area.

7 Finally, construction is essentially complete. There's  
8 really no major impacts that will arise from this on (audio  
9 interference) or joint properties.

10 Next slide.

11 So I went, myself, I've been to this neighborhood many  
12 times, but I never had analyzed owner lots in the way that we  
13 really need to in this case.

14 So I toured the neighborhood myself. I went on the  
15 assessment database. I looked at properties and tried to find  
16 properties like this and I couldn't. I could not find any  
17 properties quite like this on a corner lot that had this much  
18 enclosed public space that was -- that was clearly being  
19 maintained by the owner.

20 So let's look at a couple of properties in the vicinity.

21 Next slide.

22 Again this is the side view.

23 Next slide.

24 Here's 701 Randolph. This is right across the street,  
25 the corner lot. I mean, as you can see, this is in completely

1 different condition. This is across the street and while there is  
2 some public space there, what is it missing? It doesn't have a  
3 retaining wall. There's significantly less land area,  
4 significantly less land area than you see with 700 Randolph. This  
5 isn't even close to the same condition that we have on our  
6 property.

7 Next slide.

8 451 Randolph, now this one does have a retaining wall  
9 but, again, the land area, significantly less public land area,  
10 public space, and a smaller lot, a much smaller lot as well. This  
11 one again is not even close to the 5,000 functional 5,000 square  
12 foot that we have on our corner lot.

13 Next slide.

14 Here's 456 Randolph Street. Here you can see no  
15 retaining wall, no grade change, significantly less public area.  
16 So, yes, there -- you do see some public green space but it's just  
17 -- it's not even close to what you see at 700 Randolph. The  
18 condition is just not repeated, and I have not seen a lot quite  
19 like this in an RF-1 zone, particularly in this neighborhood.

20 Next slide.

21 Now here's -- here's the closest one I could find. This  
22 is 738 Quincy. Now, again, here, there is a fence but there's no  
23 grade change. There's no retaining wall there. And, again, this  
24 is still significantly less public area, public green space area  
25 to support this. It's just not the same situation. It's not the

1 same condition. This is the closest I could find, and it just is  
2 not even close to what we have at 700 Randolph.

3 Next slide.

4 To wrap this up, we did a lot of community outreach, did  
5 a lot of work with the ANC. We knew that this was going to be a  
6 challenging case and we knew that we needed to have unconditional  
7 -- really unconditional support from our neighbors and from the  
8 ANC before we were going to come to the BZA, and we got it.

9 The ANC submitted a letter fully in support of every  
10 aspect of our application. It's in the record.

11 We have letters from all of the surrounding neighbors on  
12 the street and adjoining streets. There isn't one single voice of  
13 opposition in the record. Everyone is fully in support. They're  
14 not even neutral. They're supportive.

15 And, finally, the applicant agreed to an affordable  
16 housing contribution, as I mentioned, which is something that's  
17 important to the neighborhood and important to this ANC and the  
18 applicant did that as well.

19 So that concludes my presentation and I -- I want to --  
20 the applicant is on the call as well and I want to just give him,  
21 if I could, a minute or two of my time to talk a little bit about  
22 his outreach because he did it. He lives in the house and he  
23 knows these neighbors and I think it might be good to hear from  
24 him directly on that.

25 CHAIRPERSON HILL: Okay. Sure.

1 MR. MEDVENE: Thank you, Zach. You definitely covered  
2 pretty much all of the bases there.

3 As Zach stated, my wife and I, we moved into this home.  
4 From my understanding and from the records we've -- we've found  
5 with the old permits and everything, this was a huge house when we  
6 found it. The goal was always to make it more than just a two --  
7 a standard two unit flat.

8 Originally, when we renovated the home for us to live in  
9 it, this first floor that we're looking to convert to a third  
10 unit, we were actually going to have that as a bit of an en suite  
11 for some of her family to move into it and live with us.

12 Given COVID and everything that's happened, as many  
13 people have experienced themselves, plans have changed pretty  
14 drastically. As such, we now have this huge home that it's  
15 essentially an entire floor that's not really necessary for us.  
16 It already has its own kitchen which -- its own two bathrooms, two  
17 bedrooms. All of this was approved by DCRA already and built.

18 So, at this point, the only work that needs to be done  
19 to the property is literally just enclosing the vestibule just to  
20 create a separate entrance.

21 The structure, the infrastructure, the sprinkler,  
22 everything -- everything was done predicated on the anticipation  
23 of possibly having a third unit or just having the separate living  
24 quarters. So there wouldn't be any impact to the neighborhood in  
25 that sense.

1           And a lot of the neighbors that we spoke to, the house  
2 was actually a rooming house before. I believe the owner before  
3 me purchased it in either 2009, 2004, somewhere in the early  
4 2000's and before she had owned it, it was -- it was a rooming  
5 house and I can't tell you how many people have come by, during  
6 construction, and while we've lived there, saying, wow, I can't  
7 believe this is the house that we used to live in.

8           So this property has a history of a number of  
9 inhabitants and a lot of the neighbors, specifically some of the  
10 more immediate neighbors, if the neighborhood is slowly shifting  
11 from the existing older residents that have lived there their  
12 entire lives to some newer generation of young couples and  
13 families, ourselves included. And they really enjoy seeing that  
14 vitality and youth coming in. You can start to see more babies,  
15 you know, walking down with strollers, and everything like that.

16           And by having this unit that we have, which is three  
17 floors and almost 4,000, over 4,000 square feet, it's completely  
18 impractical and unnecessary. And the ability to have a relatively  
19 affordable -- it's not an IZ unit, but it would be a more  
20 attainable price point that, you know, an average person in a  
21 starter home, a young family, could attain is very amenable to a  
22 lot of the neighborhood and that's why almost every single person  
23 was very excited about it.

24           The few that weren't super excited about it were just  
25 saying, okay, that makes sense, and we support this.

1 Not a single person had any concerns or any objections  
2 and everyone, as Zach pointed out, just really onboard with this.

3 So that's kind of the back story with this, including  
4 the adjacent neighbor, who we've become very close with.

5 CHAIRPERSON HILL: Okay. Thank you very much for your  
6 testimony.

7 Mr. Williams, I'm a little confused. Is there three  
8 units or four units?

9 MR. WILLIAMS: Three.

10 CHAIRPERSON HILL: So the unit above the garage is the  
11 third unit?

12 MR. WILLIAMS: No. That will not be a swelling unit.  
13 That's just extra space for the owner of the -- for Matt actually  
14 and his wife to use as a (audio interference) --

15 CHAIRPERSON HILL: The goal --

16 MR. MEDVENE: -- garage. Yeah. The third unit is the  
17 first floor that was supposed to be that en suite for family. The  
18 garage, it would just be either a gym or an office, something that  
19 is currently -- we are currently filling one of the rooms in the  
20 first floor, or one of the rooms in the first floor is being used  
21 as. So our hope is that we can convert that first floor into its  
22 own independent unit, at which point, we would then just use the  
23 addition above the garage as the office/gym.

24 CHAIRPERSON HILL: So, Mr. Williams, they're short the  
25 200 square feet in the primary building?

1 MR. WILLIAMS: No. The 200 square feet is the land area  
2 requirement.

3 CHAIRPERSON HILL: Okay. Right. And you're talking  
4 about the public -- okay. I got you now. All right.

5 So the -- just kind of -- I'm kind of curious, the  
6 public space, how did they get a fence there? It just happened to  
7 be there when they bought it?

8 MR. WILLIAMS: Yes.

9 MR. MEDVENE: The fence has been there since we bought  
10 it. I couldn't tell you. If I looked -- looking back to the last  
11 picture I found on Google Maps, I believe it was 2004, and it was  
12 there.

13 CHAIRPERSON HILL: Okay. Okay. All right.

14 Does the Board have questions for the applicant?

15 MEMBER SMITH: Just --

16 CHAIRPERSON HILL: Wait -- Chairman Hood.

17 CHAIRMAN HOOD: No. I'm (audio interference) Board  
18 Member Smith.

19 MEMBER SMITH: I just have a clarification question on  
20 special exception on the lot occupancy requirements.

21 So the garage, the area you're trying to build above the  
22 garage that you're requesting, is the property currently now with  
23 the (audio interference) attached dwelling unit maxed out on the  
24 lot occupancy and the nature of your request for the special  
25 exception is to exceed that due to the additional building area

1 | you're trying to construct above the garage?

2 |           MR. WILLIAMS:   That's a good question.   The lot  
3 | occupancy is not changing.   It's already 62 percent.   But because  
4 | we're --

5 |           MEMBER SMITH:   Okay.

6 |           MR. WILLIAMS:   -- adding -- we're adding a second level,  
7 | we have to come back and request that as a special exception.

8 |           Right now it's a non-conforming condition.

9 |           MEMBER SMITH:   Okay.   All right.   Thank you.

10 |           CHAIRPERSON HILL:   Chairman Hood.

11 |           CHAIRMAN HOOD:   Mr. Chairman, thank you.

12 |           I guess this either goes to Mr. Williams or Mr. Medvene.  
13 | I hope I (audio interference) your name.

14 |           When I look at the ANC letter, and I hear (audio  
15 | interference) first, I appreciate all the support you have and  
16 | that's great.   But, unfortunately, zoning is not a popularity  
17 | contest.   It's not how many people in support and (audio  
18 | interference).   We have regulations we have to follow.

19 |           But, when I look at this, I'm trying to figure out how  
20 | did we get -- again, I'm concerned because I'm starting to see  
21 | money value.   Here's what I learned, you cannot buy zoning.

22 |           MR. WILLIAMS:   Right.

23 |           CHAIRMAN HOOD:   Yeah.   So you can't buy zoning.   And I'm  
24 | not saying that what (audio interference).

25 |           CHAIRPERSON HILL:   Chairman Hood, you cut out on me.

1 Did everybody hear Chairman Hood? I don't know.

2 MR. WILLIAMS: I did.

3 MR. MEDVENE: I did.

4 CHAIRMAN HOOD: Am I cutting out?

5 CHAIRPERSON HILL: Maybe just cut out on me. I don't  
6 know.

7 CHAIRMAN HOOD: But if everybody else mute their -- I  
8 know nobody really wants to hear me, but if everybody else will  
9 mute their microphone, I'm sure that might help with the  
10 background noise.

11 Okay. (audio interference) again. Can you hear me now,  
12 Mr. Chairman?

13 MR. WILLIAMS.: I can hear you.

14 CHAIRMAN HOOD: You can hear me, but I think the  
15 Chairman must be having -- I had problems the other night.

16 Yeah, the Chairman's having problems, but you can still  
17 hear me? Okay.

18 MR. WILLIAMS: Yes.

19 CHAIRMAN HOOD: Yeah. I had those problems the other  
20 night myself. It must be chairman problems.

21 Let me -- let me go back to my thought.

22 How did the \$5,000 get even into the discussion because  
23 it really has no place. I mean, I appreciate the ANC getting it  
24 but it -- as far as our view, how did it even get into the  
25 discussion?

1 MR. WILLIAMS: That's a great question.

2 So this particular ANC has set a policy. Whenever an  
3 apartment conversion is requested, the ANC asks for \$5,000 per  
4 dwelling unit contribution from the developers and that's  
5 something that several developers have agreed to in the last few  
6 years.

7 In this particular case, because the two dwelling units  
8 already exist, the applicant agreed to provide the \$5,000 only for  
9 the additional dwelling unit.

10 And we knew that that wasn't legally a condition that  
11 can be imposed by the BZA. But, again, it was something that we  
12 were willing to do because we saw it as good policy and something  
13 we want to -- as I said, Mr. Medvene and his wife live in the  
14 neighborhood, so they wanted to support that policy.

15 CHAIRMAN HOOD: I appreciate that Mr. Williams, but one  
16 of the things that I'm concerned about -- now if come in front of  
17 the Zoning Commission and you have a PUD, all that's fine. That's  
18 great.

19 But one of the things I'm concerned about is residents  
20 in the city being led down the line on promised land, and \$5,000  
21 should not even be entertained or even be mentioned in this  
22 proceeding in the BZA. The Zoning Commission is a whole different  
23 story. If I saw \$5,000 there, I'd be fine. I'd be trying to work  
24 through it.

25 But I think this is a potential problem and I'm looking

1 to people like you and others to make sure you educate our  
2 residents, so we don't put them on promised land, because if  
3 something doesn't happen, or something doesn't go that way, and  
4 the \$5,000 doesn't show, then it becomes the Board's issues (audio  
5 interference) the Board's issues.

6 And I think that it's coming upon all of us -- Venable,  
7 and I forgot your name, because the Chairman's right, your name  
8 disappeared. So --

9 MR. WILLIAMS: Zach Williams.

10 BOARD MEMBER HOOD: -- Mr. Williams, it's incumbent upon  
11 all of us to make sure we educate the residents so it -- so we  
12 won't be on promised land and so there won't be no  
13 misunderstandings. So I personally -- a flag went right up when I  
14 saw that \$5,000 in the ANC letter for a BZA case and that's just  
15 where I am. And I'm hoping that the ANC Chairperson (audio  
16 interference) will see my comments as well.

17 Also let me just -- I kind of understand and I'm  
18 familiar with -- I think there's a church on the northwest corner,  
19 I believe, or wherever it is. But anyway, I kind of understand  
20 the plight of the area.

21 My other issue is the 900 square feet. I'm a stickler  
22 for that and I'm a stickler for the 900 square feet. Why not two  
23 units? Why can't -- let me -- let's not get on the units.

24 Why can't we meet the square footage requirement?  
25 Whoever wants to answer that. Mr. Williams, Mr. Medvene, whoever

1 | wants to answer that.

2 |           MR. MEDVENE: You mean why can't we just do two units  
3 | instead of three?

4 |           BOARD MEMBER HOOD: Yeah. Why we can't meet it?

5 |           MR. MEDVENE: So, I'll guess, I'll take that one.

6 |           The basement is its own unit already. That is owned  
7 | separately. So, there's already two units on the property.

8 |           CHAIRMAN HOOD: So you already have two. So you're  
9 | trying to -- it reminds me of a pair of pants. You're trying to  
10 | get a third leg. We need a 40 but we're trying to get a 38 in a  
11 | 40.

12 |           MR. MEDVENE: Right. That's what belts are for.

13 |           CHAIRMAN HOOD: Is that a fair assessment?

14 |           MR. MEDVENE: I guess, assuming I'm interpreting it  
15 | correctly, yes. The basement is its own separate unit that is  
16 | already -- that is completely deeded and owned separately from  
17 | what my wife and I own.

18 |           So we're just looking for the first through third floors  
19 | to be split.

20 |           CHAIRMAN HOOD: Because I'll relinquish my question, but  
21 | I can tell you this is (audio interference), Mr. Williams. I'm  
22 | not getting past the first prong (audio interference). Mr.  
23 | Chairman.

24 |           CHAIRPERSON HILL: Anyone else got any questions for the  
25 | applicant?

1 All right. I'm going to turn to the Office of Planning.

2 MS. VITALE: Good afternoon, Mr. Chair and Members of  
3 the Board. Elise Vitale with the Office of Planning.

4 The Office of Planning is recommending denial of the  
5 area variance from the 900 square-foot minimum land area  
6 requirement.

7 Additionally, OP is unable to support the following  
8 associated special exceptions (audio interference) and that would  
9 be the special exception for conversion for the semi-detached  
10 residential building to an apartment house. The following special  
11 exception relief related to the expanded accessory structure, that  
12 would be for the 62 percent lot occupancy as well as the reduced  
13 alley center line setback. And then finally for an accessory  
14 structure that exceeds the 10-feet in height and 100 square feet  
15 in area in the required rear yard. And then finally, we do  
16 not support the requested relief from the rooftop or upper floor  
17 elements.

18 As noted in our report, it does appear that  
19 modifications were made to the original rooftop and porch. As the  
20 applicant stated that those were intentionally permitted on site,  
21 but that may be an area where relief should have been required for  
22 modifications to (audio interference) as well (audio interference)  
23 the building.

24 OP, in its report, has noted that there is additional  
25 conditions that we would recommend should the Board proceed and

1 approve any of the requested relief. I can go through those now  
2 so that they're in the record should the Board proceed (audio  
3 interference) relief.

4 We would note that the accessory building should not be  
5 converted to a dwelling unit. We believe this would mitigate the  
6 impact of the proposal. Again, by ensuring that the property is  
7 not converted from a flat to an apartment house.

8 We would condition the proposed expansion of the  
9 accessory structure providing a flat roof in lieu of the gambrel  
10 roof. This would mitigate the impact of the proposal by reducing  
11 the height of the accessory building and providing a building form  
12 more in character with accessory structures across the District.

13 And finally, we would note that the proposed porch roof  
14 or proposed porch addition should be limited to one story. We  
15 believe by approving the second story porch, that could have  
16 potential impacts to privacy and noise for the adjoining property  
17 owner at 702 Randolph Street, Northwest. And also, it would  
18 provide a design more in keeping with the adjoining semi-detached  
19 building at 702 Randolph Street, Northwest. As the applicant and  
20 the applicant's attorney indicated, this 700 Randolph Street and  
21 702 Randolph Street are essentially, you know, a mirror image or a  
22 matched pair.

23 And finally, we would just like to remind the Board that  
24 zoning ends at the property line. You've heard a lot from the  
25 applicant and the applicant's attorney about the public space at

1 the side property and the front yard there at 700 Randolph Street,  
2 that the 900 square foot requirement is related to the land area  
3 of the property, and we don't find the argument that the extent of  
4 public space on this corner lot in any way justifies the variance  
5 request from the 900 square-foot requirement.

6 I'll conclude my comments there, but I'm happy to answer  
7 any questions. Thank you. Mr. Chair, you're on mute.

8 CHAIRPERSON HILL: Does anyone have any questions for  
9 the Office of Planning?

10 MEMBER SMITH: I have one question.

11 The front porch projection, I'm looking at the submitted  
12 plans, does that encroach into the public space at all?

13 MS. VITALE: Yes, it does. Actually the bulk of the  
14 front porch is in public space. And, again, as I stated, zoning  
15 ends at the property line. So there would be a small portion of  
16 -- I guess the applicant has already constructed a new one-story  
17 front porch that's partially in public space. That would have  
18 hopefully gone through review and approval at the Public Space  
19 Committee. The proposed second story porch that the applicant is  
20 seeking relief for in the application today, again, that would  
21 cross that line and would span the private property as well as  
22 public space.

23 MEMBER SMITH: Okay. Thank you.

24 CHAIRMAN HOOD: Mr. Chairman?

25 CHAIRPERSON HILL: Yes, please.

1           CHAIRMAN HOOD: Ms. Vitale, let me -- thank you for your  
2 report. Let me ask this question. Is -- let's see how I'm going  
3 to ask this.

4           Is there a way that the applicant can accomplish some of  
5 what he's trying to do without going this route? And I am sure  
6 you all have had discussions and I believe you have looked at  
7 other ways. Is there a way he can accomplish what he's trying to  
8 do other than this way? Did you all give him some other remedies  
9 to accomplish what he's trying to do is the question I am asking?

10           MS. VITALE: I don't believe we did. This is an RF-1  
11 zone that permits two dwelling units as a matter of right. As you  
12 heard the applicant state today, the property is already operating  
13 as a flat. So there are two dwelling units on the property. They  
14 don't meet the 900 square-foot requirement. So to try to add a  
15 third unit to this property is in conflict with the zoning  
16 regulations and does not -- does not meet the purpose and intent  
17 of the RF-1 zone. The RF-1 zone is there to permit flats which  
18 are two-dwelling units. It contemplates some conversions and it  
19 also contemplates, you know, some pre-existing apartment  
20 buildings. But those conversions, it's anticipated that the land  
21 area of the property would support that conversion, that's why  
22 relief from that requirement is a variance. It's a high bar and  
23 this is not something that the Office of Planning, you know,  
24 frequently supports. It really is a high bar to meet that  
25 variance test for relief from the 900 square-foot requirement.

1 CHAIRMAN HOOD: Thank you, Ms. Vitale. I'm going to ask  
2 you one straight question to help me get exactly (audio  
3 interference) cut through all the chase and all the legal  
4 ramifications and jargon and the verbal (audio interference).  
5 Does this mess up the zoning plan?

6 MS. VITALE: We believe that adding a third unit here  
7 would be in conflict with the zone -- zoning regulations and the  
8 purpose and intent of the RF-1 zone.

9 CHAIRMAN HOOD: Thank you.

10 CHAIRPERSON HILL: Okay. Anyone else?

11 Mr. Williams, do you have any questions for the Office  
12 of Planning?

13 MR. WILLIAMS: Yes. I -- if I could.

14 First, the -- I just want to make a point of  
15 clarification, the front porch deck is permitted to expand into  
16 the public space. It's treated as a bay window and we actually --  
17 we amended our plans to ensure that it was compliant with the  
18 design review regulations and public space. So that's the first  
19 point.

20 The second point is that the -- I understand the concern  
21 about the 900 square-foot but that's only one piece of our relief.  
22 That's not copied to our garage relief at all. That's -- it's not  
23 at all related to the special exception for the second story on  
24 the garage and it's not at all related to the porch deck. Those  
25 stand on their own.

1           And reading the OP report, when they got to those  
2 sections on the special exception standards, I read them as very  
3 positive. I felt that we met the standards on those two areas of  
4 relief. And so I'm a little -- I'm a little confused about why  
5 the characterization of the OP position is we're just against  
6 everything because there's not a 900 square feet, you know,  
7 requirement here because that's not related to those other areas  
8 of relief. So I just wanted to get some clarification on that.

9           MS. VITALE: Well, with respect to the addition to the  
10 accessory building, the case is being made that the house is too  
11 large. It's over 5,000 square feet. This is what's driving the  
12 argument for the need for a third unit. However, the porch  
13 additions or -- improvements have been made to the property by  
14 this applicant that enclosed an existing side porch and portions  
15 of the front porch which further enlarge the principal building.  
16 And then the applicant is making the argument that they need  
17 relief to add additional square footage above the accessory  
18 building, but then they're coming back and saying one of the  
19 justifications or rationalizations for the variance relief for the  
20 third unit is because the house is too large.

21           So I feel like this is a case where they're trying to  
22 have it both ways, where they're wanting relief to additional  
23 square footage to the house, and then saying we need to have a  
24 third unit because we just have way too much square feet and it's  
25 a huge house.

1           So I feel like there is a connection here. There is a  
2 relationship between all of the relief that's being requested in  
3 this application.

4           Certainly, if the applicant came forward with a request  
5 to add an office on top of the accessory building, and that space  
6 was clearly office space and not potentially a residential unit,  
7 then I think that would be a very different application. That's  
8 not the application that's before us, so that's not the request  
9 and relief that we analyzed.

10           MR. MEDVENE: So I guess I'd to note that Zach touched  
11 on it, that it was specifically clarified that the addition on the  
12 garage was not being pursued to be a potential dwelling unit.  
13 There's nothing in it that's being requested or asked or anything  
14 to alleviate that relief or variance, what have you, that would be  
15 allowing it to become a dwelling unit.

16           Additionally, as I had mentioned before, when the -- so  
17 the first floor, the front porch, that's all existing. We haven't  
18 built a new front porch. That's an existing front porch. We did  
19 enclose the side where there was a vestibule beforehand on the  
20 first floor and now, on the second floor, which 702 still has, but  
21 there was a side porch there that we enclosed to make that living  
22 space.

23           And, again, the premise behind that was to have that  
24 first floor be a separate living space for family with the second  
25 and third floor being, in essence, its own unit.

1 I would also kind of ask, interpreting OP's argument  
2 regarding how RF-1 is strictly for a two-family flat, I would  
3 contend that there is a number, a significant number of buildings  
4 that are apartment houses within RF-1 as long as they meet this  
5 land -- or lot size requirement.

6 None, from what we found, which Zach already touched on,  
7 have any -- are anywhere close to the size of the structure which,  
8 as Zach also noted, we didn't build much of the structure.  
9 Really, most of the increase in livable square footage within the  
10 house was just the enclosure of those vestibules along within the  
11 basement where there was like a notch, what-not, that was opened  
12 up. So we didn't touch the size of the structure. It's an  
13 existing structure that is already the size which, in and of its  
14 own right, is unique within RF-1 because I beg you to find another  
15 building that is -- that is -- or many buildings that are this  
16 size within RF-1, much less a building that is this size that's  
17 existing that is not multiple apartments.

18 It just -- it doesn't really add up or it doesn't seem  
19 to apply to what you really strictly define as RF-1 which is also  
20 not really an accurate statement because there are a significant  
21 number of apartment houses within RF-1, as a whole, across the  
22 city.

23 CHAIRPERSON HILL: Mr. Medvene.

24 MR. MEDVENE: Yes. Yes.

25 CHAIRPERSON HILL: Actually you made a statement. Did

1 | you have a question for the Office of Planning?

2 |           MR. MEDVENE: Well, I was just asking how behind her  
3 | argument -- or the argument behind how it doesn't fit the essence  
4 | of RF-1 by not meeting the two -- or the 900 square feet.

5 |           She said that RF-1 is built just -- or structured such  
6 | that it should just be two-family flats. And I'm asking how can  
7 | she make that argument when you look across RF-1 as a city-wide  
8 | spectrum, per se, and you see how many apartment houses are within  
9 | RF-1.

10 |           CHAIRPERSON HILL: Ms. Vitale, do you understand that  
11 | question? I think it brings you back to the 900 square feet,  
12 | right?

13 |           MS. VITALE: Yes. This is Ms. Vitale.

14 |           CHAIRPERSON HILL: Okay.

15 |           MS. VITALE: The -- now you and Chairman Hood have the  
16 | same issue. I shouldn't have worn my glasses today, that might  
17 | have helped.

18 |           The RF-1 zone is a two-family flat zone, and it  
19 | contemplates conversions to apartments if the 900 square-foot  
20 | requirement is met.

21 |           There are also nonconforming or apartment buildings that  
22 | were built prior to zoning that were legally constructed. In this  
23 | instance, we're talking about a semi-detached residential building  
24 | that was constructed likely as a single-family home or a flat.  
25 | This was not a purpose-built apartment building.

1           If we were talking about, you know, modifications to a  
2 purpose-built apartment building in the RF-1, that would be a  
3 different case, a different argument, and a different discussion.

4           CHAIRPERSON HILL:   Okay.   All right.   Thank you, Ms.  
5 Vitale.

6           I have never made that mistake before and, however, it's  
7 really handy that the name's there, but the name is not there  
8 anymore.   So I suspect this will be a regular problem as we move  
9 forward with this Zoom thing.

10          CHAIRMAN HOOD:   Mr. Chairman, the point is, you made it  
11 and now you're in my club.

12          CHAIRPERSON HILL:   I'm going to start -- I'm going to  
13 start going with hey you and just see who responds.

14          All right.   Let's see.   Mr. Williams, right, do you have  
15 any further questions of the Office of Planning?

16          MR. WILLIAMS:   I don't, but I do have a point to make  
17 before -- or just a question, I guess, to the Board members before  
18 you -- before deliberation starts.

19          CHAIRPERSON HILL:   Okay.   All right.   We can get there.  
20           I do have a question.   I don't know if this is going to  
21 be your question or not.

22          Like, Ms. Vitale, the -- there's a lot of stuff that the  
23 applicant was asking for in here.   There was a lot of different  
24 things that the applicant was asking of in here.   And I don't know  
25 if this is what Mr. Williams is about to add, but I don't know is

1 | there any use in the applicant coming back to the Office of  
2 | Planning and trying to understand if there's ways to get some of  
3 | the things that they think they need or is this just a non-starter  
4 | all the way around, which I think is almost what Chairman Hood  
5 | just asked. That's my question to you, Ms. Vitale.

6 |           MS. VITALE: No. Sure. And I understand that, and I  
7 | was trying to address that in my comment earlier that we evaluate  
8 | the application that's before us and the arguments provided in  
9 | that application.

10 |           I think certainly we'd be happy -- if the applicant was  
11 | looking to revise the application, we're always happy to speak  
12 | with and work with applicants.

13 |           CHAIRPERSON HILL: Okay. Great. All right.

14 |           Mr. Williams, I'll give you a chance in a second. I  
15 | still got to kind of go through this.

16 |           Mr. Young, is there anyone here who wishes to testify in  
17 | support or opposition?

18 |           MR. YOUNG: Yeah. We have one.

19 |           CHAIRPERSON HILL: Okay. Could you bring that person  
20 | up, please?

21 |           MR. YOUNG: They're actually calling in, so I'm just  
22 | going to unmute and that's Ms. Arrington.

23 |           CHAIRPERSON HILL: Ms. Arrington, can you hear me?

24 |           MS. ARRINGTON: I can. Can you hear me?

25 |           CHAIRPERSON HILL: Yes. Could you please identify

1 yourself for the record?

2 MS. ARRINGTON: Sure. Good afternoon, everyone. My  
3 name is Jennifer Arrington and I reside at 707 Randolph.

4 CHAIRPERSON HILL: Okay. Ms. Arrington, you'll have  
5 three minutes to give your testimony and you can begin whenever  
6 you like.

7 MS. ARRINGTON: Sure. I just -- I'm excited to be here  
8 today. This is a very interesting process that I've actually  
9 never participated in before and I'm very thankful to Mr. Williams  
10 for his presentation because I was very unclear on all of the  
11 details of what was happening at 700 Randolph.

12 And this is actually the first time that I'm seeing Mr.  
13 Medvene, so I guess my family must have missed the list of  
14 neighbors that you reached out to and had full concurrence from.

15 I did actually speak to several of the neighbors  
16 identified on Exhibit 8. Their houses are 713, 19, 44, 43, 42,  
17 41, 823, 58, 57 and 39, and they all seem to not be as supportive  
18 of your plan as you indicate. So I just wanted to state that  
19 before I really get into my statement.

20 A couple of other things that came up during your  
21 presentation I found interesting, particularly this idea that the  
22 fence had always been there. It appears --

23 CHAIRPERSON HILL: Ms. Medvene. Ms. Medvene. Was it  
24 Medvene?

25 MS. ARRINGTON: My name is Ms. Arrington.

1 CHAIRPERSON HILL: Arrington. Oh, my God. I'm never  
2 going to get this down.

3 So, Ms. Arrington, just to let you know, you can't  
4 testify on behalf of anybody else because --

5 MS. ARRINGTON: Okay.

6 CHAIRPERSON HILL: -- you don't have anything that says  
7 you can testify --

8 MS. ARRINGTON: That's fair.

9 CHAIRPERSON HILL: -- okay? I'm just letting you know.

10 MS. ARRINGTON: Okay.

11 CHAIRPERSON HILL: So go ahead and give your testimony.

12 MS. ARRINGTON: I just want to say I've lived there all  
13 my life; you know? I heard Mr. Medvene mention that the  
14 neighborhood is becoming more -- having more vitality or something  
15 like that. You know, it's always been a very family-oriented  
16 neighborhood. Lots of strollers, lots of families. So that's not  
17 -- that's nothing new.

18 And you mentioned that the -- it used to be a rooming  
19 house. I'm not really aware of that. It seemed to be, prior to  
20 the woman that owned it last, I believe she purchased it in 1999  
21 and then went to Africa for her work. It was owned by another  
22 Arrington family and it was a family home. So I'm never actually  
23 aware of it being a rooming house. I'm also not aware of a fence  
24 being there prior to the iron fence that was recently installed  
25 this fall by the applicant. So it would appear in Exhibit 3 there

1 | is no fence in that picture. So that was news to me also.

2 |           But I just wanted to share a couple quick things and I  
3 | know I'm running out of time.

4 |           And, you know, 700 Randolph, as all the houses on the  
5 | 700 block, are single family homes. I know that Mr. Williams gave  
6 | examples of other conversions in the 500 block and the 600 block.  
7 | These are vastly different blocks. They're much larger. The 700  
8 | block only has about five homes on either side. So there's a lot  
9 | less space to work with parking and I know a lot of people that  
10 | have talked today talked a lot about density. So that's a concern  
11 | of mine as well, particularly because there are two churches on  
12 | either side of this block. So there's always a parking issue  
13 | really when those constituents come in for their Sundays or for  
14 | their weekly meetings that pushes back upon the residents of the  
15 | block.

16 |           The accessory dwelling that's a garage actually used to  
17 | be shared with Mr. -- with 702. That changed. So for it to  
18 | become an apartment home and have four cars, I imagine when they  
19 | have guests, that's an additional tax upon the parking system.

20 |           And one of the things that allows parking to work in our  
21 | neighborhood is the fact that some people do have off-street  
22 | parking. My house is one of them.           And so it really does  
23 | allow for some flexibility. But if all those spaces would be  
24 | filled up by apartment dwellers, that seems to push more back onto  
25 | the neighborhood to take up the slack.

1           The other thing I wanted to talk about was the roof  
2 line. So I really appreciated the architect's idea of having that  
3 barn detail that was put on the house, mirrored in the design of  
4 the second floor above the garage. But it doubles the height of  
5 the garage, right? So the drawing I believe, let's see, what  
6 exhibit is that, one? Is that one? Seven, seven, right? So it  
7 shows it's originally just shy of 10 feet. This would, you know,  
8 double the height of that. So my concern is because, as you can  
9 see in Exhibit Number 11, there's already a shadow cast on  
10 everybody on the south side of the street, the even numbers. And  
11 that would only increase the lack of light, airflow, accessibility  
12 to their back yards that they would have. So, you know, I don't  
13 know. Is it more aesthetically pleasing? I guess that's  
14 debatable. I mean, from the street, perhaps, but what about from  
15 the people in their homes? I know I can't testify for them, Mr.  
16 Hill, but these are things that I considered and, as you can see,  
17 I said I was impartial because I do believe that people have room  
18 to grow and the neighborhood has to grow. But I think we have to  
19 do that together and we have to be really mindful of how we grow.

20           And if COVID-19 has taught us anything at all, we need  
21 to really slow how quickly we are building and allow for space and  
22 room and it just doesn't seem that there is enough space, even if  
23 it is 500 some square feet for there to be four units in a single-  
24 family home. Thank you.

25           CHAIRPERSON HILL: Okay. And, Ms. Arrington, for the

1 record, I was confused. Are you in opposition or you're unsure?

2 MS. ARRINGTON: You know, I --

3 CHAIRPERSON HILL: It's okay. You can answer. You gave  
4 your testimony. I was just curious.

5 MS. ARRINGTON: I was unsure until I saw the  
6 presentation and I became more opposed based on some of the  
7 information shared and this idea that everyone in the neighborhood  
8 is in alignment. I felt that that was an unfair skew of what I am  
9 aware.

10 CHAIRPERSON HILL: Okay. Okay. Great. Thank you for  
11 your testimony. Does the Board have any questions of the witness?

12 Let's see. Okay. Does (inaudible).

13 Go ahead. Mr. Williams (audio interference).

14 MR. WILLIAMS: Sorry. You froze. Are we allowed to  
15 speak?

16 CHAIRPERSON HILL: Mr. Williams or -- can you all hear  
17 me?

18 MR. WILLIAMS: Now we can.

19 CHAIRMAN HOOD: We can hear you. Yeah.

20 CHAIRPERSON HILL: Okay. Ms. -- I said thank you for  
21 your testimony, Ms. Arrington. And I heard all of it. And then I  
22 asked if Mr. -- first I asked the Board if they had any questions  
23 for the witness? If so, please raise your hand.

24 Ms. John? Oh, no. Okay.

25 Then Mr. Williams, do you have any questions of the

1 witness?

2 MR. WILLIAMS: No. I'm going to defer to Mr. Medvene  
3 since he's a resident there.

4 CHAIRPERSON HILL: Mr. Medvene, do you have any  
5 questions of the witness?

6 MR. MEDVENE: I would just I guess making sure she  
7 understands that we're not looking for four units to make the  
8 garage addition an apartment. That's just going to be an office  
9 and that design was actually we gave Mr. Joe Day, who's the  
10 immediate neighbor and is one of the most impacted neighbors along  
11 with the neighbor behind us, the different options between the  
12 flat roof and the gambrel roof, and they both preferred the  
13 gambrel and everyone that we had spoken to. And again, I  
14 apologize, if she's still on the call, I don't know how she was  
15 missed between my brother and I, as I said, canvassing the  
16 neighborhood.

17 And you can see in the letters of support that we  
18 submitted, it is -- it's -- I guess, sounds like almost everybody  
19 but her within the immediate neighborhood. So, again, I  
20 apologize. I don't know how that slipped through the cracks and  
21 how she was missed especially given that she's only a few doors  
22 down.

23 But I just want to make sure that it's clarified that  
24 we're not looking for four units. It's -- and the parking  
25 situation, there's four spaces, two in the garage and two in the

1 driveway. So there's more than enough space for -- if we were to  
2 make that third unit, we wouldn't be increasing the parking issues  
3 on the street, especially on Sundays when the church is in  
4 session.

5 CHAIRPERSON HILL: All right, Mr. Medvene. I appreciate  
6 your additional testimony, but I was just seeing if you had a  
7 question for the witness. But I appreciate you sharing that.

8 All right. Ms. Arrington, thank you so much for your  
9 testimony and your time.

10 MS. ARRINGTON: (No audible response).

11 CHAIRPERSON HILL: Okay. All right. Let's see. I'm  
12 like on Google Maps here. Is that white house with the gambrel --  
13 is that white house across the street still there on the corner?

14 MR. MEDVENE: (audio interference) the one with the red  
15 roof?

16 CHAIRPERSON HILL: Yeah.

17 MR. MEDVENE: Yes, it is.

18 CHAIRPERSON HILL: Wow. That's a cool looking house.

19 MR. MEDVENE: It's been there since 1972.

20 CHAIRPERSON HILL: Yeah. Okay. Let's see. I -- Mr.  
21 Smith?

22 MEMBER SMITH: I have one additional question for Mr.  
23 Medvene, especially given your testimony to the lady that you just  
24 spoke within the neighborhood regarding the addition above the  
25 garage. You were saying that you would use it as an office space;

1 is that correct?

2 MR. MEDVENE: Yes.

3 MEMBER SMITH: Okay. I did notice that the addition --  
4 that the proposed addition will have a full bath with a  
5 kitchenette and dishwasher. So you propose to use that as an  
6 office space (audio interference)? (audio interference) full bath  
7 and a dishwasher?

8 MR. MEDVENE: I don't -- there shouldn't be a  
9 dishwasher. There is a bathroom just so that if -- when I'm up  
10 there, we don't have to go all the way back around to the front  
11 (audio interference). But, no, there shouldn't be a dishwasher.

12 MEMBER SMITH: Okay. There's a dotted square area next  
13 to the sink.

14 MR. MEDVENE: Okay. Then that should not be there.

15 MEMBER SMITH: Okay. Thank you. I just wanted  
16 clarification of what you would be using the space for since I see  
17 a full bath.

18 MR. MEDVENE: Yep.

19 CHAIRPERSON HILL: Okay. All right. So, Mr. Williams,  
20 I guess, you know -- oh, sure. Ms. John, I'm sorry.

21 VICE CHAIR JOHN: I just had one question for Mr.  
22 Medvene. So earlier you testified that the space was already  
23 finished, the kitchen in the (audio interference) unit; did I  
24 understand you correctly?

25 MR. MEDVENE: The -- on the first floor, all of the work

1 is ready for it, for it to have the kitchen. Our -- on our  
2 approved plans, we had it approved as an en suite, basically for  
3 like a second small kitchen, as part of it. So everything is  
4 already -- the bones are there for it to become a separate unit.

5 VICE CHAIR JOHN: That's confusing to me. Can you  
6 clarify -- so the permit that was stamped, would it show three  
7 units?

8 MR. MEDVENE: No, it would show two -- it would show two  
9 units but within -- within the one unit, which is ours, because  
10 it's three stories, the first floor has its own small -- it's kind  
11 of like if you see in a row home, in the basement, they'll have a  
12 wet bar and -- or a small kitchenette in their basement. But it  
13 was not shown as a separate unit which is why we're pursuing this  
14 variance to allow it to become its own separate unit.

15 VICE CHAIR JOHN: So what tweak would you have to do to  
16 it to make it a separate unit? What would you have to do to it to  
17 make it a separate --

18 MR. MEDVENE: Just -- we would just have to build a wall  
19 and a door, that's it.

20 VICE CHAIR JOHN: But you already have a kitchen and a  
21 sink and --

22 MR. MEDVENE: All of that would -- we have all of that  
23 roughed in, everything for that is in already.

24 VICE CHAIR JOHN: So you already have the rough-in?

25 MR. MEDVENE: Correct.

1 VICE CHAIR JOHN: Okay. But no appliances?

2 MR. MEDVENE: They're not built -- they're not there but  
3 everything is built so that we can have the appliances connected  
4 and put in there if we would like. We just haven't had the need  
5 yet.

6 VICE CHAIR JOHN: Okay. So if an inspector came by, the  
7 inspector would not say you have a third unit there?

8 MR. MEDVENE: Correct.

9 VICE CHAIR JOHN: Okay. All right. Thank you.

10 CHAIRPERSON HILL: Okay. Mr. Williams, can you hear me?

11 MR. WILLIAMS: Yes.

12 CHAIRPERSON HILL: Okay. If you guys can remind me, I'm  
13 going to log off and log back on before this next one and we'll  
14 see if it helps with my internet.

15 But so you said you were going to have some comments at  
16 the end. What comments do you have at the end?

17 MR. WILLIAMS: Essentially, I think that, you know, as I  
18 expected, 90 percent of the discussion has been about the 900  
19 square-foot requirement and the variance. I think that is the  
20 most challenging part of the case and the relief that is, you  
21 know, least frequently granted for cases like this. We think  
22 we've have made a justification. We think we have a special lot  
23 here. But I am concerned that the other areas of relief, which are  
24 really not as controversial and are quite typically granted when  
25 the ANC and adjacent neighbors are in agreement, is getting tied

1 up with the variance in a way that is prejudicing those requests.

2           And so what I worry about, and I guess what comment I  
3 would make, is if the BZA finds that it's not inclined to support  
4 the variance, that either the applicant be given an opportunity to  
5 amend the application and remove it and come forward with just the  
6 other areas of relief or that the BZA address those other areas of  
7 relief independently. They really have nothing to do with the 900  
8 square-foot requirement. They're just pure special exceptions  
9 that go through the special exception standards that we all know  
10 well, and I worry that they're just -- it's getting all mixed up  
11 in a way that is making those issues less clear than they should  
12 be.

13           CHAIRPERSON HILL: And, Mr. Williams, I appreciate what  
14 you're saying, and I appreciate how you're representing your  
15 client. In terms of what we're going to do here, we evaluate the  
16 application that is before us.

17           MR. WILLIAMS: Uh-huh.

18           CHAIRPERSON HILL: And I would agree with kind of the  
19 Office of Planning as to how they're -- how it's somewhat  
20 connected, right? It's not -- you are tying some aspects of the  
21 discussion onto other aspects of the discussion, right? It's not  
22 clear-cut one way or the other. I mean, if you want to go back  
23 and work with the Office of Planning and see how you might be able  
24 to work with them in a way that -- and I'll be quite frank. The  
25 900 square foot thing, that's like one of the golden rules, you

1 know? I mean, it's not even kind of, sort of, easy to get around,  
2 right?

3 MR. WILLIAMS: Uh-huh.

4 CHAIRPERSON HILL: So it's very rare for that to move  
5 through our system, right? And, so, you know, that's your cue at  
6 this point as to what you may or may not want to do.

7 If you would like to go back with your -- and this is  
8 where usually if we're in the -- if we're in the hearing room, I  
9 ask you guys to kind of go aside and talk to one another. And I  
10 suppose, if you want to, I can either -- we can take a five-minute  
11 break. You can call your client and see what your client wants to  
12 do, either (a) move forward with this the way this is or (b) take  
13 a -- go back to the Office of Planning and see what might be a  
14 more workable solution. And, however, knowing that (a) if you go  
15 through this process with us now and you get denied, you can't  
16 come back within -- you can't come back for a year in terms of  
17 asking for this relief again.

18 Now when -- I always get a little vague, and even though  
19 I'm going to ask OAG, I know that it's -- it could be -- and maybe  
20 it's a different application, like you could, I guess, go through  
21 this, get a yay or a nay, and then you have to go back -- instead  
22 of a revised application, you have a brand new application with  
23 all of the different relief being requested but you wouldn't have  
24 to come back after a year but you'd have to go through all of the  
25 notice, you know, all of the other requirements.

1           Can I ask OAG; is that correct? Because I always get a  
2 little confused sometimes meaning if they get denied today and  
3 they come back with a different application, that does not include  
4 the variance, that is a different application, so they could come  
5 back before the -- before a year has passed. However, they'd  
6 still have to go through all of the normal noticing requirements  
7 and start the process again; is that correct?

8           MS. CAIN: I believe so. I want to check something  
9 (audio interference) but in general, the applicant cannot come  
10 back in less than a year with the same set of facts. They would  
11 be able to, you know, if they wanted to completely revise the  
12 application, withdraw it, and reapply, I believe that much would  
13 (audio interference) but I do want to sort of take a closer look  
14 at the (audio interference) before I give you a final answer on  
15 that.

16           CHAIRPERSON HILL: Yeah. That's fine. You can look.  
17 But from what I understand is they can revise the application and  
18 they're not starting again. They can revise their application,  
19 revise the drawings and (audio interference) --

20           MS. CAIN: (audio interference) as long (audio  
21 interference) decision at this point, if they want to go back and  
22 take some time, as you discussed, and meet with the Office of  
23 Planning and sort of discuss how they might be able to amend the  
24 application in some way, that would be fine. That would not -- I  
25 don't think would require re-noticing at this point because I

1 think, based on the discussions it's been having, it would  
2 probably be reducing the amount of relief required.

3 CHAIRPERSON HILL: Yes. Yes.

4 MS. CAIN: So it would be able to proceed, I believe.

5 CHAIRPERSON HILL: Yes. So, Mr. Williams, if you want  
6 to -- I'm going to give you five minutes and I'm going to take a  
7 break. If you want to reach out to your client and ask your  
8 client if he wants to, you know --

9 MR. WILLIAMS: I don't need five minutes. We're going  
10 to -- we'd like to defer and take another shot at it with OP and  
11 see if we can make things (audio interference).

12 CHAIRPERSON HILL: Okay. All right.

13 So let's go ahead then and see, Mr. Moy, when can we put  
14 this back on?

15 MR. MOY: Well, Mr. Chairman, first of all, the -- first  
16 of all, you can put this on at any hearing date you want. But  
17 apart from that, through the end of this year, it's really tight.

18 CHAIRPERSON HILL: So then we're -- this year, we don't  
19 have anything to the end of this year.

20 MR. MOY: Okay. All right. All right. I just wanted  
21 to see if we were on the -- thinking in the same direction here.

22 So after New Year's, January, we still have -- 4, 5, 6,  
23 7 -- January 13 is available. It would be our tenth case. But  
24 January 27th is out of the question.

25 CHAIRMAN HILL: Okay. What's the 27th? What's going

1 on on the 27th?

2 MR. MOY: You have 12 cases.

3 CHAIRPERSON HILL: How did that happen? All right.  
4 Okay. And then the 20th, what's the 20th?

5 MR. MOY: We had it, but I removed it because that's  
6 Inauguration Day.

7 CHAIRPERSON HILL: Oh, right. All right. So the 13th,  
8 we got 10 cases.

9 MR. MOY: This would be the tenth case.

10 CHAIRPERSON HILL: Got it. Got it.

11 MR. WILLIAMS: We can wait until February if that helps.

12 CHAIRPERSON HILL: Okay. What do you see in February?

13 MR. MOY: In February, February the 3rd, you have 4our  
14 cases and one appeal. February the 10th, you have 11 cases.

15 CHAIRPERSON HILL: Say that again. I'm sorry.

16 MR. MOY: Okay. February the 3rd, you have 4 cases and  
17 one appeal.

18 CHAIRPERSON HILL: February the 3rd, we have 4 cases and  
19 one appeal. Okay.

20 MR. MOY: February the 10th, you have 11 cases.

21 CHAIRPERSON HILL: Okay.

22 MR. MOY: And February the 24th, you have 9 -- you have  
23 9 cases.

24 CHAIRPERSON HILL: what happened on the 17th?

25 MR. MOY: The 17th, 17th, that's two days after

1 Presidents' Day which is on that Monday.

2 CHAIRPERSON HILL: Okay. So tell me again, the 3rd,  
3 we've got 4 cases and an appeal?

4 MR. MOY: Yes.

5 CHAIRPERSON HILL: And/or on January 13th, we have 10  
6 cases.

7 MR. MOY: January.

8 CHAIRPERSON HILL: No, I'm saying, you said January  
9 13th, this would be our tenth case.

10 MR. MOY: Yes.

11 CHAIRPERSON HILL: And/or February 3rd, I think you  
12 said, we had 3 cases and an appeal.

13 MR. MOY: Four.

14 CHAIRPERSON HILL: We already have 4 cases?

15 MR. MOY: Yes.

16 CHAIRPERSON HILL: so, Mr. Smith, I'm going to ask you  
17 this, right, because we're going -- it's going to turn into a  
18 democracy. Do you want 5 cases and an appeal on the 3rd, or do  
19 you want 10 cases on the 13th of January?

20 MEMBER SMITH: I'll go with the first date.

21 CHAIRPERSON HILL: The 13th of January?

22 MEMBER SMITH: (audio interference) the first scenario.

23 CHAIRPERSON HILL: All right. Let's go with the 13th of  
24 January. Oh, wait a minute. That might -- Mr. Williams, are you  
25 saying that might not be enough time for you guys to figure it

1 out?

2 MR. WILLIAMS: I think we'd like a little bit more time  
3 if we could.

4 CHAIRPERSON HILL: Right, right. That's fine. So after  
5 the 3rd, you're saying the 10th, we're off; the 17th we're jammed  
6 and then it's the 24th, right?

7 So how badly would the 24th hurt you, Mr. Williams?

8 MR. WILLIAMS: I think that would be probably fine. Let  
9 me just make sure I'm available then. I'm available then.

10 CHAIRPERSON HILL: How many do we have on the 24th,  
11 Mr. Moy?

12 MR. MOY: This would be the tenth case.

13 CHAIRPERSON HILL: All right. Let's go with the 24th.

14 MR. WILLIAMS. Okay. Very good.

15 CHAIRPERSON HILL: Okay. So that's it, gentlemen. I'm  
16 going to close the hearing for now. I'm sorry, Mr. Moy.

17 MR. MOY: You want to set -- would you like to set a  
18 deadline for the applicant for filing?

19 CHAIRPERSON HILL: Yeah. If you could work backwards,  
20 please, and let them know everything we need.

21 MR. MOY: No, I was going in terms of dates because I  
22 like to leave enough time for Office of Planning and OAG to review  
23 the filing. So let's say in terms of my date, I would suggest if  
24 this is going to be February 24th, so I'm looking at-- okay. So  
25 it's going to be 21 calendar. Okay, 2/21; 2/21. Yeah. 2/24,

1 okay. I would suggest, Mr. Chairman, if the applicant can make  
2 their filing at least two weeks before the 24th, unless that --  
3 unless OAG would prefer two and a half weeks because otherwise  
4 they're not -- I'd be looking at applicant filing, let's say the  
5 3rd of February. Is that too soon for the applicant? Or do you  
6 need more time?

7 MR. WILLIAMS: The 3rd of February?

8 MR. MOY: (audio interference) February 5th?

9 MR. WILLIAMS: That should be fine.

10 MR. MOY: Let's make it February 5th.

11 MR. MOY: Sound good?

12 CHAIRPERSON HILL: Okay. Great. And, Mr. Williams and  
13 Mr. Medvene, Medvene, just to let you guys know, I mean, like, you  
14 know, the Board is also being very accommodating as is the Office  
15 of Planning, just to let you know. Everybody's just trying to do  
16 their best for the city. I'm just trying to let you know.

17 MR. WILLIAMS: (audio interference).

18 CHAIRPERSON HILL: You could have gone through this to  
19 the end and then you would have seen what would have happened.

20 MR. WILLIAMS: So I -- we appreciate that. Thank you.

21 CHAIRPERSON HILL: Thank you.

22 MR. WILLIAMS: And thank you for your time and  
23 consideration. We knew it was a tough case, but we really  
24 appreciate your thoughtful analysis and commentary and so forth.

25 CHAIRPERSON HILL: Thank you, Mr. Williams.

1 MR. MOY: The only thing I would add, Mr. Chairman, now  
2 that I'm thinking about it, a possible third date, is if the  
3 Office of Planning is going to file a supplemental report, perhaps  
4 a week before the -- before February 24th.

5 CHAIRPERSON HILL: Yes. They're going to be --

6 MR. MOY: A week. Yeah.

7 CHAIRPERSON HILL: Okay. Is that all right?

8 MS. VITALE: Yes. And we would anticipate filing a  
9 supplemental, particularly if the applicant is planning to revise  
10 the application. So, you know, we would just request, you know,  
11 some time built in for us to review the revised application before  
12 we're expected to file it.

13 CHAIRPERSON HILL: Okay. So that's good. So the  
14 continued hearing is February 24th. The applicant will make their  
15 filing February 5th. Office of Planning February 17.

16 MS. VITALE: That should work. Thank you.

17 MR. MOY: And maybe we can add ANC as well if they want  
18 to make a filing, make it the same time as Office of Planning,  
19 February 17th.

20 CHAIRPERSON HILL: Hey, Chad, can you hold on one  
21 second? Okay. So this is going to be for a continued hearing.

22 MR. MOY: Yes.

23 CHAIRPERSON HILL: And all right, then, gentlemen, you  
24 all have a nice holiday, Happy New Year, and we'll see you next  
25 year. And I'm going to -- let's take a ten-minute break because

1 I'm going to try to log off and log back on and see what happens,  
2 okay?

3 MR. WILLIAMS: Thank you.

4 CHAIRPERSON HILL: All right. Let's see now. Okay. We  
5 have two left, and we can begin whenever you like, Mr. Moy.

6 MR. MOY: Okay, let's -- okay, here we go. We have two  
7 cases to go.

8 Okay, the first of the two remaining case, this is Case  
9 Application Number 20328 of Madison Heights LLC, as amended, for  
10 special exceptions under the new residential development  
11 requirements, Subtitle U, Section 421.1; and under the Voluntary  
12 Inclusionary Zoning requirements, pursuant to Subtitle F, Section  
13 5206.1. This would add eight additional units to an existing  
14 principal dwelling unit, RA-1 Zone at premises 1214 Madison  
15 Street, Northwest, Square 2934, Lot 35.

16 Two things here, Mr. Chair, to remind you. One is, as I  
17 had mentioned earlier where I was using the wrong notes, but this  
18 one there is a motion from the Applicant to waive the 21-day  
19 filing to allow his revised -- his second revised plans. And I  
20 think -- oh, and the other reminder, that the Board had previously  
21 granted party status to a Michael Yates.

22 CHAIRPERSON HILL: Okay, great. And they're represented  
23 by Mr. Brown, I believe. Okay.

24 MR. BROWN: I'm here, Mr. Hill.

25 CHAIRPERSON HILL: Great. Thank you, Mr. Brown.

1           Let's start with you, Mr. Sullivan, if you could  
2 introduce yourself.

3           MR. SULLIVAN: Thank you, Mr. Chair, and members of the  
4 Board. Marty Sullivan with Sullivan & Barros on behalf of the  
5 Applicant.

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

8           MR. SULLIVAN: I believe we have Michael Cross.  
9 Michael, do you want to introduce yourself?

10          MR. CROSS: Sure. Mike Cross, architect. And Elizabeth  
11 Stuart, project designer, is also on the line.

12          MR. SULLIVAN: And we do have -- I believe the  
13 Applicant/owner of the property is available here as well, if any  
14 questions come up for him.

15          CHAIRPERSON HILL: Is he on the line?

16          MR. SULLIVAN: I don't know.

17          CHAIRPERSON HILL: Mr. Young, is he in the room?

18          UNIDENTIFIED SPEAKER: What's the name?

19          MR. SULLIVAN: Mark Mlakar.

20          CHAIRPERSON HILL: Mr. Mlakar, can you hear --

21          MR. MLAKAR: Okay, here we go. I just got un-muted, so  
22 I am here.

23          CHAIRPERSON HILL: Okay. Could you introduce yourself  
24 for the record, Mr. Mlakar?

25          MR. MLAKAR: Mark Mlakar, owner of Madison Heights LLC.

1 CHAIRPERSON HILL: Okay. Mr. Brown, could you introduce  
2 yourself for the record, please?

3 MR. BROWN: It's David Brown for Michael Yates, from the  
4 law firm of Knopf & Brown.

5 CHAIRPERSON HILL: Okay. Mr. Brown, are you here with  
6 anyone?

7 MR. BROWN: Mr. Yates is supposed to be on, signed on.  
8 I don't see him on the list. Maybe I'm looking in the wrong  
9 place.

10 CHAIRPERSON HILL: Oh, there we go, there we go. Mr.  
11 Yates, can you hear me?

12 MR. YATES: I can hear you, yes.

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

15 MR. YATES: Okay. I am Michael Yates and I own the  
16 property at 1216 Madison Street, which is abutting this  
17 development. I've lived on the block for 18 years.

18 CHAIRPERSON HILL: Okay, great. Thank you. Welcome,  
19 Mr. Yates.

20 MR. YATES: Thank you.

21 CHAIRPERSON HILL: Mr. Brown, nice to see you. This is  
22 the first time I think we've seen you in the pandemic. Glad to  
23 see that you're --

24 MR. BROWN: That's correct.

25 CHAIRPERSON HILL: -- glad to see that you're with us.

1 And I mean it, welcome.

2 MR. BROWN: Thank you.

3 CHAIRPERSON HILL: Let's see. So, okay, Mr. Sullivan, I  
4 guess a couple of things. One, there was a motion to waive the  
5 second revised plans. Can you tell me again about the revised  
6 plans and why it was late, and then also if those are the plans  
7 that got presented to the ANC.

8 MR. SULLIVAN: Sure. So there were -- there's two main  
9 reasons why the plans needed revised late. We had comments from  
10 the Office of Planning -- even though this project was permitted  
11 about a year ago, there were actually some items which were not  
12 necessarily compliant. Some of it had to with penthouse setbacks.

13 And then there were -- so those were corrected -- and then there  
14 were comments from the Office of Planning regarding the design  
15 itself and how this building presented on the street, and the  
16 architect can talk about those in his presentation as well.

17 And those comments came in fairly late and they took --  
18 they were substantial revisions, so it took a little time to get  
19 those, so we got them in a couple days late.

20 CHAIRPERSON HILL: And those were the ones from  
21 discussions with the Office of Planning?

22 MR. SULLIVAN: Yes, yes, that's correct.

23 CHAIRPERSON HILL: Okay. And then is that the -- are  
24 those the plans you presented to the ANC?

25 MR. SULLIVAN: I believe it was. I may defer to the

1 architect on that.

2 CHAIRPERSON HILL: Mr. Cross?

3 MR. CROSS: Yeah, it's my recollection that the OP  
4 changes came after the ANC. I'm not sure if they are substantive  
5 to the ANC, but I do believe they're different.

6 CHAIRPERSON HILL: When you -- if we do allow them into  
7 the record, if you could point out what you think maybe those  
8 differences are, as opposed to what the ANC might have seen, as  
9 opposed to what you guys are presenting?

10 Mr. Brown, do you have any opposition to allowing the  
11 plan -- the revised plans into the record?

12 MR. BROWN: No objection.

13 CHAIRPERSON HILL: Okay. Thank you, Mr. Brown.

14 Does the Board have any issues with allowing the revised  
15 plans? I'd like to see the revised plans; I'd like to know what  
16 we're talking. So does the Board have any issues and, if so,  
17 please raise your hand?

18 UNIDENTIFIED SPEAKER: No.

19 CHAIRPERSON HILL: Then we're going to go ahead and  
20 allow those into the record.

21 Just so everybody knows, I can't see anybody's like  
22 name. So I apologize from that point. Then also I can't see if  
23 anybody is muted or not. So if you could mute your line, unless  
24 you're speaking; otherwise, it creates sometimes feedback and  
25 delays and all that stuff. So I would appreciate it.

1           Mr. Sullivan, I'm going to go ahead and start with you.  
2    And as -- you know, if you could just kind of like walk us  
3    through the application and why you believe that your client has  
4    met the criteria for us to grant the relief requested. And I'm  
5    going to put -- I guess I'm going to put 15 minutes on the clock,  
6    just to know where I am. And then, as you know, you have the same  
7    amount of time -- or, I'm sorry, the opposition party has the same  
8    amount of time that you have to do all of the things that you do.

9

10           And also, Mr. Brown, I'm not going to like -- if you  
11    need more time, you can have more time. I'm just trying to set a  
12    timeline and parameters for us all, so we kind of understand.

13           So, Mr. Sullivan, is 15 minutes good enough for you to  
14    start?

15           MR. SULLIVAN: That sounds great, yeah.

16           CHAIRPERSON HILL: Okay, all right. So then you begin  
17    whenever you like.

18           MR. SULLIVAN: Thank you, Mr. Chair and members of the  
19    Board. Again, my name is Marty Sullivan with Sullivan & Barros on  
20    behalf of the Applicant.

21           The property address is 1214 Madison Street, N.W. I'm  
22    going to give a real quick overview before I turn it over to the  
23    architect to describe the project.

24           The proposal is to convert a single-family dwelling to  
25    eight residential units, one of which will be an IZ unit. So

1 | because we're less than the ten units, this will also be a  
2 | voluntary IZ case. So two areas of relief, just the general  
3 | special exception for new residential development in the RA-1  
4 | zone.

5 |           This -- I mentioned that there was a building permit  
6 | issued about a year ago, this was originally requested and  
7 | approved as a matter-of-right project, and then it was appealed to  
8 | the BZA. That appeal was granted and that sent us then for relief  
9 | under 421. The issue in the appeal being is a conversion of a  
10 | single-family to a multi-family, is that new residential  
11 | development, and the Board determined that, yes, it was, and so  
12 | therefore it requires relief.

13 |           And so the other area of relief is special exception  
14 | approval to do voluntary IZ, which only applies in certain zones  
15 | and it does apply in the RA-1 zone.

16 |           We do have a presentation, if -- Paul, if you could put  
17 | that up?

18 |           So, because the building permit was issued, it's about  
19 | 75 percent completed.

20 |           If we could go to page 2, please?

21 |           As we mentioned, as we alluded to, there were  
22 | significant design comments from the Office of Planning that the  
23 | Applicant responded to late and the architect can go over that.

24 |           And I'll turn it over to Mr. Cross now to present the  
25 | project. Thank you.

1 MR. CROSS: I appreciate that. As mentioned, 1214  
2 Madison Street, N.W., this is on the south side of the block  
3 between 13th Street and Georgia Avenue. As Mr. Sullivan also  
4 stated, the project today is partially constructed, as it was  
5 originally permitted as a matter-of-right construction in 2019.

6 All the units proposed here are generous two-bedroom,  
7 two-bath units, including that unit which is to be dedicated as an  
8 IZ unit. While only one parking space is required, we are  
9 providing four parking spaces, all off the alley. That can be  
10 seen in page 8 of the presentation.

11 There were several concessions that were made over the  
12 course of pursuing this special exception with both the ANC and  
13 Office of Planning, as Mr. Sullivan mentioned earlier. In that  
14 list -- and I think maybe we should just jump back to the cover  
15 page, if we can go back one slide, this will capture most of the  
16 overall scope.

17 We added an IZ unit, we added balconies to the front and  
18 rear facades of the building. We added a larger awning to better  
19 identify the side entrance. We shifted the stairs from the center  
20 of the front facade over to align with the side entry, that is,  
21 the stairs that lead up from the sidewalk there today. We added  
22 screening around the trash area. And, as Mr. Sullivan suggested,  
23 we revised several items that were approved in the original  
24 building permit that were deemed to not conform with the code  
25 today.

1           With those concessions, we were able to gain both the  
2 support of the ANC and Office of Planning.

3           I'm glad to answer any questions that you might have.

4           CHAIRPERSON HILL: Mr. Sullivan, why don't you just go  
5 ahead and chug on through this and, if we have questions to go  
6 back to the architect, we'll do that.

7           MR. SULLIVAN: Okay, yeah. So the special exception  
8 requirements, if you could go to slide 21, please?

9           (Pause)

10          MR. SULLIVAN: Thank you. So Section 421 relief  
11 includes just a couple provisions. First, that the BZA refers the  
12 application to relevant DC agencies. First, for the existing and  
13 planned areas of schools to accommodate the numbers of students  
14 that can be expected to reside in the project. Of course, I think  
15 this provision is meant for larger projects, but we have provided  
16 some information here about the local schools and we don't think  
17 this is -- we think we meet the criteria for this.

18          Next slide, please.

19          "Public streets, recreation, and other services to  
20 accommodate the residents that can be expected to reside in the  
21 project." And we've listed there some of those services in the  
22 nearby neighborhood.

23          Next slide, please.

24          And this is, I think, the key requirement, that "the BZA  
25 refers the application to the Office of Planning for comment and

1 recommendation on site plan; arrangement of buildings and  
2 structures; and provisions of light, air, parking, recreation,  
3 landscaping, and grading as they relate to the surrounding  
4 neighborhood." And I believe this is where the Applicant made  
5 significant responses to the Office of Planning's concerns in this  
6 area which made the application more compliant with the special  
7 exception requirement.

8 Next slide, please.

9 This is just the requirement of the plans that need to  
10 be filed; we've complied with all this.

11 Next slide, please.

12 And note that we have the support of the ANC. "As  
13 noted, the Office of Planning is recommending approval and DDOT  
14 has no objections."

15 So if Mr. Cross has no further comments or description  
16 of the project itself, we're happy to answer any questions.

17 (Pause)

18 CHAIRPERSON HILL: Thanks, Mr. Young.

19 Okay, let's see now. Does the Board have any questions  
20 of the Applicant at this time? And, if so, please raise your  
21 hand.

22 Chairman Hood?

23 CHAIRMAN HOOD: Yes. Thank you, Mr. Chairman.

24 Mr. Sullivan, let me just ask you, do you know -- I'm  
25 looking at the ANC letter, who was the ANC commissioner that voted

1 -- who voted (indiscernible) to this and whose single-member  
2 district is it in?

3 MR. SULLIVAN: I don't know offhand. I can find out  
4 probably by the end of this hearing. I know it's in the single-  
5 member district of Ms. Nugent, Charlotte Nugent. She actually  
6 happens to live next door and I believe that's why she -- I  
7 believe she abstained for that reason.

8 CHAIRMAN HOOD: We did have one person who abstained and  
9 one nay. Okay. So Ms. Nugent is the commissioner, okay.

10 MR. SULLIVAN: Yes.

11 CHAIRMAN HOOD: When I look at who provided this by the  
12 opposition, the first thing that came -- this is one of those  
13 cases I read through last night and that I don't think the  
14 regulations are working. Honestly, who wants to live next door to  
15 something that massive? And this is what I'm getting ready to get  
16 into and I'm going to ask Mr. Sullivan or Mr. Cross, would one of  
17 you all want to live next door to something that massive? And I  
18 know you got a client you're representing, and I know what your  
19 answer is going to be, but I'm just asking. Like I did with the  
20 baseball stadium, I'm going to ask you the exact same thing, who  
21 wants to live next door to something like that?

22 And I think Mr. Yates is the abutting neighbor and you  
23 almost -- you might as well just go ahead and build in his yard.  
24 Who wants to live next to something like that?

25 MR. CROSS: Yeah, I understand the sentiment. We

1 | discussed this with multiple folks at the ANC. The issue is, I  
2 | guess, that at the end of the day we have designed a structure  
3 | that is conforming with the zoning regulations prescribed for an  
4 | RA-1 district and this lot is in the RA-1 zone. The RA-1 zone is  
5 | one of the least dense zones in the district with a lot occupancy  
6 | of 40 percent and a maximum height of 40 feet and three stories.

7 |           So while I do understand that it's a large structure, it  
8 | is conforming with the regulations for its mass and is consistent  
9 | with the other structures in this neighborhood, including the  
10 | immediate structure.

11 |           CHAIRMAN HOOD: Let me reclaim my time. Let me go back  
12 | to my original question. Would you want to live next door to  
13 | something -- and this is -- this is even bigger than this, this  
14 | case for me, because while the BZA looks at the relief, we need to  
15 | start looking at examples, because this right here does not -- the  
16 | relief does not do any justice of what's being done. And  
17 | character is also a part of the zoning regulations. As someone  
18 | who codifies and writes them and we vote on stuff, if these are  
19 | the outcomes, we need to rewrite it, because I cannot understand  
20 | how someone would want something that massive next door to them.

21 |           So I put back on you, Mr. Sullivan, and you, Mr. Cross,  
22 | and even you, Mr. Mlakar, do you want to live next door to  
23 | something like that? That's my question.

24 |           MR. MLAKAR: Can I chime in here, please?

25 |           CHAIRMAN HOOD: Yes, you sure can.

1           MR. MLAKAR: Okay, thank you. If you -- the next-door  
2 property that Mr. Yates lives in is just as big as this structure.  
3 It's the same volume, it's the same structure, it's just that my  
4 structure is divided up into multiple units. Behind my building  
5 there's an apartment building, I don't know how many units it is,  
6 but it's a large apartment building, probably over 60 units.  
7 Across the street on 13th Street, there's another large apartment  
8 building. Across Madison Street, somebody did exactly the same  
9 thing, there's an eight-unit building there. I think my building  
10 is almost more in keeping of the character of the neighborhood  
11 than the single-family homes that are there.

12           CHAIRMAN HOOD: So, Mr. Mlakar, I didn't see anything --  
13 and I'll be the first to admit if it's in the record, I didn't see  
14 it, but I also think that while -- even though the relief might  
15 require some of this -- and this is one of the things my  
16 colleagues and I obviously grapple with and I know the discussion  
17 we've had is that how we do -- just like we did pop-ups, how we do  
18 things tasteful? Tasteful. And I can just tell you, from what I  
19 see, unless you can show me another picture -- I'm going by what's  
20 in the record, it was filed by the opposing party -- unless you  
21 can show me something different to counteract what I see in the  
22 record, I can tell you this is almost actually appalling,  
23 appalling.

24           And here's the other thing. It might be cured through  
25 some design, but right now it looks like you might as well just go

1 ahead and build on his property as well.

2 That's all I have to add for now, Mr. Chairman.

3 MR. MLAKAR: I mean, what I'm trying -- whenever I build  
4 anything anywhere in the city, I try to keep it in character with  
5 the neighborhood, and the neighborhood itself has buildings of  
6 this character. The neighborhood is very boxy and the apartment  
7 buildings around it, and then there are a few single-family homes  
8 on Madison Street, but right behind, across the alley is a box  
9 apartment building that's made out of brick. And I'm maintaining  
10 the same character as that building alongside across the street  
11 and we're just -- we're right off of Georgia Avenue and there's a  
12 number of apartment buildings there as well.

13 CHAIRMAN HOOD: So, again, Mr. Mlakar, your presentation  
14 or your submissions did not do any justice, at least unless I  
15 missed it. The only thing I saw is what the opposition provided.  
16 If you have something to counteract that, either direct me to it  
17 or either provide it. And that's kind of where I am.

18 Thank you.

19 CHAIRPERSON HILL: Okay. Mr. Moy?

20 (Pause)

21 CHAIRPERSON HILL: Mr. Moy?

22 (Pause)

23 CHAIRPERSON HILL: Am I on mute? Can you all hear me?

24 UNIDENTIFIED SPEAKER: We can hear you.

25 CHAIRPERSON HILL: Mr. Moy, can you hear me?

1 MR. MOY: Yes, I can hear you now.

2 CHAIRPERSON HILL: Okay. Do you know -- are you able to  
3 swear somebody in?

4 MR. MOY: Yes, I did it once before since we've been  
5 conducting these virtual hearings, but we do it --

6 CHAIRPERSON HILL: Really? Was I on that hearing?

7 MR. MOY: Yes.

8 CHAIRPERSON HILL: Okay. So, Mr. Mlakar, I don't know  
9 if you took the oath apparently, right? I don't know if you -- so  
10 if you wouldn't mind taking the oath. Mr. Moy is going to raise  
11 his hand, you're going to raise your hand, and he's going to say  
12 something and you're going to say.

13 MR. MLAKAR: Absolutely.

14 CHAIRPERSON HILL: So, Mr. Moy, go ahead.

15 MR. MOY: All right.

16 MARK MLAKAR, SWORN

17 MR. MOY: Thank you.

18 CHAIRPERSON HILL: Okay. So, Mr. Mlakar, everything  
19 that you just said before taking that oath was the truth, correct?

20 MR. MLAKAR: Absolutely, yes.

21 CHAIRPERSON HILL: Okay, all right. Okay.

22 Does anyone else have any questions right now for the  
23 Applicant?

24 Okay. Mr. Brown, I'm looking for you -- okay. Mr.  
25 Brown, can you hear me? Yeah, you took your headset off and so I

1 don't --

2 MR. BROWN: Yes, I can hear you fine.

3 CHAIRPERSON HILL: Okay, great. Do you have any  
4 questions for the Applicant?

5 MR. BROWN: No.

6 CHAIRPERSON HILL: Okay, all right. Let's see. Then  
7 I'm going to have some questions as we kind of move along.

8 So can I turn to the Office of Planning, please?

9 MR. KIRSCHENBAUM: Good evening, Chair Hill and members  
10 of the Board of Zoning Adjustment; Jonathan Kirschenbaum with the  
11 Office of Planning. We recommend approval of the special  
12 exception relief to permit a new apartment house with one  
13 inclusionary zoning unit.

14 OP worked extensively with the Applicant to address both  
15 zoning relief and design-related issues that were identified in  
16 the original filing, and we do appreciate the Applicant's efforts  
17 to make adjustments to this building to have it make -- it fit in  
18 a little better with the surrounding area.

19 Please let me know if you have any further questions.  
20 Thank you.

21 CHAIRPERSON HILL: Okay. Before I -- before I turn  
22 Chairman Hood loose on you, the -- can you go through the specific  
23 analysis for me as to how you evaluated this project against the  
24 standards that you have?

25 MR. KIRSCHENBAUM: So the standards we have is for the

1 RA-1 zone, which requires anything in the RA-1 zone other than a  
2 single-family detached or semi-detached house to have a special  
3 exception review for site plan.

4 So, basically, the criteria is all about site plan  
5 review. The building conforms with the setback requirements for  
6 the RA-1 zone; it's providing the required side yard, rear yard.  
7 So in terms of its placement on the lot, it conforms to the zoning  
8 regulations.

9 We did express concerns to the Applicant in the original  
10 filing about the flatness of the front building facade that is not  
11 typical of the street. Most of the street has some sort of  
12 breakup on the front facades, because there are rooftop  
13 architectural elements, there are, you know, front porches. So we  
14 asked the Applicant to break up that front facade somehow because  
15 it was really not relating very well to the rest of the street and  
16 that is a little bit part of the criteria how the proposed  
17 building relates to the surrounding neighborhood.

18 The Applicant did revise their plans to incorporate  
19 Juliet balconies on the front of the building, which does help  
20 break up the facade somewhat. We also identified that the  
21 proposed penthouse was not compliant, and the Applicant revised  
22 the plans to make the penthouse compliant, which hopefully --  
23 well, sorry, which reduces somewhat the bulk of the building.

24 There's also a very deep ten-foot excavation in the  
25 front of the building, which was done, changing the way the

1 building height was being measured, and also an excavation in the  
2 front of the building like that was not typical for the street and  
3 does not relate well to the street. The Applicant will be  
4 addressing that issue and not having such a deep excavation in the  
5 front of the building.

6 We also were concerned about the side entrance of the  
7 building. Again, that's not very friendly to the street. The  
8 Applicant did make some changes to the plan, including installing  
9 a canopy over the front entrance to help people from the street  
10 better address where the front entrance is.

11 The stairs are existing -- or in the middle -- sorry.  
12 The front stairs that are in public space that are existing right  
13 now are in the middle of the property. Those are being shifted  
14 over to the left to line up with the front entrance walk that  
15 leads to the side building entrance. That at least helps make the  
16 front entrance situation a little better.

17 The Board of Zoning Adjustment in a couple of weeks will  
18 be hearing a case under BZA Case Number 20342, which is the  
19 property directly to the east, and we have asked the Applicant to  
20 work with that applicant to make both entrances -- to make the  
21 entrance of that building face the entrance of their building to,  
22 again, make this building a little friendlier to the street.

23 Part of the criteria is also looking at landscaping,  
24 grading plans. I think I discussed the grading issue.  
25 Landscaping, the Applicant provided a landscaping plan and is

1 providing substantial landscaping on the property.

2 In the original filing, the trash area and the rear yard  
3 was not screened from view; they have now screened it at our  
4 request to also be better neighbors to their surrounding property  
5 owners.

6 And also, as the Applicant stated, part of their  
7 criteria is to talk about school enrollments and also access to  
8 parks and recreation, which this site is close to a recreation  
9 center, numerous small parks. DC -- the department of the DC  
10 public schools allows anyone -- it allows a right -- it has a  
11 right-to-attend policy for a zone school. So, even if the zone  
12 school is over capacity, you have a right to attend that school.

13 And the project is also close to numerous bus lines,  
14 which is also part of their criteria about access to  
15 transportation.

16 CHAIRPERSON HILL: Okay. And, Mr. Brown, I just  
17 realized, I apologize, I went a little bit out of order. I'm  
18 still within my rights within the regulations because everybody  
19 just has to get their fair time, but I should have gone to you  
20 next. But it might be more helpful also that you hear the Office  
21 of Planning's presentation, I don't know. So -- but I apologize  
22 for that.

23 MR. BROWN: I do have one question for the Office of  
24 Planning, if I might.

25 CHAIRPERSON HILL: We'll get to it, we'll get to the

1 | questions for you.

2 |           The -- okay, Mr. Kirschenbaum. You said there was a  
3 | building somewhere across the street or something, what was that?

4 |           MR. KIRSCHENBAUM: There's a building directly next door  
5 | in the property to the east that the Board will be hearing in a  
6 | couple weeks, it's on Lot 34.

7 |           CHAIRPERSON HILL: And that's also for a conversion?

8 |           MR. KIRSCHENBAUM: That will be for an apartment house  
9 | as well.

10 |           CHAIRPERSON HILL: Okay. And, again -- you know, I  
11 | mean, I'm looking at the regulations in terms of it being here as  
12 | a special exception, right, under the new residential development.

13 | I remember, you know, I was here for the appeal, obviously, and  
14 | that -- you know, that we, the Board, determined that the zoning  
15 | administrator should have sent this to us, so that the community  
16 | and the Board would have had input.

17 |           The massing, is it by right?

18 |           MR. KIRSCHENBAUM: The massing is by rights, yes.

19 |           CHAIRPERSON HILL: So they could build a house this big?

20 |           MR. KIRSCHENBAUM: They could.

21 |           CHAIRPERSON HILL: Okay.

22 |           MR. KIRSCHENBAUM: Yeah, the massing actually -- yes,  
23 | the -- yes.

24 |           CHAIRPERSON HILL: The height, the depth, the mass -- I  
25 | mean, that's all right. That's what I'm just trying to

1 understand. Okay, that's fine. So that's my only question.

2 Does the Board have any questions of the Office of  
3 Planning, and, if so, please raise your hand?

4 Chairman Hood?

5 CHAIRMAN HOOD: Mr. Kirschenbaum, let me correct the  
6 chairman first. I'm not going to go after you. You're a great  
7 guy, you do good work. We may just -- and this is beyond anything  
8 that you did in the planning field, but I can tell you that --  
9 this goes back to my original point and (indiscernible) and I  
10 think you -- I don't know if you recall the history of the Zoning  
11 Commission when we started looking at pop-ups and looking at these  
12 type of things with ZR-16.

13 One of the things that was mentioned in the legislative  
14 history was to make sure we're respectful and do it with taste.  
15 To me, again, the regulations allow it, but also there's a part of  
16 the regulations and the zoning code which talks about character.  
17 And now I'm hearing from you now there's going to be something  
18 else across the street. I was not on this case, I believe, when  
19 the Board decided to appeal where it was previously, so this is my  
20 first time really getting engaged with this.

21 So I'm just concerned about the allowance, because to  
22 me, if I was Mr. Yates or whoever lives on the site, to me it's  
23 like his home (indiscernible) encroaching, and that's what zoning  
24 is supposed to do away with, not create.

25 So this is one of those cases, Mr. Kirschenbaum, for me

1 -- and I want to expound on this later on, it might  
2 (indiscernible) in this case -- this is one of those issues where  
3 the BZA at some point need to have an opportunity to really look  
4 at perspectives, because this right here to me is totally, totally  
5 -- I wouldn't want to live next to this. But I hear Mr. Mlakar  
6 who is going to be providing to me and Mr. Sullivan examples of  
7 other places that look like this. But do I stand to be corrected?  
8 Because there -- show me. So far, from what I see in the record,  
9 I don't see it. So if somebody could please direct me to that.  
10 And I'm hearing now something is across the street that's going to  
11 be changed as well. So there are character issues in the zoning  
12 code.

13 So I don't know if that's a question, I don't know if  
14 you want to comment, Mr. Kirschenbaum; if not, we can proceed, Mr.  
15 Chairman.

16 MR. KIRSCHENBAUM: I'll just say that I -- you know, I  
17 understand your concerns and the Office of Planning, you know, I  
18 think also understands and appreciates your feedback on this.

19 CHAIRMAN HOOD: So you can let them know that I'm going  
20 to be coming with something. I don't know if I have support, but  
21 I'm going to come with something, because we have to be -- anyway,  
22 I'll leave it at that. Thank you, Mr. Kirschenbaum.

23 Thank you, Mr. Chairman.

24 CHAIRPERSON HILL: Thank you. And, Chairman Hood, I did  
25 not think you were going to come after Mr. Kirschenbaum, you know,

1 that was just -- it's late in the evening and sometimes, you know,  
2 things just happen to come out of my mouth. But I would like to  
3 say that if you think that there are any additional tools that you  
4 might be able to give the BZA, we would appreciate any additional  
5 tools.

6 CHAIRMAN HOOD: I'm working on it and actually I have  
7 been working. I'm not making Mr. Mlakar an example, but I think  
8 he's going to -- he probably -- let me go back to this.

9 Mr. Mlakar, I want you to provide me with what you told  
10 me you had. I need to see that. Right now, I would not want to  
11 live nowhere near anything like this and I'm sure nobody on this  
12 call would, and I don't believe you're going to be living anywhere  
13 near this. So that's just where -- and one thing about me, Mr.  
14 Mlakar, I'm a realist. I know what the code said. I don't  
15 survive not being a realist, I'm a realist. And the reality is  
16 that (indiscernible) today we develop, you go home, the people on  
17 that street are going to have to endure whatever is developed, and  
18 that's where I am.

19 Thank you, Mr. Chairman.

20 CHAIRPERSON HILL: Chairman Hood, thank you.

21 Mr. Smith, Ms. John, do you have any questions for the  
22 Office of Planning?

23 MEMBER SMITH: I don't have any questions.

24 VICE CHAIR JOHN: I was trying to see where Mr. Yates'  
25 house is, but I can wait for Mr. Brown to show that to me, because

1 | someone made the point that Mr. Yates' house is the same mass,  
2 | massing, and I don't know if that's before or after the  
3 | conversion.

4 |           CHAIRPERSON HILL: If you look into Exhibit 44, Ms. John  
5 | --

6 |           VICE CHAIR JOHN: Uh-huh.

7 |           CHAIRPERSON HILL: -- the last slide, the green house if  
8 | the project and the brick house is Mr. Yates.

9 |           VICE CHAIR JOHN: Okay. Thank you.

10 |           CHAIRPERSON HILL: Let's see. Mr. Brown, do you have  
11 | any questions for the Office of Planning?

12 |           MR. BROWN: Yes. I wanted to ask Mr. Kirschenbaum about  
13 | side yards for a minute and in particular the requirements in F-  
14 | 306.2(a). Am I correct in concluding that the house that's being  
15 | replaced had a side yard on the left side, you know, looking at it  
16 | from Madison, of 11 feet, and a side yard on Mr. Yates' side of  
17 | 2.8 feet.

18 |           MR. KIRSCHENBAUM: So that's a good question. All I can  
19 | say is that I believe that this was raised during the appeal. The  
20 | Board concluded that the building not -- it's the same building  
21 | that we're talking about now -- complied with the side yard  
22 | regulations, and the order from the Office of Attorney General  
23 | further backed that up.

24 |           So I would -- you know, that's all the information I  
25 | have.

1           MR. BROWN: Mr. Kirschenbaum, I'm just asking you for a  
2 fact, what is the distance between the side of the house and the  
3 yard -- and the boundary of the lot on either side? My  
4 information is 11 feet on the left side and 2.8 feet on the right  
5 side. Do you have any information to the contrary?

6           MR. KIRSCHENBAUM: I do not have any information to the  
7 contrary, no.

8           MR. BROWN: All right. Now let's talk a minute about  
9 Section F-306.2(a). As I understand that requirement, the house  
10 only needed one side yard when it was a house, correct?

11           MR. KIRSCHENBAUM: You know, I don't want to give any  
12 interpretations on the fly like this. Again, this was discussed  
13 at the appeal over the same and the --

14           MR. BROWN: Do you have access -- do you have access to  
15 the statutory provision?

16           MR. KIRSCHENBAUM: I'm not going to make a zoning  
17 interpretation. You know, if you would like to direct that  
18 question to the Office of Attorney General, since this is all  
19 about the appeal, you certainly can do that.

20           MR. BROWN: All right, one more question. Perhaps I'll  
21 get no answer here either. It's my understanding that under F-  
22 306.2(a), if they were starting from scratch not in converting an  
23 old house, but adding a new apartment building to the lot, that  
24 they would have to have an eight-foot side yard on each side, is  
25 that correct?

1           MR. KIRSCHENBAUM:  Again, I think -- I don't want to  
2 just repeat what I said, but I think this is a question that  
3 should be directed to the Office of Attorney General.

4           MR. BROWN:  Well, why isn't it -- I'm trying to explain  
5 to Mr. Hood why the side yard is so small in this case, it's  
6 basically because it's a conversion of something that was  
7 considered lawfully nonconforming.  Does that agree with your  
8 understanding of what's going on here?

9           MR. KIRSCHENBAUM:  Generally, yes.  But, again, this was  
10 an issue that was dealt with during the appeal and it's described  
11 in the order from the appeal.

12           MR. BROWN:  I'm talking about the appeal.  I'm talking  
13 about trying to understand why the side yard is so small on this  
14 apartment building.

15           CHAIRPERSON HILL:  Mr. Brown, I can ask OAG, because I  
16 was there for the appeal and I think that was part of how that  
17 side yard got to be the size that side yard is.

18           MR. BROWN:  I agree.

19           CHAIRPERSON HILL:  But so -- and we'll go to OAG, and I  
20 don't know if they'll have an answer or not, but so -- because I'm  
21 trying to remember also, and I don't think Mr. Sullivan was part  
22 of the original appeal.

23           MR. BROWN:  Yeah.  I'm not claiming that there's  
24 anything improper in terms of violating the side yard requirements  
25 in this project, I'm just trying to explain how we got there.

1 CHAIRPERSON HILL: Got it.

2 MR. BROWN: Okay. That's all I have for Mr.  
3 Kirschenbaum.

4 CHAIRPERSON HILL: Okay. So now OAG, I don't know, Mr.  
5 Rice, I know that -- and I think you were there of appeal, but  
6 there was a lot of discussion about how this massing became matter  
7 of right and how I think exactly -- like there was an addition to  
8 the building and why that side yard is the way that side yard was.  
9 And you don't have any recollection off the fly right now as to  
10 how that side yard is the way that side yard is conforming,  
11 correct?

12 MR. RICE: No, sir, I don't.

13 CHAIRPERSON HILL: Okay, all right. That might be  
14 another conversation all together, but again -- so --

15 MR. RICE: I can read your portion of your order, if you  
16 want, but that's about it.

17 CHAIRPERSON HILL: Okay, if you've got it there, if  
18 you've got to pull it up.

19 MR. RICE: Reading from page 9 in the order of BZA  
20 Appeal Number 20226, quote, "The one required side yard must have  
21 a minimum distance equal to three inches per foot of building  
22 height, but not less than eight feet," citing Subtitle F, Section  
23 306.2. "In this case, DCRA stated the side yard requirement as  
24 one side yard of 9.758, three inches per foot of building height,  
25 at a height of 39 feet, six inches. The Appellant acknowledged

1 that the project would provide one side yard at 11 feet, which the  
2 Board concludes would satisfying the zoning requirement for a  
3 multiple dwelling with fewer than three dwelling units per floor."

4 CHAIRPERSON HILL: Okay, all right. Okay. Let's see.  
5 Ms. John?

6 VICE CHAIR JOHN: So in the OPE report, the requirement  
7 does state the 1.3 -- I'm sorry, the three inches per foot of  
8 height and lists the requirement as ten feet, with the proposed  
9 side yard at 11 feet, four and one eighth inches. And I suppose,  
10 Mr. Kirschenbaum, you are just basically citing what the Applicant  
11 told you the Applicant's representation was?

12 MR. KIRSCHENBAUM: Yes, I believe that is more or less  
13 the calculation. It might be slightly rounded up to ten, but I  
14 think it might -- I think Mr. Rice read nine point something, I  
15 think they might just round it to ten.

16 VICE CHAIR JOHN: Okay.

17 CHAIRPERSON HILL: Okay, all right. I can't  
18 (indiscernible) so I'm going to go back to this.

19 Mr. Kirschenbaum, can you either point me to the reg or  
20 again -- tell me again what the requirements are on the side  
21 yards?

22 MEMBER SMITH: Mr. Hill, it's (indiscernible) --

23 CHAIRPERSON HILL: Yep, yep.

24 MEMBER SMITH: I just have -- I have a question for Mr.  
25 Rice, because I don't think I heard it correctly.

1           Could you re-read the last sentence that you gave about  
2 the side yards? I thought I heard something about the number of  
3 units involved with that provision about side yards.

4           MR. RICE: Yes, Mr. Smith. The order states, "The  
5 Appellant acknowledged that the project would provide one side  
6 yard of 11 feet, which the Board concludes would satisfy the  
7 zoning requirement for a multiple dwelling with fewer than three  
8 dwelling units per floor."

9           MEMBER SMITH: Okay, thank you.

10          CHAIRPERSON HILL: Mr. Smith, were you here for this  
11 appeal?

12          MEMBER SMITH: No, I wasn't.

13          CHAIRPERSON HILL: All right. Okay.

14          CHAIRMAN HOOD: I do have a question.

15          CHAIRPERSON HILL: Go ahead, Chairman Hood.

16          CHAIRMAN HOOD: I don't even know who to direct it to.  
17 This was an appeal and I understand some changes have been made.  
18 I thought they were changes from preliminary coming to the Board  
19 for a case like today. Apparently, this was appealed. Obviously,  
20 the appeal around the standard was the Board found he had erred,  
21 so now it's coming back as a case. Is that a fair assessment? I  
22 don't know who to -- let me ask Mr. Sullivan that -- is that a  
23 fair assessment?

24          MR. SULLIVAN: Yes. The appeal was based on --  
25 primarily on the question of whether this particular project would

1 | be considered new residential development, because for the -- for  
2 | at least as long as the tenure of the current zoning  
3 | administrator, this kind of project was not considered new  
4 | residential development if in fact it was not a zoning-raised. So  
5 | the determination sort of tied into the zoning-raised evaluation  
6 | by the zoning administrator. So if you kept 40 percent of the  
7 | exterior walls of the perimeter of the building, then it's not new  
8 | and you could add whatever you wanted.

9 |           Now, the zoning administrator a couple years ago pulled  
10 | that back a little bit and he had some rules saying if you double  
11 | the number of units and you double the gross floor area, then it  
12 | is new, but that was pulling back, essentially, that was a further  
13 | restriction of the rights. So for many, many years the  
14 | determination was one way, this case stopped it. I mean, it said  
15 | the zoning administrator erred, but I think it was really just we  
16 | don't like the interpretation that you've had for the last ten  
17 | years and so it should be changed, so it was changed. And so now  
18 | we are new residential development, and we did require the relief.

19 |           Regarding the side yard issue, we do only require one  
20 | side yard. We could -- if built new, we could go to the side lot  
21 | line; we could abut Mr. Yates' common property line. And actually  
22 | it doesn't even have to be new, we could do that now, because in  
23 | this particular -- in this jurisdiction -- or in this zone there's  
24 | no minimum side yard provision. There's no provision that says,  
25 | if you do provide another side yard, that it has to be a certain

1 width. So, as long as you have the one side yard, the other side  
2 yard can be whatever you want. So we could be where it exists  
3 now, or we could go all the way to the property line.

4 CHAIRMAN HOOD: So, Mr. Sullivan, is this -- and I  
5 already know the answer (indiscernible) but I'm just going to be  
6 point blank asking. Is this simply where an applicant, where you  
7 all have found a loophole in the zoning regulations? Because if  
8 you watch the legislative history, as I've said, it said we do  
9 stuff with tape. Is this an applicant -- and no offense, Mr.  
10 Mlakar -- is this an applicant who's taking advantage of the  
11 regulations?

12 MR. SULLIVAN: No. This is actually an applicant who's  
13 a victim of the regulations and a victim of the process so far.  
14 He had a building permit, he built it, he spent hundreds of  
15 thousands of dollars building the project, and then it went to the  
16 BZA and the BZA said we no longer agree with this interpretation.

17 So Mr. Mlakar was the person that at the -- he's the pioneer for  
18 that and he bears the brunt of that. And so now we come for the  
19 special exception approval.

20 And I grant you that this is not -- this is an  
21 interesting form of relief. This is the only zone where you can't  
22 do anything, any apartment at all without BZA approval. And it's  
23 also a relief for that reason, I think, where the criteria for  
24 approval are minimal, because what can you do? If the Board  
25 doesn't approve, then you can't do anything with the property

1 other than a single-family. And I think one of the reasons for  
2 that is the minimum -- or the maximum density for this zone is as  
3 low as the lowest single-family zone. This is actually half the  
4 approved -- permitted density for the RF stuff.

5 So, granted, the problem with these, with RA-1, most RA-  
6 1 zones, in my opinion, are made up of single-family homes. And  
7 so you have these single-family home neighborhoods and then  
8 they're surprised to find out, oh, I actually live in an apartment  
9 zone and you can do this here. And so the typical RA-1 case is  
10 just like this where the provision meets the criteria for the  
11 special exception test, but it invites a lot of concern and  
12 opposition from the surrounding communities, it's not new. And I  
13 don't think he's taking advantage of anything. I think he's -- he  
14 needs to know what the rules are and right now the rules are you  
15 can go 40 percent lot occupancy, 1.08 FAR with an IZ unit, and 40  
16 feet in height. If that's too much, then I think the Zoning  
17 Commission needs to let an applicant know that before he invests  
18 in a property.

19 And the history of these cases is that -- I mean, I hate  
20 to say that you approve them all, but all the ones that fit within  
21 the massing or the approved massing are generally approved because  
22 the criteria just -- they're not that tough to meet.

23 CHAIRMAN HOOD: So, Mr. Sullivan, thank you for that.  
24 But, you know, we all -- you know, I'm not a lawyer, but, you  
25 know, we all -- judges and lawyers also look at the legislative

1 history, what the discussion was to get us there. And, you know,  
2 part of that was about taste and I think this does not meet that  
3 criteria at all.

4 But do we know who the zoning commissioner was who sat  
5 on this appeal? If not, I can find that information out. Okay,  
6 all right.

7 CHAIRPERSON HILL: I can't remember, but the appeal was  
8 upheld.

9 CHAIRMAN HOOD: Right, that's what I'm asking, who the  
10 zoning commissioner was, who signed --

11 CHAIRPERSON HILL: I can't -- oddly enough, I -- you all  
12 look the same to me, Chairman Hood, so I don't remember.

13 CHAIRMAN HOOD: So that means that we're all good-  
14 looking. Okay, so thank you.

15 CHAIRPERSON HILL: Exactly, that's right.

16 CHAIRMAN HOOD: All right.

17 CHAIRPERSON HILL: Because the darker and darker it gets  
18 at night, the better looking you all get.

19 CHAIRMAN HOOD: So let me ask this. Mr. Sullivan,  
20 again, I've asked Mr. Mlakar, but something -- I need that for the  
21 record so I can -- it would give me -- to let me see exactly  
22 what's going on when we talk about character of the neighborhood.

23 Thank you, Mr. Chairman.

24 CHAIRPERSON HILL: All right. Let's see. Okay.

25 So, Mr. Brown, would you like to go ahead and give you

1 presentation?

2 MR. BROWN: Yes, we're ready to go.

3 CHAIRPERSON HILL: Okay.

4 MR. BROWN: Mr. Yates has got a brief PowerPoint  
5 presentation where he will discuss the impacts of this project on  
6 his property and the neighborhood, and I will follow up briefly  
7 with a brief legal discussion of the standards to be applied. So  
8 I turn it over to Mr. Yates.

9 CHAIRPERSON HILL: Okay. Just so, before you start, Mr.  
10 Yates -- and by the way, Mr. Yates, welcome back, nice to see you  
11 again. Can you put 15 minutes on the clock, Mr. Young?  
12 And, again, just so know where we are.

13 And, Mr. Yates, you can begin whenever you like.

14 Mr. Yates, can you hear me? Am I on mute? Mr. Yates?

15 CHAIRMAN HOOD: No, you're fine. I can hear you.

16 CHAIRPERSON HILL: Mr. Yates, can you hear me?

17 UNIDENTIFIED SPEAKER: He's on mute.

18 CHAIRPERSON HILL: Mr. Young, is Mr. Yates on mute?

19 MR. YOUNG: Yeah --

20 CHAIRPERSON HILL: Mr. Yates --

21 MR. YOUNG: It doesn't look like he even can hear you.

22 CHAIRPERSON HILL: Mr. Yates, can you hear me?

23 Mr. Brown, do you have Mr. Yates' phone number?

24 MR. BROWN: Yes, I do.

25 CHAIRPERSON HILL: Could you call Mr. Yates?

1 MR. BROWN: Yep.

2 CHAIRPERSON HILL: Mr. Brown, you might want to mute  
3 your microphone.

4 (Pause)

5 MR. YOUNG: Chairman Hill, it looks like the zoning  
6 commissioner that sat in on the appeal was Commissioner Turnbull.

7 CHAIRPERSON HILL: Okay, great. We'll see if Chairman  
8 Hood heard that or not.

9 (Pause)

10 MR. BROWN: Maybe, Mr. Young, could you bring up Mr.  
11 Yates' PowerPoint?

12 CHAIRPERSON HILL: Mr. Brown, did you get in touch with  
13 Mr. Yates?

14 MR. BROWN: Yeah, I just spoke to him.

15 CHAIRPERSON HILL: Okay. Is he unable to -- he could  
16 call in perhaps? Can he --

17 MR. YOUNG: I also never received an email from Mr.  
18 Yates with the PowerPoint. Do you have an exhibit number? I can  
19 pull it up.

20 (Pause)

21 CHAIRPERSON HILL: All right. Well, Mr. --

22 MR. RICE: They're referring to Exhibit 44.

23 CHAIRPERSON HILL: Thank you, Mr. Rice. You're just --  
24 you're very helpful tonight.

25 (Pause)

1 CHAIRPERSON HILL: All right. And, actually, this is  
2 interesting. I don't know who to ask this question to.

3 I understand, Mr. Kirschenbaum, the criteria and  
4 regulations that we're looking at in terms of this special  
5 exception, right? I guess -- and what Chairman Hood is also  
6 talking about that I'm trying now -- because I can't -- the  
7 specifics of the appeal were again -- and maybe Mr. Sullivan can  
8 also answer it -- I always get a little confused sometimes with  
9 the side yard, right? You only have to have one side yard on one  
10 side, but you don't have to have the other side yard on the other  
11 side. That's what Mr. Sullivan seems to be asking.

12 And, Mr. Sullivan, can you hear me? That's okay, you  
13 don't have to answer yet. These are kind of some discussion  
14 questions. Because during the appeal, I remember that part of the  
15 side yard discussion was that they were -- because they were  
16 keeping the original building, like that was also how -- you know,  
17 they kept a certain amount of the original building.

18 So I guess my question is to you, Mr. Kirschenbaum, or  
19 you, Mr. Sullivan, even though you weren't part of the appeal, is  
20 that -- is the fact that they kept part of the original building  
21 why the side yard is the way the side yard is on Mr. Yates' side?

22 MR. KIRSCHENBAUM: I don't -- honestly, I don't have the  
23 information for that. If you want further information about the  
24 interpretation for this, I mean, the zoning administrator would  
25 have to step in -- or the Office of Attorney General can, sir, but

1 at this point I can't make that interpretation for -- if this is  
2 considered brand new at this point, if this is considered a  
3 conversion for a single-family house, I'm not sure.

4 CHAIRPERSON HILL: Right, I understand.

5 Mr. Sullivan, do you kind of understand my question?

6 MR. SULLIVAN: Yeah, I understand, and I -- and, I mean,  
7 in part I'll have the same answer as Mr. Kirschenbaum. I would  
8 defer to the zoning administrator on exactly why. I know a  
9 building permit was issued and the side yard wasn't brought up.

10 I don't know -- I'm not real familiar with offhand the  
11 language of the appeal, but I do believe that the 2.8 is compliant  
12 regard -- so there's a provision, as there are for side yards,  
13 when you're extending an existing nonconforming side yard, as long  
14 as you have three feet. In the RA zone, it's three feet. And  
15 that provision is in this section, but it does not apply, in my  
16 opinion, to the RA-1, because this particular side yard is not  
17 required, and it's not required to be of a minimum size at all.  
18 So because there's no provision that says if you provide a second  
19 side yard, there's -- put it this way -- there's no provision that  
20 says, if you decide to provide a second side yard, even though  
21 it's not required, then it has a minimum setback, it doesn't.

22 CHAIRPERSON HILL: I understand.

23 MR. SULLIVAN: So I don't -- yeah.

24 CHAIRPERSON HILL: I understand. And this goes back to  
25 the regulations, which is even where Chairman Hood is, is that

1 | there's no side yard required on Mr. Yates' side of the property,  
2 | is what you're trying to tell me. That could have built all the  
3 | way out to the property line because there was another side yard  
4 | being provided.

5 | MR. SULLIVAN: That's my understanding, yes.

6 | CHAIRPERSON HILL: Okay, all right. Chairman Hood, it  
7 | was Commissioner Turnbull who was on the appeal.

8 | CHAIRMAN HOOD: Thank you. I've got to go back and look  
9 | at that, because when we did side yards, I remember something  
10 | totally different than what I'm seeing here, but I need to confirm  
11 | some of that. But thank you, Mr. Chairman.

12 | CHAIRPERSON HILL: Because that, Chairman Hood, is  
13 | beyond -- that's above my pay grade.

14 | CHAIRMAN HOOD: Nothing is above your pay grade.

15 | MR. BROWN: I think Mr. Yates is ready to go forward.

16 | CHAIRPERSON HILL: Okay, great. Mr. Yates, can you hear  
17 | me?

18 | (Pause)

19 | CHAIRPERSON HILL: Mr. Yates, can you hear me?

20 | Mr. Brown, can --

21 | MR. BROWN: I --

22 | CHAIRPERSON HILL: It's all right. Can you call Mr.  
23 | Yates and just ask Mr. Yates to call the hotline?

24 | MR. BROWN: Okay.

25 | CHAIRPERSON HILL: Okay? So the hotline is right there,

1 202-727 -- my eyes are failing me -- 5471.

2 (Pause)

3 CHAIRPERSON HILL: And while he does that, Mr. Brown,  
4 why don't you go ahead and give us your side of the presentation?

5 (Pause)

6 MR. BROWN: Please, I'll be right with you.

7 CHAIRPERSON HILL: All right.

8 (Pause)

9 MR. BROWN: Mr. Chairman, I'll do my presentation now,  
10 and hopefully Mike will get connected.

11 CHAIRPERSON HILL: Okay. I mean, did you actually --  
12 did you -- did you speak to Mr. Yates?

13 MR. BROWN: Yes, I did.

14 CHAIRPERSON HILL: Okay.

15 MR. BROWN: I just don't -- I don't understand what the  
16 problem is.

17 CHAIRPERSON HILL: I understand. Did you ask Mr. Yates  
18 to call that 202 number?

19 MR. BROWN: Yes, I did.

20 CHAIRPERSON HILL: Okay, because I don't see him calling  
21 the number. So --

22 MR. BROWN: I understand.

23 CHAIRPERSON HILL: Okay, all right. So go ahead and  
24 give us your presentation.

25 MR. BROWN: Thank you.

1 I want to begin with a brief reminder of the prior  
2 decision from July 1st in which the -- which has already been  
3 described in detail, so we're back to rule on the special  
4 exception that you said was required in that case.

5 That ruling was important to my client because he wanted  
6 the benefit of the provisions in X-901.2(b) and 901.3, which place  
7 the, quote, "full burden," unquote, on the special exception  
8 applicant to prove through public record evidence that there will  
9 be no undue adverse impact to neighboring properties. That  
10 special exception requirement applies across the board throughout  
11 the district.

12 The Board may also recall my argument that since the RA-  
13 1 zone specifies that any special exception allowed in the RF zone  
14 is allowed in the RA-1 zone the Board should apply the RF zone  
15 special exception standards for conversion of a house to an  
16 apartment building, those were in sections U-302.2, when it was  
17 considering the same thing in the RA-1 zone. But the Board did  
18 not accept this carry-forward argument, even though the RA-1 zone  
19 does not have its own particular set of special exception  
20 standards for these kinds of conversions.

21 Since last July, however, a final rulemaking in Zoning  
22 Commission Case 1921, published in the D.C. Register just this  
23 past November the 13th, amended U-320.2, and it's worth a fresh  
24 look here. It now places the primary emphasis for special  
25 exception approval of a conversion such as we have here on exactly

1 | the same issue that one finds in Section X-901: compatibility  
2 | with the adjacent properties.

3 |           Let me just very briefly read from the new 302.3(a).  
4 | "Any addition shall not have a substantially adverse effect on the  
5 | use and enjoyment of any abutting or adjacent dwelling or property  
6 | and particular, (1), the light and air available to neighboring  
7 | properties shall not be unduly affected; (2), the privacy of use  
8 | and enjoyment of neighboring properties shall not be unduly  
9 | compromised; and (3) the conversion, as viewed from the street and  
10 | alley and other public way shall not substantially visually  
11 | intrude on the character, scale, and pattern of houses along the  
12 | subject street and alley."

13 |           Now, I don't know -- you probably will not agree to  
14 | carry forward those provisions to the RA-1 zone, but even if you  
15 | don't -- I would like you to consider that, but even if you don't  
16 | do that, I submit that those -- there can be no better guideline  
17 | or guidance for you in deciding whether the building merits  
18 | special exception approval under X-901 than the way the issue is  
19 | expressed in these new provisions in the RF zone.

20 |           Now, Mr. Yates' testimony, if we get to it, shows you in  
21 | his pictures that the light and air available to his next-door  
22 | property is in fact unduly and adversely affected; the use and  
23 | enjoyment of his property will be unduly compromised; and, when  
24 | the conversion is viewed from the surrounding streets and alleys,  
25 | the apartment building will substantially intrude on the

1 character, scale, and pattern of houses on this block of Madison  
2 Street.

3 So the Applicant has not met its (indiscernible) burden  
4 under X-901 --

5 CHAIRPERSON HILL: Mr. Brown? Mr. Brown?

6 MR. BROWN: Yes.

7 CHAIRPERSON HILL: Can you hang on? There's some  
8 chatter, I'm just trying to figure out what's going on.

9 Mr. Young, is there somebody on the phone?

10 MR. YOUNG: I think it's like a delay that's coming from  
11 Mr. Yates' line, so I'm muting him.

12 CHAIRPERSON HILL: Okay. So you're muting -- you're  
13 muting --

14 MR. YATES: (Indiscernible) --

15 CHAIRMAN HOOD: Do you know how delayed it is, Mr.  
16 Chairman? He's having a discussion -- we can see him on the  
17 phone, that's a discussion he's having with Mr. Brown. That's  
18 real delayed.

19 MR. YOUNG: Yeah. I have him now calling in, so when  
20 he's ready, I can un-mute him.

21 CHAIRPERSON HILL: Okay. So --

22 MR. BROWN: I'm almost done.

23 CHAIRPERSON HILL: That's all right, Mr. Brown. I want  
24 to be able to concentrate.

25 MR. YOUNG: (Indiscernible) --

1 CHAIRPERSON HILL: Yes? Is that Mr. Yates? Mr. Yates?

2 (Background conversation)

3 MR. YOUNG: Okay, Mr. Yates, he needs to mute his  
4 computer.

5 MR. YATES: I need to mute myself? Okay, I'll mute my  
6 computer.

7 (Background conversation)

8 MR. YATES: Can you hear me now?

9 CHAIRPERSON HILL: Yeah, just mute your computer, Mr.  
10 Yates.

11 MR. YATES: It is muted. I'm talking from my cell  
12 phone.

13 CHAIRPERSON HILL: We can hear your computer in the  
14 background.

15 MR. YATES: Okay, okay. Got it.

16 (Background conversation)

17 CHAIRMAN HOOD: It's him and Mr. Brown having a  
18 discussion.

19 MR. YATES: Can you hear me now?

20 CHAIRPERSON HILL: Yes. Can you hear me?

21 MR. YATES: Yes, I can.

22 CHAIRPERSON HILL: Okay. Mr. Brown, can you say  
23 something?

24 MR. BROWN: Yes, I would like Mr. Yates to go forward  
25 with his PowerPoint, if he could.

1 CHAIRPERSON HILL: Mr. Yates, can you hear Mr. Brown?

2 MR. YATES: Yes, I can (indiscernible) can you upload  
3 the PowerPoint?

4 (Background conversation)

5 CHAIRPERSON HILL: Mr. Yates, can you hear me?

6 MR. YATES: Yes, I can.

7 CHAIRPERSON HILL: Okay, all right. I just heard a  
8 phone being dialed, so I was confused. Can you see your --

9 MR. YATES: Can you hear me now?

10 CHAIRPERSON HILL: Yes. Can you see your presentation?

11 MR. YATES: Yes, I can.

12 CHAIRPERSON HILL: Okay. Go ahead and please give your  
13 presentation.

14 MR. YATES: Okay. Everyone, can you -- can everyone  
15 hear me?

16 CHAIRPERSON HILL: Yes.

17 MR. YATES: Okay, perfect. So, as mentioned earlier, I  
18 am Michael Yates and I own the abutting property at 1216 Madison  
19 Street, N.W., where I've lived for the past 18 years. The  
20 residents on this block and myself are opposed to the special  
21 exception relief to add a seven-unit condominium complex to this  
22 block. The scale, depth, and proximity of this development to  
23 adjacent properties will negatively impact residents who have  
24 lived on this block for decades, some close to 50 years. This  
25 development reduces our quality of life; it reduces our light,

1 air, and privacy; it reduces our use and enjoyment of our back  
2 yards; and increasingly changes the character of this block from  
3 stable, long-term residents to transient apartment dwellers.

4 This development is especially troubling given its  
5 proximity to adjacent properties. Unlike other multi-unit  
6 buildings in the area that are separated by alleys and are 15, 20  
7 feet apart from adjacent houses, this building is less than four  
8 feet from my property. Making matters worse, its nonconforming  
9 sidewalk on my side of the land sticks out like a sore thumb,  
10 extending some 25 feet beyond the deepest building, reducing my  
11 light, air, and privacy.

12 Since I'm most impacted by this development, I have  
13 submitted a few photographs of the actual development so far, so  
14 you can see the impact on me, as well as the community.

15 So the first picture you're looking for is Madison  
16 Street, N.W. As you can see from this picture, there are only ten  
17 houses on the block, six houses on my side and four houses on the  
18 opposite side. An apartment building of this scale on this short  
19 block would lead to overcrowding in public space, exacerbate  
20 traffic patterns, reduce visitors parking, and increase both  
21 illegal parking and frustration of residents.

22 Additionally, given that two other multi-unit  
23 developments are planned for this block, it is fair to say that  
24 the residents' quality of life will be severely diminished by  
25 adding an additional building.

1 I'll go to slide 2. This is a picture of my side yard.  
2 There are two pictures of the sidewalk, a regular view and a  
3 close-up view. So can you go to the close-up view for me, please?

4 Okay. As you can see from this view, my side yard has  
5 become a virtual alley, less than four feet from the new  
6 development. The building casts a wide shadow on my property,  
7 increasing my gas and electric bill. And this narrow space also  
8 creates a (indiscernible) for me since some people have mistaken  
9 it for a passage leading to the alley in the rear. This is a  
10 very, very big problem for me.

11 I'll go to the next slide. This is a view from the 13th  
12 Street. As you can see, the building towers over my property and  
13 other buildings in the neighborhood. The roofline is well above  
14 the adjacent house, and it's different from other houses with  
15 built-up pitched roof and attics. This is a drastic change in  
16 visual characteristic and pattern of houses on the block.

17 The scale of this building also impacts sunlight  
18 reaching my roof and also, you know, the top deck -- essentially,  
19 I'm not able to use my deck as I did in the past.

20 But, yeah, I just want to spend another 30 seconds on  
21 this. If you notice, the building is not the same as my house.  
22 This building is way bigger in size, in mass than the building --  
23 you know, than my house. So it is a problem. You know, I cannot  
24 go on my roof any longer without seeing a big green wall, you  
25 know. And, you know, I just don't believe it bodes well for the

1 community if the BZA approves a building this size.

2 Next slide, please.

3 This is a view from Georgia Avenue, N.W. As you can  
4 see, the building is very, very large. It extends some 45 feet  
5 beyond the original structure, including 25 feet beyond the  
6 deepest adjacent building in the rear, negating my right to  
7 privacy; it impacts the use of my deck, it impacts the use of my  
8 backyard. And, you know, one of the things that we like about  
9 this block is all of us have backyards, have decks where we can  
10 use. A building this size, you know, we are no longer -- we will  
11 no longer be able to use this building, you know, because our  
12 privacy -- there will be no more privacy. This is a very, very  
13 mass building, you know.

14 As Commissioner Hood mentioned earlier, who would want  
15 to live beside something like this? It changes the character of  
16 the neighborhood completely.

17 I'll go to the next slide.

18 The next slide is a view from my kitchen. As you can  
19 see, my kitchen sink sits directly across from the front door of  
20 the building, as well as the stairs leading upstairs. If this  
21 building is maintained as is, I will no longer be able to wash my  
22 dishes or even open my refrigerator without the prospect of people  
23 watching my every move or seeing the amount of food that I have in  
24 my refrigerator.

25 Before this construction, I used to have natural light

1 | in my kitchen, not anymore. Every time I walk into my kitchen, I  
2 | need to turn on the light because the kitchen is so dark. You  
3 | know, and, again, this is a concern. Again, my privacy -- there  
4 | is no privacy.

5 | I'll go to the next slide, please.

6 | This is a picture of the rear yard. As you can see, the  
7 | building is so big that I no longer have privacy in my rear yard.

8 | This is due to the fact that, as you can see, there are four big  
9 | picture windows in -- you know, hanging out in the rear that will  
10 | definitely impact, you know, the amount of time I spend in my  
11 | backyard. You know, simple things like sitting down on the deck  
12 | or entertaining, you know, with friends, or doing mundane chores  
13 | as taking out the trash will be impacted by all of this. You  
14 | know, the scale of the building and its proximity to my house is -  
15 | - it's a major intrusion into my personal space. And not only  
16 | that, but we are so close together that it allows the tenant  
17 | essentially listening on my personal conversation.

18 | Again, the proximity of this building to my property,  
19 | the scale of this building, I think it's a bit overboard.

20 | In addition to that, as you can see, my garden or my  
21 | grass is so green and my concern is that, you know, because of  
22 | reduced sunlight, my garden or my grass will be impacted by this  
23 | development.

24 | So, in summary, I would like to say that the scale, the  
25 | depth, and proximity of this development to adjacent properties

1 will diminish the quality of life not only for me, but for  
2 everyone else on the block. It creates overcrowding, reduces  
3 visitor parking, it exacerbates traffic patterns, it changes the  
4 visual characteristic of the block, and, more importantly, it  
5 negates all of our privacy. For all of us who lives on this block  
6 who for decades -- you know, one of the things that we like about  
7 this is the ability to enjoy our rear yard and with this building  
8 we will no longer be able to do that, you know. And I believe,  
9 personally, this is too high a price for the community to pay for  
10 this building, this size, this mass, and this proximity to  
11 adjacent properties.

12 I also would like to make one last point, and this  
13 relates to the ANC. You know, when we went to the ANC, you know,  
14 we pleaded with them to say that, you know, we need relief, you  
15 know, to relieve the negative impact of the scale of this  
16 development. Instead, our concerns were dismissed by the ANC, you  
17 know. And essentially what they did was they met with the  
18 developer and come to some agreement to add an inclusionary zone,  
19 an inclusionary unit, even though one was not asked for, you know,  
20 as a result -- I mean to get your support, you know. I think this  
21 quid pro quo needs to stop. To me, it's patently illegal when  
22 communities' concerns are dismissed because the ANC, it meets with  
23 the developer and get them to do the ANC bidding, you know, and  
24 this is just not right. And, you know, we are -- we are very  
25 much, you know, concerned about that, you know.

1 I mean, the way I view it is that, if I give the ANC a  
2 million dollars, would they agree to everything I want them to do?

3 To me, this is an example in this particular case that I just  
4 think -- that seems, in my view anyway, patently illegal, quid pro  
5 quo, I will support your development if you build an additional  
6 unit, because the community does not benefit from all of this.

7 Anyway, this is the essence of my briefing.

8 CHAIRPERSON HILL: All right. Thank you, Mr. Yates.

9 Let's see. Let me finish with Mr. Brown and then we can  
10 see if we have any questions for Mr. Brown or Mr. Mr. Yates.

11 Mr. Brown, where were you? I forget.

12 MR. BROWN: I'm just about to wrap up. Mr. Yates has  
13 presented his concerns about light and air and about privacy, and  
14 about how this is going to rather affect the character of his  
15 immediate neighborhood, those are all the criteria that I  
16 recommend that the Board think of, not necessarily because you  
17 should import the new RF zone criteria to the RA-1 zone, but  
18 because they very well model what is -- what the general  
19 requirement is in the X-901 section of the code applicable  
20 everywhere.

21 So for all of those reasons, as he's expressed them, the  
22 special exception should be denied. This is not about an  
23 objection to the inclusionary zone unit per se, it's the mass and  
24 scale of the entire building, which was almost as massive, if not  
25 just as massive with seven units as it is with eight units.

1           And the last point I want to make is that, although  
2 you've heard a lot about how this building is 75 percent completed  
3 based upon the zoning administrator's approval, none of the work  
4 that's gone forward has been on the basis of any final  
5 determination of lawfulness. The zoning administrator's decision  
6 was timely appealed. The Applicant has chosen to go forward with  
7 what I would regard as an overly presumptive investment of  
8 resources in the property before the Board has ruled on the matter  
9 at hand. I don't think that that should bestow upon the Applicant  
10 any more favorable situation than an even-handed application of  
11 the rules.

12           So we urge that this special exception be denied.

13           CHAIRPERSON HILL: Okay. I didn't have my video on.  
14 All right, let's see. Does the Board have any questions for the  
15 party in opposition?

16           (Pause)

17           CHAIRPERSON HILL: Sure, Chairman Hood.

18           CHAIRMAN HOOD: Thank you, Mr. Brown and Mr. Yates. Let  
19 me ask, as to some of the things you read off for me, Mr. Brown, I  
20 was looking for a submission from you in the record, and I may  
21 have overlooked it. It's getting late, I didn't see it. I did  
22 see Mr. Yates' PowerPoint, but I did not see anything from you  
23 alluding to what you just talked about when you talked about us  
24 looking at -- what is it -- 302.2(a) --

25           MR. BROWN: I did not submit anything in writing,

1 Chairman Hood.

2 CHAIRMAN HOOD: Are you planning on doing -- you know, I  
3 don't need a dissertation, but like a one-pager for us?

4 MR. BROWN: I would be most delighted to provide that  
5 for you as a follow-up.

6 CHAIRMAN HOOD: Okay, that would be very helpful.

7 Now, Mr. Mlakar mentioned to me, and which I have not  
8 heard any more -- I keep repeating myself -- my wife say I do that  
9 all the time, but anyway -- he mentioned to me that what he's  
10 getting ready to develop is all over the neighborhood, it's -- let  
11 me ask Mr. Yates, if he can still hear, is that true? Because I  
12 don't see (indiscernible) --

13 MR. YATES: There are multi-unit developments in this  
14 area, but the problem with this building is the proximity to my  
15 property. There are apartment buildings, but they are 15, 20 feet  
16 apart from the adjacent property. This particular development  
17 that makes it unique about everything else is that it's less than  
18 four feet away from the adjacent property.

19 CHAIRMAN HOOD: Okay. All right. I will wait for Mr.  
20 Mlakar to give his -- because I kind of want to see if the  
21 character of that neighborhood is being eroded and whatnot, but  
22 anyway.

23 So, Mr. Brown, I look forward to your one-pager. Again,  
24 Mr. Mlakar, I'm looking forward to getting some information. And  
25 thank you (indiscernible) --

1 UNIDENTIFIED SPEAKER: Thank you, Mr. Chairman.

2 CHAIRMAN HOOD: I see Mr. Cross is raising his hand.  
3 Was it towards something I was --

4 MR. CROSS: Yes. If it's appropriate, I could walk you  
5 through some of the images that are in the exhibit. I do think  
6 that, as Mr. Mlakar, we can produce some more images, but there  
7 are images in Exhibit 5 and 34 that we could walk through for some  
8 context, if that would help.

9 CHAIRMAN HOOD: I think what I'll do, I will go to 5 and  
10 you said 34 myself, and I'll just look at it. Thank you for  
11 pointing me to that direction. I'll look forward to anything else  
12 you have to offer, but I won't take up the Board's time on that, I  
13 can do it myself. Thank you.

14 MR. CROSS: Okay.

15 CHAIRPERSON HILL: Okay. Let's see. So, yeah, Mr.  
16 Brown, I forget, were you -- you were on the appeal?

17 MR. BROWN: Yes, sir.

18 CHAIRPERSON HILL: Yeah, you would think I would  
19 remember, Mr. Brown.

20 (Laughter)

21 CHAIRPERSON HILL: So the appeal was during COVID,  
22 right?

23 MR. BROWN: I think we did it remotely, as I recall.

24 CHAIRPERSON HILL: Okay, all right. So the one-pager  
25 that Mr. Hood is speaking about that I'm trying --

1 MR. BROWN: The hearing was in June, so we were -- that  
2 was COVID season.

3 CHAIRPERSON HILL: Thank you. What I'm -- which we're  
4 still in -- what I'm trying to remember -- again, it was right,  
5 one of your arguments that did not hold water for us was that you  
6 were trying to get us to apply the RF-1, U-902 -- oh, no, I'm  
7 sorry, U-322 against the RA-1, and that's the one-pager that  
8 Chairman Hood is kind of asking about.

9 MR. BROWN: That's right.

10 CHAIRPERSON HILL: Okay, all right. Okay. So, okay, I  
11 just want to understand.

12 And if somebody -- if everybody can mute their line,  
13 because I'm getting feedback, unless you get asked.

14 All right. So -- oh, so does anybody -- before I turn  
15 to Mr. Sullivan, does anybody have any more questions of the  
16 Applicant? And actually I'm going to have -- I mean, I guess, if  
17 Chairman Hood is asking for stuff, that we might not be doing some  
18 things.

19 Mr. Mlakar, I'll get back to you in a second.

20 Does anybody have any questions for the party in  
21 opposition from my colleagues?

22 Okay, I don't see a hand being raised.

23 Mr. Mlakar, you'll have a chance to come back for  
24 rebuttal at the end, okay? Your rebuttal.

25 Mr. Sullivan, do you have any questions of the party in

1 opposition?

2 MR. SULLIVAN: No.

3 CHAIRPERSON HILL: Okay. I did have a question for Mr.  
4 Kirschenbaum again, I guess. Like I've been pulling up the  
5 regulations again, like this is in the RA-1 zone, right? And,  
6 again, the RA-1 zone has "low-to-moderate-density development,  
7 including detached dwellings, row houses, and low-rise  
8 apartments." I've always been a little suspect -- or not suspect,  
9 confused as to what is considered a low-rise apartment. What is  
10 considered a low-rise apartment?

11 MR. KIRSCHENBAUM: It's an undefined term, but generally  
12 speaking it would be a three-story apartment house. That is  
13 typically what an apartment house -- the RA-1 zone does not allow  
14 anything greater than three stories, 40 feet, and, generally  
15 speaking, most apartment buildings in the RA-1 zone are three  
16 stories.

17 CHAIRPERSON HILL: Okay.

18 MR. KIRSCHENBAUM: That's a very typical building  
19 typology for the RA-1 zone.

20 CHAIRPERSON HILL: Okay. And this is bringing me back  
21 to another point and if you all Board members will bear with me,  
22 including the chairman, because this is basically what's in the  
23 regulations. It says that we -- and this is what we turned the  
24 appeal on was that for special exceptions under the new  
25 residential requirements, so anything new had to come before us,

1 correct?

2 MR. KIRSCHENBAUM: That is how I understand the appeal  
3 to have worked, yes.

4 (Pause)

5 MR. KIRSCHENBAUM: Again, I --

6 CHAIRPERSON HILL: I'll go to OAG, I'll go to OAG,  
7 because I want to understand. When you say new residential  
8 development, that doesn't mean everything that's new has to come  
9 before us, is that what that means?

10 That's to Mr. Rice.

11 MR. RICE: I heard you, Chairman Hill. I can come back  
12 to you with an answer, but (indiscernible) --

13 CHAIRPERSON HILL: Or I can go to Mr. Sullivan, because  
14 -- Mr. Sullivan?

15 MR. SULLIVAN: It's all -- essentially, it's all multi-  
16 family. It's everything except detached homes. So you can build  
17 a detached home as a matter of right, but anything else --

18 CHAIRPERSON HILL: Right, any --

19 MR. SULLIVAN: -- to have a single-family home as a  
20 matter of right.

21 CHAIRPERSON HILL: Any new multi-family, any new multi-  
22 family -- now Mr. Kirschenbaum is shaking his head.

23 MR. KIRSCHENBAUM: It's actually -- the universe is  
24 larger than that. Everything in RA-1 zone, any new development in  
25 the RA-1 zone other than a single-family detached or semi-detached

1 house. So even if you have a single-family (indiscernible)  
2 building it has to get a special exception. If you have a flat,  
3 that needs a special exception. And if you have a multi-family  
4 building like this one, that also needs a special exception.

5 CHAIRPERSON HILL: Right. So, because of the appeal --  
6 so, because of the appeal, we're going to see more things? That's  
7 my question, which seems to be the case.

8 MR. KIRSCHENBAUM: I would imagine so, yes, because of -  
9 - yes, because the interpretation that the zoning administrator  
10 had was overturned. So I would imagine so, yes.

11 CHAIRPERSON HILL: Okay, all right.

12 UNIDENTIFIED SPEAKER: Chairman Hill, for what it's  
13 worth, I agree with Mr. Kirschenbaum.

14 CHAIRPERSON HILL: Right. So we're going to get more  
15 stuff because the appeal was overturned, that's what I was just  
16 trying to understand, which is fine --

17 UNIDENTIFIED SPEAKER: All new residential developments  
18 except one-family detached and semi-detached.

19 CHAIRPERSON HILL: Right, for special exceptions. Okay.  
20 Chairman Hood?

21 CHAIRMAN HOOD: The last thing, Mr. Chairman, I just  
22 want to make a note to Mr. Cross. I did look at 5 and 34 and that  
23 doesn't get it. It goes exactly to what the opposition is saying,  
24 especially on -- and these are your photographs -- so let's  
25 continue to galvanize and deal with our last four.

1           So, thank you, Mr. Chairman.

2           CHAIRPERSON HILL: Okay, okay. I was flipping through 5  
3 and 34 myself.

4           All right, okay. So I asked those, Mr. Sullivan didn't  
5 have any questions.

6           Mr. Sullivan, do you have any rebuttal?

7           MR. SULLIVAN: It sounds, Mr. Chair, like we're going to  
8 effectively have a written rebuttal, I think. Is that correct?  
9 If not, I would like to speak for a few minutes.

10          CHAIRPERSON HILL: Go ahead and give a verbal rebuttal.

11          MR. SULLIVAN: And first I'll ask Mr. Mlakar if he has  
12 anything he wants to say in rebuttal.

13          MR. MLAKAR: So, yeah, I guess my main point would be  
14 that there's so much argument being made against the mass when the  
15 mass is buildable by right as a single-family. So I could easily  
16 just build this property by right without going to the BZA as a  
17 single-family having the same mass and having a rental unit below,  
18 and sell it is a multi-million-dollar property. I think it's a  
19 lot more effective to have it as a multi-unit within that same  
20 mass that is buildable by right and to provide properties that are  
21 a lot more affordable. That's my main point that I was trying to  
22 get across, that's it. I'll leave it to Martin.

23          CHAIRMAN HOOD: So let me just opine on what you just  
24 said. While I agree with you, you can build by right a single-  
25 family with a unit, but you stand more to gain, which I have no

1 | problems with, with the way you're going now. And let's be real  
2 | now. We didn't just -- we're not new to this, we're true to it.  
3 | So the thing about it is, you stand more to gain, so telling me  
4 | that I think -- I take exception to the way you're presenting it  
5 | to me like I just started on the BZA this morning; I didn't.

6 |           So I think what I would like for you to do, let's keep  
7 | it in perspective. I'm not trying to diminish your rights as a  
8 | developer, but what I am trying to do is make sure we balance,  
9 | because once -- like you said, you can sell it, you're gone. Mr.  
10 | Yates and the rest of the people on the block -- but you do have  
11 | the ANC commission's support, at least they voted, at least that's  
12 | what we have in the file, but they're not going to be the ones  
13 | who's going to have to endure. That's where I am, that's where I  
14 | am.

15 |           So, thank you, Mr. Chairman.

16 |           MR. MLAKAR: And what I was going to say to that is that  
17 | with every property we go through the process of contacting the  
18 | community, working through the ANC, and the ANC surveys their  
19 | members and most people were in support of this as a result. And  
20 | I understand Mr. Yates' opposition to it, but ultimately Mr. Yates  
21 | lives in a big house and if I wanted to build a big house that has  
22 | the same mass, I could do so and I could live in it myself.  
23 | That's it.

24 |           CHAIRMAN HOOD: We can go back and forth, but we don't  
25 | need to do that. So, thank you.

1 CHAIRPERSON HILL: Okay. Mr. Sullivan and Mr. Rice,  
2 it's long in the day now, I forget. So rebuttal, Mr. Sullivan  
3 will have rebuttal, and then I forget -- Mr. Brown gets any  
4 rebuttal? I don't know why I always forget this part.

5 UNIDENTIFIED SPEAKER: It's up to the chair, sir.

6 CHAIRPERSON HILL: Okay, I -- no, I don't think it's up  
7 to the chair, actually. I can't remember, but I'll tell you what  
8 -- I really just can't remember, that's why, man, this last case  
9 is really going to be interesting.

10 So, Mr. Sullivan, you go ahead and give some rebuttal.

11 Mr. Brown, if Mr. Sullivan brings up anything new, you  
12 can rebut his new stuff, but don't please rebut any of the old  
13 stuff. Okay? And then, Mr. Brown, you can have a little  
14 conclusion. And then, Mr. Sullivan, you can have a little  
15 conclusion. And it appears as though we're going to ask for some  
16 stuff anyway.

17 And so, Mr. Sullivan, go ahead, please.

18 MR. SULLIVAN: Thank you, Mr. Chair. And for the  
19 record, I would just like -- I don't personally have rebuttal, I  
20 do have a few things to say in closing, but I'd like to go to Mr.  
21 Cross just for the record, to put on the record some information  
22 about the context of this building within the surrounding  
23 neighborhood.

24 MR. CROSS: Yeah, I appreciate that, I appreciate that,  
25 and I won't belabor the point. As noted, it seems like we are

1 going to be submitting some more materials for the record. And I  
2 understand that Mr. Hood has already reviewed Exhibit 5 and 34.  
3 To walk through it really quickly, though, just to lay some of the  
4 groundwork of the materials that we will provide, if we can go to  
5 Exhibit 5.

6           The initial slide in Exhibit 5 is the D.C. atlas map  
7 showing the context of this area. And, as you'll immediately  
8 note, the block of Madison on which this property exists, even  
9 within that one block, only three quarters of that block is  
10 residential in nature. The last quarter of it as it approaches  
11 the Georgia Avenue corridor goes to commercial buildings, all  
12 existing on that same block.

13           So many of the context photos that you have seen today  
14 are of that one limited view of this portion of the Madison block,  
15 as noted, on which there already exists one and there is another  
16 apartment house being built, as this is the residential apartment  
17 zone.

18           On that map too you can look at the surrounding blocks  
19 immediately behind the property being developed. Lot 802, 5601  
20 13th Street, there's a large apartment building that's visible in  
21 some of these other slides, particularly in Exhibit 34. There are  
22 also two large apartment buildings just diagonal immediately  
23 across from Mr. Yates' property there on 13th Street, 5616 -- and,  
24 unfortunately, I don't have the address of the one that's on the  
25 intersection of 13th and Longfellow, but you see those in plan as

1 a classic apartment building, which we'll get to some images of,  
2 as well as the one on the next block of Madison, 1311 Madison  
3 Street, which is just, you know, half of the way up the next  
4 block, possibly as few as four houses over.

5 I think what we can see in Exhibit 34, as those are some  
6 images taken on the immediate property immediately adjacent to the  
7 property of Mr. Yates. We can actually see the two properties in  
8 context, using the adjacent property as context for what is  
9 allowed as matter of right in this zone, and you see, as you saw  
10 in some of the slides presented by Mr. Yates himself, that the  
11 mass of --

12 CHAIRPERSON HILL: Mr. Cross? Mr. Cross?

13 MR. CROSS: Yes.

14 CHAIRPERSON HILL: Let me just interrupt you a second.  
15 It sounds like we're going to get an exhibit from you guys and  
16 you're going to point out all this stuff. So just -- I don't  
17 think you need to go through all of them, even though I understand  
18 what you're trying to do, like we're going to do this -- you're  
19 going to give us something that is -- might just regurgitate  
20 everything you have here, but in a way that it's more easily  
21 digestible.

22 MR. CROSS: Certainly.

23 CHAIRPERSON HILL: Okay? You can wrap up. I'm just  
24 trying to say, I've got another two-hour hearing after this one.

25 MR. CROSS: I understand. I appreciate all your time.

1 I've been listening along with you since 9:30 this morning. If  
2 that's enough for you, we will get you a written response to show  
3 you all the buildings that I listed here that are in this same  
4 area, to show that this residential apartment house is consistent  
5 not only with the residential apartment zone standards, but also  
6 with the general massing of this area.

7 CHAIRPERSON HILL: Okay. And we can come back to  
8 whatever we all finally need at the end.

9 Mr. Cross, I love when people say they've been watching  
10 since 9:30, which is great, because I think it's great that you've  
11 given up your whole day, but you're like watching TV, eating  
12 Cheetos, talking on the phone, on the computer. You weren't doing  
13 this for the past 14 hours, okay? So, you know, but I appreciate  
14 it.

15 Mr. Sullivan, have you got anything else?

16 MR. CROSS: It was actually Doritos.

17 CHAIRPERSON HILL: There you go, there you go, there you  
18 go.

19 MR. CROSS: Don't tell her, don't tell my wife.

20 CHAIRMAN HOOD: I have a question for Mr. Sullivan.

21 CHAIRPERSON HILL: Okay.

22 CHAIRMAN HOOD: Mr. Sullivan, you just had Mr. Cross  
23 basically do rebuttal. Would you not say that that was rebuttal  
24 and that the opposing party has a right to cross what he just did?

25 MR. SULLIVAN: I would agree with that.

1 CHAIRMAN HOOD: Okay. I'm just making sure --

2 MR. SULLIVAN: I think that's a question for Mr. Rice,  
3 yeah (indiscernible) --

4 CHAIRMAN HOOD: Because I've seen that done too, Mr.  
5 Sullivan. Oh, we just have a few -- but actually that's  
6 crossable, what he just did, and I wanted to make sure that the --  
7 and I'm not trying to chair this meeting, so I'm sure the chairman  
8 will put me back in my place and tell me what day I'm supposed to  
9 chair, but I wanted to make sure that that did not go unnoted,  
10 because I heard the way that was done. I'll leave it at that.

11 Thank you, Mr. Chairman.

12 CHAIRPERSON HILL: Okay. Let's see. So let me go ahead  
13 and finish with Mr. Sullivan.

14 Mr. Sullivan, have you got anything else?

15 MR. SULLIVAN: Just -- I just wanted to --

16 CHAIRPERSON HILL: It's rebuttal, that's fine.

17 MR. SULLIVAN: -- say something in closing, I could do  
18 it now or wait until --

19 CHAIRPERSON HILL: I just -- what? I'm currently in the  
20 rebuttal thing. I can wait for your closing after that. So do  
21 you have anything else for rebuttal?

22 MR. SULLIVAN: I do not.

23 CHAIRPERSON HILL: Okay. So, Mr. Brown, you can now, as  
24 Chairman Hood just pointed out -- I wish there was another word --  
25 rebut whatever it is that was already said thus far that's new

1 and/or (indiscernible) --

2 MR. BROWN: I have nothing to question Mr. Cross about,  
3 but I would like a brief closing statement.

4 CHAIRPERSON HILL: Sure. Yeah, please. So now is a  
5 good time. Go ahead and then --

6 MR. BROWN: Okay.

7 UNIDENTIFIED SPEAKER: Mr. Chair?

8 MR. BROWN: I want to be clear about --

9 CHAIRPERSON HILL: Hold on, somebody just said  
10 something.

11 MR. YOUNG: We still have two individuals that had  
12 signed up to testify. I think that you skipped over that part.

13 CHAIRPERSON HILL: Oh, my God, I thought this was an  
14 appeal. Right, you're right. So let's see -- right. So, okay.  
15 Thank you very much, Mr. Young. If you could bring in our  
16 witnesses, please?

17 (Pause)

18 CHAIRPERSON HILL: Is there just two, Mr. Young?

19 MR. YOUNG: Yeah, I think it's just two.

20 CHAIRPERSON HILL: I see an Alvarez and Bruner, is that  
21 correct? Could Alvarez please go first?

22 MR. YOUNG: Yep.

23 (Pause)

24 CHAIRPERSON HILL: Is that Mr. Alvarez -- or Ms.  
25 Alvarez?

1 MS. ALVAREZ: Hello?

2 CHAIRPERSON HILL: Hello? Can you hear me?

3 MS. ALVAREZ: I hear you. I've heard you since 9:30,  
4 but can you hear me.

5 (Laughter)

6 CHAIRPERSON HILL: I can hear you, Ms. Alvarez.

7 MS. ALVAREZ: All right. My testimony will be very  
8 brief, but I hope it's powerful.

9 Dear Commissioners, thank you for the opportunity to  
10 testify on the development on 1214 Madison Street, N.W. The  
11 construction will negatively impact my home, family, and  
12 community.

13 I have lived at 1231 Madison Street since 1986 -- yes --  
14 with my husband and three children. We live on a block with only  
15 ten houses -- may I say it again, ten houses -- and we know all  
16 our neighbors. A building this size will affect all of that. We  
17 chose our single-family house because we wanted a stable neighbor  
18 with long-term residents, not a block with transient -- with a  
19 transient population.

20 The scale of this development will change the character  
21 of our neighborhood, reduce visitor and resident parking. This  
22 will lead to overcrowding of the different franchise residents who  
23 have lived here for decades and reduce our quality of life.

24 I'm very concerned about the increased traffic  
25 congestion and reduced parking. I'm a senior and unable to walk a

1 long distance to find parking.

2 We pay taxes for our single-family home. Like other  
3 areas of the city, new development is usually followed by higher  
4 property taxes. As a retiree on a fixed income, I'm very  
5 concerned about higher taxes and the challenges that come with a  
6 transient population. I feel disenfranchised because my concern  
7 about the size and the scale of the development have not been  
8 dealt with.

9 Thank you, Bonita Alvarez.

10 CHAIRPERSON HILL: Thank you, Ms. Alvarez. And, Ms.  
11 Alvarez, thank you for being with us since 9:30 in the morning.  
12 You sound like a very well-informed person.

13 MS. ALVAREZ: Thank you.

14 CHAIRPERSON HILL: Ms. Alvarez, I've also been here now  
15 for 45 years, so I appreciate, you know, the longevity of some  
16 people that have been around here.

17 MS. ALVAREZ: Sixty-three years. Thank you.

18 CHAIRPERSON HILL: Yeah, well, you sound 45.

19 MS. ALVAREZ: Oh, okay.

20 (Laughter)

21 CHAIRPERSON HILL: Let's see. Does anybody have any  
22 questions for Ms. Alvarez?

23 All right. Is it Ms. Bruner?

24 MS. BRUNER: Yes, hello. Can you hear me?

25 CHAIRPERSON HILL: Yes.

1 MS. BRUNER: Okay. I too have been on the line since  
2 9:30, multi-tasking, so I just wanted to make sure I added that in  
3 there.

4 One, I just wanted to show support for Mike Yates, along  
5 with Ms. Alvarez. And I understand that we can't speak on behalf  
6 of other neighbors that are speaking for themselves, but I want to  
7 make a point here.

8 When the developer said that they surveyed the  
9 neighborhood and the neighborhood agrees, that is not a true  
10 statement. I am on record at one of the ANCs through Webex to say  
11 that we unequivocally do not agree with the development of this  
12 project. So that is not a true statement to say that the  
13 community agrees with this project.

14 I don't want to belabor the point with everything that  
15 Mike Yates has said, along with Mrs. Alvarez, I am in total  
16 agreement. And one thing that I want to talk about -- and this  
17 will be my last point -- is the character. I keep hearing that  
18 word come up, the character of the neighborhood.

19 I've been in the military, active duty, for 18 years.  
20 I've traveled all over the world and I built a family within that  
21 time frame. I'm from Washington, D.C. I've been educated within  
22 the Washington, D.C. school system and I graduated from Howard  
23 University. So I live this city. But I decided to serve my  
24 country and I've traveled all over the world, and this is where I  
25 decided to stay because of the character of this neighborhood. I

1 | could have lived anywhere in this world, I could have lived  
2 | anywhere in D.C., but the one thing that attracted me to the  
3 | neighborhood that I live in -- or for over 12 -- I'm sorry, ten  
4 | years now, is because of the character. We love the fact that the  
5 | neighborhood or the block was short. I grew up on a short block,  
6 | I decided to purchase a home on a short block. The neighbors were  
7 | welcoming to my family and we are a close-knit neighborhood.

8 |           And so the character of the neighborhood by having this  
9 | building, this monstrosity that's sitting right across the street  
10 | from my home on 1233 Madison Street is absurd. I have young  
11 | children that I raise on this block and the height of this  
12 | building will encroach on the privacy of myself, along with my  
13 | children. My children's room is on the side of the street. And  
14 | with the height of this building, along with the, I guess,  
15 | additional balconies that they intend on adding to this property  
16 | is an encroachment on our privacy.

17 |           So I just wanted to make a point to support Mike's  
18 | position and speak on behalf of our community that this is  
19 | something that we didn't ask for, but this is something that we're  
20 | going to have to live with.

21 |           And that's all I have. Thank you.

22 |           CHAIRPERSON HILL: Okay. Thank you, Ms. Bruner, and  
23 | thank you for your service.

24 |           Does anybody have any questions for Ms. Bruner? No?

25 |           All right. Does the Applicant have any questions for

1 Ms. Alvarez or Ms. Bruner? Mr. Sullivan?

2 MR. SULLIVAN: No.

3 CHAIRPERSON HILL: Mr. Brown, do you have any questions  
4 for the witnesses?

5 MR. BROWN: No questions.

6 CHAIRPERSON HILL: All right. Thank you all very much.  
7 You all have a nice evening.

8 (Pause)

9 CHAIRPERSON HILL: All right, let's see. Okay. Mr.  
10 Brown, you wanted to go ahead and give a conclusion?

11 MR. BROWN: I think I can do this in one minute.

12 CHAIRPERSON HILL: Okay.

13 MR. BROWN: We are not claiming that there's been any  
14 violation of any development standard even for the side yard, but  
15 there is nothing by right about asking for a special exception.  
16 You get a special exception only if you satisfy compatibility  
17 concerns, that is the touchstone of X-901 and that -- and that  
18 would be -- that evaluation ought to be informed by the very  
19 concerns that are set up for the conversion of apartment -- of  
20 single-family homes to apartment buildings in the RF zone: light  
21 and air, privacy, and change in the neighborhood character.  
22 You've heard testimony about all of those.

23 I think it's a false comparison to compare the massing  
24 of this building to the massing of the single-family development  
25 home. Those are very different uses, they have a very different

1 character, they have a very different number of persons, and a  
2 very different number of cars and other impact on the  
3 neighborhood.

4           So Mr. Yates is in full accord with those people in the  
5 neighborhood that want to preserve the neighborhood character as  
6 it is, not add a slew of rental apartments to a neighborhood of  
7 stable, existing, homeowner-owned, single-family development  
8 homes.

9           I don't know if I made my 60 seconds, but I'm done.  
10 Thank you.

11           CHAIRPERSON HILL: Thank you, Mr. Brown.

12           Mr. Sullivan?

13           MR. SULLIVAN: Thank you, Mr. Chair and members of the  
14 Board. I'll be very brief.

15           Mr. Brown did not even attempt to address the specific  
16 special exception criteria that the Board is going to consider  
17 this application under. Rather, he argues that the Board should  
18 import a special exception test from another zone, from the RF-1  
19 zone, and in doing that he doesn't even -- he misquotes 320.2,  
20 because 320.2 no longer includes a test for light and air,  
21 privacy, or character, scale, and pattern of the building. And of  
22 course neither does RA-1, the 421 relief.

23           I've been through many cases where there's descriptive  
24 words used like massive, large, monstrosity, and there's no way  
25 for a housing provider to know what they should be investing in if

1 | those were the terms that were defined what somebody can build.  
2 | The zoning commission has provided objective, measurable elements  
3 | to define what is undue or what is too big, and in this zone, it  
4 | happens to be quite a low number. It's 40 percent lot occupancy,  
5 | it's 0.9 FAR, 1.08 with the IZ, and it's 40 feet in height, which  
6 | is what the Applicant is complying with.

7 |           I'll just note regarding the side yard, this property  
8 | has the same width of side yard that Mr. Yates has. So, if the  
9 | building is close, it's not just because of our building being  
10 | close to his, but his building being close to our property, and  
11 | his is the same height as well and of similar depth.

12 |           When the Board does -- if we're going to talk about an  
13 | RF analysis, when the Board reviews, for instance, an RF special  
14 | exception case, your evaluation of what is undue is a comparison  
15 | of what can you do as a matter of right and what are you asking  
16 | for in addition to the matter of right of the massing. And we  
17 | don't have that here. We're staying within the defined objective  
18 | criteria that a housing provider needs to know if they're going to  
19 | invest in a property. If the Board were to adjust or change what  
20 | has been a consistent evaluation and interpretation of RA-1  
21 | projects over the last five or six years, or longer, and then Mr.  
22 | Mlakar would be a two-time loser. Because he first loss when the  
23 | appeal decided to change Mr. LeGrant's interpretation and now he'd  
24 | be losing if the Board decided to change a consistent  
25 | interpretation.

1           So we are happy to provide additional information and we  
2 will try to target what the Board has had concerns and questions  
3 about, and we look forward to providing that additional  
4 information.

5           Thank you.

6           CHAIRPERSON HILL: Okay, all right. So I guess, let's  
7 see what we need to do. It seems as though Mr. -- Chairman Hood,  
8 you wanted -- could you clarify again what you're interested in?

9           CHAIRMAN HOOD: I think I've asked for two things. Mr.  
10 Cross is going to give me some additional rendering showing me the  
11 massing, and I know Mr. Sullivan had -- I understand his closing  
12 remarks. And the reason I actually go after Mr. Sullivan  
13 sometimes, to be frank and honest with you, I think Mr. Sullivan  
14 has a wealth of knowledge and sometimes when you're challenged,  
15 you're able to better yourself as well.

16           So, Mr. Sullivan, don't take it personally, but I think  
17 that you are -- you represent your clients well. I may not always  
18 agree with you, but I think you represent them well, even  
19 (indiscernible) I don't necessarily agree with you, but I think  
20 you do a good job.

21           But let me just say, Mr. Cross is going to supply me  
22 with the different aerial -- Mr. Mlakar, I believe, mentioned that  
23 this project was similar to all the rest of them in that  
24 neighborhood and I tried to look at the aerial view, Mr. Cross,  
25 and I didn't see it even in the aerial view of Exhibit 34. So I

1 think you all are going to supply me some more (indiscernible) to  
2 get some context of that general neighborhood there.

3 The other thing is Mr. Brown is going to give me the  
4 one-pager, which Mr. Sullivan just alluded to about the RA-1 and  
5 the RF, I believe. That whole argument that he made, I'd like to  
6 see that in a one-pager.

7 I think that's all I have.

8 CHAIRPERSON HILL: Okay. Let's see. So that -- all  
9 right, Mr. Brown, do you understand?

10 MR. BROWN: I've got it.

11 CHAIRPERSON HILL: Okay. And, Mr. Cross, you  
12 understand?

13 And I don't even know who to ask when I think about it -  
14 - I mean, I was just trying to understand that side yard thing  
15 again, but maybe I can do that on my own, I can do it on my own.

16 All right. In fact, Mr. Rice, you can call me later and  
17 you can help me figure it out on my own.

18 So, all right, I guess that's it --

19 CHAIRMAN HOOD: Mr. Chairman, I would like to be  
20 included in that conversation of the side yard, because -- I will  
21 -- I would -- not just necessarily germane to this case, but I  
22 think there's a bigger issue here for me.

23 CHAIRPERSON HILL: Okay. All right, sure.

24 Okay. So, Mr. Rice, we'll try to figure that out.

25 Let's see.

1 UNIDENTIFIED SPEAKER: ANC.

2 CHAIRPERSON HILL: Yeah. So when can you get this stuff  
3 to us, Mr. Brown?

4 MR. BROWN: In a matter of days for sure.

5 CHAIRPERSON HILL: Okay. Let's see --

6 MR. BROWN: Sometime next week would be fine.

7 CHAIRPERSON HILL: So then we could then have a decision  
8 on this. Like we don't need anything else, then we could just  
9 have a decision on this on maybe -- how many -- oh, no -- how many  
10 cases do we have on the 23rd, Mr. Moy? I forget what I said.

11 MR. MOY: The 23rd. The 23rd, we have nine cases. Did  
12 we put another case on the 23rd? I thought we did. Did we put  
13 something on the 23rd? No, no. So if you're going to set this up  
14 for a decision, if you want to count that as a tenth case, that's  
15 fine, but, you know, it's not (indiscernible) --

16 CHAIRPERSON HILL: So can you get every -- can you  
17 please supply people with dates so that we can put this on for  
18 decision on the 23rd?

19 MR. MOY: Sure. I'm going to need some help because I  
20 didn't -- I lost the conversation when you transitioned over to  
21 Mr. Brown.

22 CHAIRPERSON HILL: Mr. Brown needs to provide something,  
23 and Mr. Cross needs to provide something, and Mr. Brown said he  
24 could provide it in a couple days.

25 And, Mr. Cross, when can you provide it?

1 MR. CROSS: I think we can provide it in the same  
2 timeline. The first part of next week, we should be able to get  
3 you something.

4 CHAIRPERSON HILL: Fine. So, Mr. Moy, it doesn't sound  
5 like it's a problem to get the things we need.

6 MR. MOY: Okay, okay, okay. The only last question I  
7 have is, when the Applicant makes their filing, do you want to  
8 provide a timeline for Mr. Brown to respond to the Applicant's  
9 filing?

10 CHAIRPERSON HILL: Yeah, I guess they can both respond.  
11 I mean, if that's the case and if they get -- if you guys can get  
12 us your -- I hate to do this to you by the 14th, but, I mean, you  
13 know, can you get, Mr. Cross, just the pictures that Mr. Hood was  
14 interested in by the 14th?

15 MR. CROSS: We'll achieve any timeline you set.

16 CHAIRPERSON HILL: All right. Then the 14th, if you get  
17 us your stuff by the 14th -- Mr. Brown, if you get us your stuff  
18 by the 14th -- that means that by the 21st we could have responses  
19 from -- if either one of you wanted to give any responses to what  
20 the other one gave, but all we're talking about is these two --  
21 these three items that are being -- two, three items that are  
22 being asked for.

23 MR. MOY: Okay. So let me recap those. So the  
24 Applicant and the party status can make their filing by Monday,  
25 December the 14th, and responses to those filings would have a

1 deadline of the following week, which would be December 21st.  
2 Then the Board can make its decision on the 23rd of December.

3 Do you need anything --

4 CHAIRPERSON HILL: Okay.

5 MR. MOY: -- do you need any supplemental from OP?

6 CHAIRPERSON HILL: Not unless OP wants to give me  
7 something after what they see.

8 So, again, Mr. Brown is going to give us his one-pager  
9 about his discussion about, you know, the taking the RA-1 stuff  
10 and applying it to the RF -- I'm sorry, RF-1 stuff and applying it  
11 to the RA-1, and then -- and I'm not using -- I'm using my words,  
12 Mr. Brown, whatever you use, right? And then Mr. Cross is going  
13 to show us other buildings that are similar and we're going to --  
14 whatever Chairman Hood had asked for, and you're going to give  
15 that to us by the 14th.

16 Other than that, the record is closed. There's only two  
17 items being requested by the Board. And then you two, Mr.  
18 Sullivan and Mr. Brown, can respond to each other's submission by  
19 the 21st, and then we'll have a decision on the 23rd.

20 Is that clear? Does anybody else have anything else?

21 MR. BROWN: That's a public meeting on the 23rd,  
22 correct? Public meeting?

23 CHAIRPERSON HILL: It's just -- it's a meeting, yes.  
24 It's going to be -- it's a meeting that we're not going to take  
25 testimony, we're just going to decide.

1 MR. BROWN: All right. And that comes before the  
2 hearings, right?

3 CHAIRPERSON HILL: Yeah, it does.

4 MR. BROWN: Okay.

5 MR. MOY: Yeah, it will be at 9:30.

6 CHAIRPERSON HILL: Actually, I'm going to take that, Mr.  
7 Moy. We don't know what's going to -- and so it's good that you  
8 mention that. I don't know what might happen on -- and I don't  
9 know if we're allowed to do this or whatever, but like I know that  
10 the 23rd, since it's the day before Christmas Eve --

11 UNIDENTIFIED SPEAKER: The day before Christmas Eve?

12 CHAIRPERSON HILL: -- that we might have a problem in  
13 terms of Board member stuff, so we might start earlier, if  
14 possible, okay?

15 UNIDENTIFIED SPEAKER: Okay.

16 CHAIRPERSON HILL: So -- okay? I don't know how early  
17 we may start, but, you know, we're going to start earlier.

18 MR. MOY: I mean, if we do, we'll let everybody know.

19 CHAIRPERSON HILL: Okay. Well, then in that case, the  
20 hearing is closed. Thank you all so much.

21 (Chorus of thank you)

22 CHAIRPERSON HILL: And I think we've got one more. I do  
23 need to take a break. I want to talk with my fellow Board members  
24 for a minute.

25 So this is now -- okay. All right. So I think that I

1 | might lose one of my Board members, I might lose Ms. John, just  
2 | due to the -- there's some thing that I know that she had to take  
3 | care of. And so, Mr. Smith and Mr. Hood, can you stay with me?

4 |           CHAIRMAN HOOD: Yeah, I'm good.

5 |           CHAIRPERSON HILL: Okay, all right. So, Ms. John, you  
6 | have a nice evening, and we'll see you next time. All right?

7 |           And then for Mr. Smith and Chairman Hood, can we take  
8 | like 15 minutes? I just need to take a little bit of a break. I  
9 | mean, like let's try to take ten minutes. Let's come back in ten  
10 | minutes, okay? Because the next one is also going to take a  
11 | little bit of time. Thank you.

12 |           CHAIRMAN HILL: Mr. Moy, call the last one.

13 |           MR. MOY: All right. Thank you, sir.

14 |           Yeah, it's all downhill now.

15 |           Okay. Last, but not least, as the Americans say, this  
16 | is Case Application Number 20290, Vitis Investments, LLC, as  
17 | amended, for special exception under the residential conversion  
18 | requirements of Subtitle U, Section 320.2, to convert an existing  
19 | detached principal dwelling unit to a seven-unit apartment house,  
20 | RF-1 Zone, at premises 421 T Street N.W., (Square 3090, Lots 804,  
21 | 805, and 807).

22 |           The only item I'd like to present for you, Mr. Chairman,  
23 | is basically -- I guess two things. One is that you last heard  
24 | this at your hearing on October 21st. You did not hear the merits  
25 | of the case. And the second thing is, within the past 24-hour

1 period, there were two letters that were trying to be filed into  
2 the record; one from Laura Richards and the other from Larry  
3 Hargrove, and I believe it's the same letter. And I think they  
4 represent the Committee of 100.

5 So, I guess the reason why I'm presenting this is, if  
6 you waive that 24-hour period, then we can allow the letters into  
7 the record.

8 CHAIRMAN HILL: I understand.

9 MR. MOY: Okay.

10 CHAIRMAN HILL: Since it's a letter from the Committee  
11 of 100, by don't we go ahead and let it in, okay --

12 MR. MOY: Okay. I'll have the staff do that.

13 CHAIRMAN HILL: -- unless the Board has any questions  
14 about it, and if so, raise your hands.

15 No?

16 So, please go ahead and allow that into the record, then  
17 we can see that, I guess, as we're doing this.

18 MR. MOY: Okay. Will do.

19 Thank you, sir.

20 CHAIRMAN HILL: Thank you.

21 Give me one second. All right. Mr. Sullivan, could you  
22 please introduce yourself for the record.

23 MR. SULLIVAN: Thank you, Mr. Chair and Members of the  
24 Board.

25 My name is Marty Sullivan with Sullivan & Barros, on

1 | behalf of the applicant.

2 |           CHAIRMAN HILL: All right. Let's see. There we go with  
3 | that.

4 |           Who is with you here, Mr. Sullivan?

5 |           MR. SULLIVAN: I have the principal from the applicants  
6 | and the architect. They can -- I'll have them introduce  
7 | themselves.

8 |           CHAIRMAN HILL: Who is the principal, because I'm losing  
9 | names.

10 |           MR. SULLIVAN: It's Mr. Agorsor.

11 |           CHAIRMAN HILL: How do you say? Gorsor?

12 |           MR. AGORSOR: Agorsor, yes.

13 |           Can you hear me?

14 |           CHAIRMAN HILL: Gorsor. Are you on the phone, Mr.  
15 | Gorsor?

16 |           No? Was that you then?

17 |           MR. AGORSOR: Christopher Agorsor with the new  
18 | development. Yes, this is me. Can you hear me?

19 |           CHAIRMAN HILL: Yes, I can.

20 |           And who is the architect?

21 |           MS. ROTTMAN: Emilie Rottman, Square 134 Architects.

22 |           CHAIRMAN HILL: Could you spell your last name for me, I'm  
23 | sorry -- R-o-t-t -- okay. Got it. Got it. Thank you.

24 |           And then there's the party in opposition, correct, and  
25 | could you please introduce yourself. I can see you. I can't hear

1 | you, so we're halfway there.

2 |           Nope. Just keep trying to -- yeah, it's all right.

3 | Take your time.

4 |           (Pause)

5 |           CHAIRMAN HILL: Now, maybe is it the mute button on the  
6 | bottom -- if you put your cursor over the screen and then does it  
7 | say mute/unmute?

8 |           MR. YOUNG: No he's unmuted. It might be because he has  
9 | a headset on. He might need to go to the audio and video at the  
10 | top and switch audio or speaker and microphone settings.

11 |           Mr. Chandra, is that you? Can you hear me, and nod if  
12 | you can. Can you hear what Mr. Young is trying to say?

13 |           (No verbal response)

14 |           CHAIRMAN HILL: It didn't work, then, if you tried to do  
15 | it. We cannot hear you. So, maybe go ahead and take off the  
16 | audio -- take the headset off and now go to just use your computer  
17 | audio and see what happens.

18 |           MR. CHANDRA: Is it working?

19 |           CHAIRMAN HILL: Yes.

20 |           MR. CHANDRA: Okay. Sorry about that.

21 |           And I agree with you, Webex sucks.

22 |           So, yeah, my name is Chetan Chandra. My wife and I, you  
23 | granted us party status back in October. We are in opposition and  
24 | here to present our case.

25 |           CHAIRMAN HILL: Okay. Mr. Chandra, is anybody here with

1 | you?

2 | MR. CHANDRA: No. No.

3 | CHAIRMAN HILL: Okay. All right.

4 | So, let's see. Just so, you know, if you could maybe  
5 | mute your line when you're not speaking, because I'm getting a  
6 | little bit of feedback from you.

7 | Let's see. Okay. And I did get that letter from the  
8 | Committee of 100. So, let's take a look at that, also. At least  
9 | I thought I just saw it.

10 | Okay. Mr. Sullivan, can you hear me? Was it Nacho  
11 | Cheese or Cool Ranch Doritos?

12 | (Laughter)

13 | CHAIRMAN HILL: I guess that would be Cool Ranch.

14 | MR. SULLIVAN: It was the regular one.

15 | CHAIRMAN HILL: Nacho Cheese, the regular one. You  
16 | don't even know there's another one? Oh my God.

17 | Okay. All right. Let's see. So, Mr. Sullivan, why  
18 | don't you go ahead and present your case to us and why you believe  
19 | your client is meeting the standard for us to grant the relief  
20 | that's being requested. And I will put 15 minutes on the clock,  
21 | so I know where we are.

22 | And then Mr. Chandra, if you watched -- did you watch  
23 | the last hearing, Mr. Chandra?

24 | MR. CHANDRA: I've been watching with you all day, yeah.

25 |

1 CHAIRMAN HILL: Okay. God, why do people watch all day?  
2 You guys are on at the end.

3 MR. CHANDRA: I don't know.

4 CHAIRMAN HILL: Okay. So, anyway, it'll follow the  
5 format that happened before. So, go ahead and mute your line.

6 And Mr. Sullivan, you can again whenever you'd like.

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

8 If we could have the PowerPoint presentation, please?

9 So, the application is for 421 T. Street NW.

10 And Slide 2, please.

11 There's some context that shows you the surrounding  
12 neighborhood on Slide 2 and the lot. The lot is actually made up  
13 of a record Lot 13, which consists of two tax lots, and will be  
14 combined with Lot 807. So, that leg in the back will be added to  
15 this, but the current Record Lot consists of the rectangle, which  
16 includes the two tax lots, made up of a lot that's, a Record Lot  
17 of 7,000 square feet.

18 Next slide, please.

19 These next couple slides are just photos of the existing  
20 building. There's some context.

21 Next slide, please.

22 And then Slide 5 shows an outline of the addition; it's  
23 an addition that will take the property up to about 42 percent lot  
24 occupancy.

25 Next slide, please.

1           And here's a west elevation from 5th Street from the  
2 proposed addition.

3           So, next slide, please.

4           You know, as we mentioned at the beginning, the  
5 applicant is requesting special exception relief to convert the  
6 single-family dwelling into a seven-residential dwelling, unit  
7 building under U § 320.2.

8           As required, two of the seven units will be IZ units at  
9 80 percent.

10          Next slide, please.

11          Under the general special exception requirements, of  
12 course, we assert that the addition is in harmony with the general  
13 purpose and intent of the zoning regulations and maps. This is  
14 permitted by special exception. It's contemplated that these  
15 regulations were adopted in 2015 providing that IZ units would be  
16 the fourth and every even unit after that, and this project  
17 complies with that; providing five parking spaces, two more than  
18 are required.

19          The building is located less than a half mile there the  
20 Metrorail station, although, the "50 percent reduction in parking"  
21 requirement does not apply in the RF Zone.

22          The structure, itself, the structure of the addition is  
23 permitted as a matter-of-right. We're not asking for relief from  
24 the 10-foot rule, lot occupancy, yards, or any other provision  
25 related to the structure, itself.

1           Regarding the addition, last week, HPRB unanimously  
2 approved the addition and the architect is here with us. If you'd  
3 like to hear more about that approval, she can talk about that.

4           And then you may have some questions about trash, and  
5 Mr. Agorsor can talk about that if you have questions about that.

6  
7           Next slide, please.

8           So, the specific requirements, so, as of Zoning  
9 Commission Order 1921, which became effective a few weeks ago,  
10 this relief became a lot simpler. There's three requirements:  
11 first, the building to be converted is in existence, and that's  
12 the case; next, that we meet the IZ requirement for the fourth-  
13 and sixth-dwelling unit, and that is the case. We have seven  
14 units, so the fourth and the sixth will be IZ units.

15           Next slide, please.

16           And the third criteria is that there's a minimum of 900  
17 square feet of land for each existing and new-dwelling unit.  
18 We're proposing seven units, which would require 6300 square feet  
19 of land.

20           We have, when the lot is combined with 7870. As it  
21 stands now, there's 7,000, so it meets the requirement now and the  
22 Lot 807 will be added to this and we'll provide three parking  
23 spaces, in addition to the two that are on what is currently  
24 Record Lot 13.

25           Next slide, please.

1           We do have the support of ANC 1B. As I mentioned, HPRB  
2 voted unanimously, eight-nothing, to approve the addition, and  
3 their report just came out this afternoon.

4           And the Office of Planning recommends approval and DDOT  
5 has no objection to the approval.

6           So, if you have any questions for us, including for Mr.  
7 Agorsor regarding anything, or for Ms. Rottman, regarding the  
8 addition, please let us know. Thank you.

9           That's all I have.

10          CHAIRMAN HILL: Thank you.

11          Does the Board have any questions for Mr. Sullivan?

12          (No verbal response)

13          CHAIRMAN HILL: Okay. All right.

14          Mr. Chandra, do you have any questions of Mr. Sullivan's  
15 presentation?

16          MR. CHANDRA: No, not at this time.

17          CHAIRMAN HILL: Okay. All right.

18          Mr. Chandra, then you can go ahead and give your  
19 presentation.

20          MR. CHANDRA: Great. I did send our PowerPoint up.

21          And to Mr. Young, if we can pull that up, that would be  
22 great.

23          CHAIRMAN HILL: Yep.

24          MR. CHANDRA: Thanks.

25          Yeah, just start it up.

1           So, just to start up while he's getting that in full-  
2 screen mode, as a disclaimer, I am an attorney, but I'm not a  
3 zoning or a real estate attorney. Like, I've tried to understand  
4 the regulations as best as I could and tried to present, you know,  
5 sound, you know, points of view and opinions here, but I may have  
6 gotten something wrong.

7           So, please don't hold it against me. I'm not trying to  
8 bring anything that's way out of left field. I just wanted to  
9 disclaim that.

10           We're going to touch on both on, you know, obviously how  
11 this project affects me and my wife, personally. We are the  
12 immediately adjacent neighbors and we're the only house that's  
13 immediately adjacent to or within, you know, about 10 feet of the  
14 property.

15           But we also see what we think as like a broader policy  
16 issue here, especially considering the recent amendments to the  
17 zoning regulations.

18           Next slide.

19           So, you know, I can see this as a subversion of the 900-  
20 square-foot rule and, you know, I think that granting this  
21 application will result in the subversion of the rule that will  
22 reduce the rule to nothing more than a nominal consideration,  
23 stripped of its ability to manage density in residential areas.

24           And the reason I bring this up is, the sheer size of  
25 this building requires scrutiny and consideration that's, you

1 know, perhaps different than a lot of other multi -- conversions  
2 to multifamilies.

3           If you have the exhibits ready, we can talk about them  
4 later, too, but if you look at Exhibit 48 -- sorry -- Page 5,  
5 there's a presentation for the community that the house, itself,  
6 the new building, as proposed is 15 feet taller than any other  
7 building on the block and it extends 50 feet further into the  
8 block than any other home.

9           If you look at Exhibit 49(c), you'll see on Page 14 that  
10 the height of the addition, as compared to a two-story house on  
11 the block, is a full story higher than the neighboring homes. And  
12 then, lastly, on Page 58 of that same exhibit, Exhibit 49(c),  
13 you'll see that the new building is right in the middle of the  
14 block.

15           It, right now, serves as the shared open space that  
16 everybody who lives on this block, you know, their backyards and  
17 their rear views all share this open view, and this new building  
18 they're proposing is right in the middle. It's bigger than all  
19 the other houses, and it extends further into the block than all  
20 of the other houses, which (audio interference) are all historic  
21 homes that have existed for over a hundred years. So, this is a  
22 large change from, you know, how this block has been for  
23 centuries.

24           If you go to the next slide, you know, I want to point  
25 out a couple of things about what has happened in this process and

1 the facts that have developed. The current iteration dropped the  
2 number of units to avoid the 900-square-foot rule. Their original  
3 proposal had 11 unit and 16 bedrooms.

4 In one of the meetings, I believe Mr. Sullivan mentioned  
5 that they adjusted the plan because they thought, you know, it  
6 would be very -- essentially, they thought it would be hard to get  
7 a variance for the 900-square-foot rule, so they reduced the  
8 number of units to only seven, but they actually added 11  
9 bedrooms. So, now there are 27 bedrooms in this new proposal,  
10 which is, you know, an increase in density.

11 So, (audio interference), fact pattern, it seems like  
12 they are trying to, you know, and they -- not to their credit. I  
13 think the text of the rule just talks about units, which is  
14 essentially a discussion of kitchens. So, they've reduced the  
15 number of kitchens, but they've increased the density of the house  
16 from, you know, 16 to 27, which is the 69 percent increase. To  
17 me, this seems contrary to the intent of what the 900-square-foot  
18 rule was meant to do.

19 And if you'd go to the next slide, you know, because of  
20 -- sorry, I'll read this quickly. So, you know, it can't be  
21 (audio interference). I think it's against the spirit and the  
22 scope of the zoning regulations, especially the 900-square-foot  
23 rule. And this rule appears to be the only, and main tool, for  
24 appropriately managing density in RF-1 zones.

25 Mr. Sullivan mentioned the amendments from 1921. You

1 know, I looked closely at those because what seems to have  
2 happened to 320.2, the special exception (audio interference)  
3 320.2 is that all the enumerated protections that would protect  
4 neighboring homes have seemed to be eliminated, except for the IZ  
5 requirements and the 900-square-foot rule.

6 So, normally, you would have an enumerated list of  
7 things that include privacy, air, and character, pattern, scale  
8 and character of the surroundings homes, but now that actual text  
9 has been eliminated. I tried to seek clarity from the Office of  
10 Planning about this. I emailed back and forth, because we looked  
11 at the responses.

12 During that amendment process, Office of Planning said,  
13 you know, this was just a technical or text amendment and it was  
14 an elimination of redundant language, but, you know, if it was  
15 only redundant language, then you wouldn't have to, you know, the  
16 provisions that were enumerated wouldn't have been eliminated.

17 OP maintains that in the email changes that I've had  
18 with them, that the Board still has the discretion to consider all  
19 those aspects through the application of X-900 and the Board  
20 should consider the light, air, privacy, and how this home fits in  
21 with the character, scale, and pattern of all the surrounding  
22 homes.

23 And just to bring this up again, I think it's clear that  
24 it doesn't fit into the scale of the homes. It's 15 feet larger  
25 than any other home on the block and it extends 50 feet further

1 into the block. And I'll also mention, just the new building that  
2 they're proposing to build is nearly 5,000 square feet, which is  
3 probably 2,000 square feet larger than all of the other homes,  
4 even the largest one on the block, and that's not even considering  
5 that the original structure is already 7,000 square feet. So,  
6 it's not as if this is, you know, a burden that they don't have  
7 space.

8           This new building that they're proposing is too large,  
9 too -- in the wrong place, because it extends too far in, and it's  
10 larger than all of the surrounding homes. But (audio  
11 interference) up to say that the amendment, and this is one of the  
12 first, I think, maybe the first multifamily conversion cases that  
13 you'll hear after the amended tax, from my understanding, at  
14 least, is -- the amendment is, frankly, getting away with those.  
15 There no longer is a place under 320.2 that enumerates those  
16 provisions anymore and the only explicitly described rule is this  
17 900-square-foot rule.

18           So, if you see, you know, what will happen if this  
19 application is granted, it means that the 900-foot-square-foot  
20 [sic] rule is just a matter of counting kitchens. It doesn't  
21 matter how many units you actually have or how many bedrooms you  
22 have or what the density of occupants will be for your proposal;  
23 it's just a matter of, you know, I only have three kitchens, but I  
24 could have 30 or 40 bedrooms and there's nothing in the text of  
25 the regulations now that would help you, you know, push back on

1 that, especially in a place like this, where it's an RF-1 zone.  
2 It was zoned that way from RF-4 to RF-1 in 2016, and all of the  
3 surrounding homes are smaller and they're all single-family homes.

4  
5 We can go to the next slide.

6 So, you know, like I said, we're erasing precedent. I  
7 mean, it will take away or at least start the erosion of what the  
8 900-square-foot rule, I think, was intended to do and what kind of  
9 weight it has. In my view, it would essentially disappear with  
10 the ability to manage density.

11 I'm sorry, I'm just finding my notes.

12 So, you know, I do also recognize that they're not  
13 actually requesting a variance or a relief from the 900-square-  
14 foot rule, but nevertheless, if we'd go to the next slide, the  
15 Board has discretion to consider things that are aligned with the  
16 intent and purpose of the regulations. You know, X 901.2 says  
17 that the Board, you know, has the discretion to, you know, "... in  
18 the judgment of the Board of Zoning Adjustment, the special  
19 exceptions will be in harmony with the general purpose and  
20 intent." It's right there.

21 So, there is no way that you can consider things, even  
22 though this might be by the letter of the exact regulation, it  
23 might be within, you know, seven units is within the 900-square-  
24 foot rule, but it seems to me that having such a high density and  
25 (audio interference) the 900-square-foot rule, it seems to be a

1 | subversion of what this rule was intended to do.

2 |           If we'd go to the next slide, I just want to, you know,  
3 | I think that I would hope that the Board will exercise its  
4 | discretion, is mandated by Subtitle X 901, and find that the  
5 | circumstances of this application sharply (audio interference)  
6 | from the intent of the zoning regulations, in particular, the 900-  
7 | square-foot rule and require the applicant to make meaningful  
8 | changes to align their proposal with the intent of this rule.

9 |           If we could go to the next slide.

10 |           There's a little bit of the point here that, you know,  
11 | when I read the relief that the subtitle that they're requesting  
12 | relief from, you know, I see the part in red seems to be applying  
13 | to this proposal. It's the conversion of an existing residential  
14 | building existing on the lot prior to     May 12, 1958, to an  
15 | apartment house. And under that, it has the provisions for IZ  
16 | units, and it has the 900-square-foot rule.

17 |           What puzzled me, and I don't know, actually, the answer  
18 | to this, but I want to propose it to the Board because I know you  
19 | all are much more well-versed than I am, is this word "existing"  
20 | appears twice in the first 10 words here and it seems to be  
21 | important in this rule. I mean, there's only one existing  
22 | structure on the lot right now and that's the original 7,000-  
23 | square-foot home, but applicant is proposing, it seems that the  
24 | new building that is 5,000 square foot, falls within an existing  
25 | residential building on the lot.

1           But when I look at the text, I just can't square that  
2 circle. I don't know exactly how the mechanics of the law work,  
3 but I wanted to raise it because, you know, just reading it -- and  
4 I tried to figure this out, but it's not my day        job -- you  
5 know, it seems a little bit odd that "existing" is stressed right  
6 here in the text and it would be weird to convert such a large  
7 new, not-existing building -- it's 5,000 square feet -- to a  
8 multifamily home when the text says it must already have been  
9 existing.

10           You'd go to the next slide.

11           You know, (audio interference) what I see as  
12 troublesome, precedent-setting policy issues. I am also here to  
13 talk about this actually and practically will affect me and a lot  
14 of our neighbors.

15           We are highlighting three issues here that have yet to  
16 be meaningfully addressed. There's trash, the amount, the  
17 location, and how it's going to be removed. There are window  
18 wells that are threatening, possibly threatening the structural  
19 integrity of neighboring homes, aka our home, and there's an issue  
20 with parking and the affects, not so much for the parking spaces  
21 they have on their lot, but how the increase in density will  
22 affect parking in the neighborhood.

23           You know, these points have been brought up. This has  
24 been a long process, starting back in January. We've made a lot  
25 of -- a lot of the community has raised these points, but not a

1 | lot of progress has been made to actually resolve them, other than  
2 | promises to address them.

3 |           Go to the next slide.

4 |           The trash location and amount. Despite a 70 percent  
5 | increase in the proposed bedrooms from their original design, no  
6 | changes have been made to where the trash from 27-plus occupants  
7 | will be collected. No actual plans have been made to schedule or  
8 | remove trash.

9 |           If we can go to the next slide, I'll show you that  
10 | between the original design on the left, you know, there's a trash  
11 | -- I don't even think it's three bins -- we expressed our  
12 | concerns, as many residents did. And on the right, you have the  
13 | new proposal where, you know, nothing has changed about how  
14 | they're going to store their trash, despite increasing, you know,  
15 | their potential density of occupants by 70 percent.

16 |           I also want to note real quick, just where the trash is  
17 | located, it's behind what, you know, I assume will be parking  
18 | spots One, two, and three, where cars will be parked, you know,  
19 | most of the time. Maybe they're commuting, maybe they're driving  
20 | to work, but at least during the night and early-morning hours,  
21 | you probably have cars parked there.

22 |           If we could go to the next slide.

23 |           The consistent response that we received from the  
24 | applicant and which they put in their public and OP, also, in  
25 | their report noted, that they're working with a private trash can

1 company. This is, in my view, not a plan; it's just a dismissal  
2 of our concerns. It's, okay, we hear you; we'll deal with it.  
3 But it's not any actual plan. I mean, it's -- (audio  
4 interference) Joe Biden (audio interference).

5 But, you know, we have an unusual alley on our block and  
6 it's unusually narrow; it's eight feet wide at its narrowest  
7 point, which means nothing larger than eight feet can actually fit  
8 through it. Who cares how big the rest of it is; it's eight feet  
9 at its narrowest.

10 And as shown on the next slides, if we get there in a  
11 second, trash trucks simply don't fit. And I'll note, also, that  
12 this was the very first issue that the neighbors, the ANC, PCA, we  
13 brought this up as the very first concern because all the people  
14 who live on the alleyway understand that it's narrow, it's a dead-  
15 end alleyway, you have to turn around a lot. It's right by a lot  
16 of our bedrooms. And that was nearly eight months ago.

17 But the response has just been, Yeah, we're working with  
18 a private trash company, which, in my view, I don't see that as  
19 actually addressing the issue. That's a promise to address the  
20 issue.

21 But as I'll show if we could go to the next slide, this  
22 is complicated. This isn't so simple. This is just to show you  
23 what's in green is the alleyway. It's only eight-feet wide right  
24 where that exclamation point is.

25 And if we go to the next slide, this happened on Monday,

1 actually, a few days ago. I don't know if you can play the video  
2 -- it's very short -- but it's a trash truck, they were actually  
3 trying to come down the alleyway and they got stuck between the  
4 house and the retaining wall. It took them about an hour and a  
5 half to, and I think a dozen people to come help them, to actually  
6 get this trash truck out of the alleyway.

7 And I checked, I know that the applicant is working in  
8 Tenleytown. I looked at their website. They don't seem to have  
9 anything that's smaller than this.

10 (Video plays)

11 MR. CHANDRA: Sorry. I'm getting some feedback. I just  
12 got a long delay on my own audio that was on.

13 Can everybody hear me right now?

14 UNIDENTIFIED: (Indiscernible.)

15 MR. CHANDRA: Great. Thank you.

16 So, I just wanted to say that this is a complicated  
17 issue because of the alleyway. Tenleytown seems to have these  
18 smaller roll-off dumpsters, but what I noted on the previous slide  
19 was that there are cars that are intended to be parked in front of  
20 where the dumpsters would go, so I really don't see an easy  
21 solution to this.

22 I think it's going to take redesigning of where they put  
23 their trash and, like, thoughtful consideration of how precisely  
24 they're going to get it out of there. So far, we've gotten no  
25 actual plan, except for an intention to do something, but, you

1 know, once this process is over with, it's kind of like the  
2 ability for us to raise our concerns goes away with it, right.

3 If you'd go to the next slide.

4 So, one other issue is that applicant has proposed to  
5 digging window wells in the four-foot side yard between our house  
6 and the existing building. This is probably to meet Code  
7 requirements for bedrooms in the cellar. The window wells will  
8 take up the entire side yard between our houses, making the side  
9 yard, you know, no longer a yard because you couldn't traverse it,  
10 and according to the proposed plans, the house will essentially be  
11 adjoined to our foundation.

12 They're going to require, you know, digging down  
13 directly next to our house. This is an issue.

14 If we'd go to the next slide.

15 We did meet with Mr. Agorsor and did bring this up. We  
16 didn't come to a resolution on how best to address this, but he's  
17 aware of our concerns. You know, we hope that this will be taken  
18 care of, but as of yet, now, there's no communication about what's  
19 going to be done, whether that's testing for our own foundation or  
20 what kind of structural engineers they've consulted. But I want  
21 to raise this because, you know, it's just another issue that  
22 they've said that they might take care of, but we haven't gotten  
23 any progress on these things.

24 If you could go to the next slide.

25 So, parking. The DDOT has not commented on the new

1 | proposal that adds 11 bedrooms. If you recall, this is a 70  
2 | percent increase to the number of potential occupants, if not  
3 | more, because people could obviously rent a one-bedroom and put  
4 | two people in it.

5 |           The OP report also mentions that Exhibit 18 is a DDOT  
6 | report stating no objection to the original proposal, which had  
7 | much fewer bedrooms, if you'll recall, 16, and it's not just the  
8 | bedrooms that -- it's like, okay, sure, there's going to be more  
9 | bedrooms, but maybe some of those people will be children.

10 |           But that's not the case here. When you look closely at  
11 | the units, one of the ZBE committee members noted this, he said,  
12 | you know, there's hardly any living space at all and that in his  
13 | opinion, the units were more suited to a group of adults that  
14 | would, like, share a kitchen and rent out individual bedrooms,  
15 | than it was to families renting, because there's, essentially, you  
16 | know, very, very little living space, living rooms, or kitchens.

17 |           So, it's not just that they moved from 16 bedrooms to  
18 | 27, they also made these units more amenable to, you know, a  
19 | multiple-adults thing, which means multiple commuters, which means  
20 | multiple cars, which means that the assessment that DDOT did, you  
21 | know, on the original proposal, like, shouldn't really apply  
22 | anymore and a future proposal needs to happen.

23 |           If we can go to the next slide.

24 |           You know, I just want to thank you all for your time.  
25 | I've been listening all day and I really appreciated all the

1 thoughtful consideration.

2 I know we don't have to watch, but it was actually  
3 really entertaining to watch, because there's a lot of different  
4 issues that came up and it was interesting to see the back-and-  
5 forth.

6 The big picture, we understand that this is the first  
7 conversation being heard after the rule change from the 1921  
8 amendment, and the decision on this application will establish how  
9 much weight the newly amended regulations, what actually you have.

10

11 I know there was talk about what schools the Board has.  
12 I am concerned that if you grant an application like this, you'll  
13 be reducing the effect of one of the only tools that you have left  
14 to consider for conversions in RF-1 zones.

15 In addition, there's numerous real and tangible effects  
16 on the surrounding properties and the people who live there. The  
17 new building is entirely against the pattern scale and character  
18 of the surrounding homes, being a story taller, extending deeper,  
19 and being 2,000-square-foot larger than even the largest home on  
20 the block. And that's not even considering the already-existing  
21 7,000-square-foot, existing building.

22 Because of all of these reasons, I've gone on for a  
23 while, thank you for your patience. You know, I would hope that  
24 the Board will protect our property and the neighborhood and the  
25 intent of the RF-1 zoned areas and deny this application. Thank

1 | you.

2 |           CHAIRMAN HILL: Thank you, Mr. Chandra. I think you did  
3 | a lovely job, even though you're not a zoning attorney.

4 |           Let's see. Does the Board have any questions for Mr.  
5 | Chandra?

6 |           Chairman Hood?

7 |           CHAIRMAN HOOD: Mr. Chandra, I appreciate your  
8 | presentation. Very well done.

9 |           I did hear your presentation and I also read the  
10 | submission we have from the Committee of 100, and I really need to  
11 | verify what's being said or what's being presented. And if the  
12 | Zoning Commission did do some of the taking away of some  
13 | protections, which I don't think that's what happened.

14 |           I think we categorized the Zoning Code to where it would  
15 | only -- I think we were trying to codify it, I think. But let me  
16 | -- I've already put in a request to find out what was done,  
17 | because I can tell you that if I sat there and did that, then that  
18 | just went right on by me, because, normally, that's not my agenda.

19 |

20 |           But now, the Supreme Courts and stuff tell you that you  
21 | don't buy a view. You know, I understand all of that, but to take  
22 | protections away, I just don't believe that -- you know, anyway, I  
23 | will follow-up on that. I think that it's just been moved,  
24 | recategorized, or whatever word we used. I think we were trying  
25 | to package it differently. If I remember that correctly, I know

1 we did something to that nature, and I think this was part of it.

2

3           So, yes, we'll still look at (audio interference) in  
4 there and those kinds of things but let me verify that.

5           Mr. Chairman, I, even though we're halfway through this,  
6 I do not want to -- I am not in favor of moving forward on this  
7 case because there's some more information that I need, as well,  
8 and I know that already, so I just wanted to put that out there.  
9 Thank you.

10           CHAIRMAN HILL: Okay. All right.

11           Let's see. Mr. Sullivan, did you have a chance to look  
12 at that letter from the Committee of 100 yet?

13           MR. SULLIVAN: It's not even in the case file.

14           CHAIRMAN HILL: It's in the file.

15           MR. SULLIVAN: Maybe it is now. There wasn't at the  
16 start of the hearing.

17           CHAIRMAN HILL: Yeah, it is now.

18           And the reason why I ask you is, Chairman, you know, Mr.  
19 Chandra just brought up -- I had heard of this prior and it has  
20 already been before us once in terms of how -- and you spoke to  
21 it, how now when you're making your case for your clients, you  
22 don't have to speak to one of the items that are no longer there -  
23 - I don't know, it's getting late in the evening.

24           I'm going to turn to the Office of Planning, and then,  
25 Mr. Sullivan, if you wouldn't mind, giving me your interpretation

1 of the letter from the Committee of 100, that would be helpful.  
2 Thank you.

3 CHAIRMAN HOOD: Mr. Chandra, can I just interrupt you  
4 before you go, because for me, it's about the legislative history.  
5 I know what people are saying, but the actual legislative history  
6 is what actually -- a lot of things -- a lot of times we've had  
7 cases on the Zoning Commission -- I'm not defending this, but I'm  
8 just saying what has happened -- and I asked my colleagues, I  
9 said, Well, I don't remember us doing that.

10 So, you know, we do a lot of stuff, and maybe Mr. Jesick  
11 can opine on this, but I can tell you, I don't think we'd take our  
12 protections out. I don't think -- I've never seen us do that.  
13 So, I'll leave it at that.

14 CHAIRMAN HILL: Yeah, that's okay.

15 Mr. Chandra, I'll get back to you in a second. Give me  
16 a minute.

17 I'm not necessarily saying, Chairman Hood, that you all  
18 were taking protections out. I mean, sometimes what does happen  
19 if, at least I've seen that you guys, you know -- well, I was  
20 going to use different words, but it's too late in the night for  
21 me to start a discussion on certain things. So, I'm going to turn  
22 to the Office of Planning.

23 Mr. Chandra, I'll come back to you in a minute.

24 Office of Planning, please?

25 MR. JESICK: Thank you, Mr. Chairman, and Members of the

1 Board. My name is Matt Jesick.

2 The Office of Planning is recommending approval of this  
3 special exception request. We've reviewed the application against  
4 the criteria of Subtitle U, Section 320.2 and the application  
5 meets those criteria.

6 There's an existing residential building on the site  
7 which dates to prior to 1958. The applicant proposes two IZ units  
8 in the building, which would satisfy the IZ requirement of that  
9 section. And in terms of land area, there's enough land area for  
10 the seven proposed units; there would be, roughly, 1100 square  
11 feet, where 900 square feet is required.

12 We also looked at the general special exception criteria  
13 of Subtitle X, Chapter 9, and found that the proposal would not  
14 impair the intent of the zoning regulations, nor would it affect  
15 adversely, the use of neighboring property.

16 That's the summary of my testimony and I'd be happy to  
17 take any questions. Thank you.

18 CHAIRMAN HILL: Thank you, Mr. Jesick.

19 Right. What I was speaking to now -- now I remember --  
20 - it was like 320.2, you've got (a), (b), and (c), now, and,  
21 basically, (c) is the -- right. So, (c) is the 900 square foot  
22 and that's basically the big T in that regulation now, right.

23 And so, before you had more of the light and air, the  
24 privacy, and the view from the alleyway; is that correct?

25 MR. JESICK: Yeah, I don't have the old text of 320 in

1 front of me, but I think you're right; there was some of that in  
2 there. I think the -- that section also contained things like the  
3 10-foot rule. You know, the 10-foot rule still exists. They  
4 still need to comply with that if it applies to them.

5 It's earlier in the subtitle, same with things like  
6 solar panels, I think that criteria used to be in 320, but has  
7 moved or it's still in Subtitle E, but just earlier in the  
8 subtitle. So, a lot of those things, I think, are still in there,  
9 just in a different location.

10 CHAIRMAN HILL: Okay. All right. Does anybody have any  
11 questions for the Office of Planning?

12 Mr. Chandra, did you have any questions for the Office  
13 of Planning?

14 CHAIRMAN HOOD: I just wanted to say for the record,  
15 that's how -- I agree with Mr. Jesick. I think it's in there, but  
16 I think, as you mentioned, it's just in a different area. So,  
17 that's how I remember it, Mr. Jesick, so thank you.

18 CHAIRMAN HILL: Okay. Does the applicant have any  
19 questions for the Office of Planning?

20 MR. SULLIVAN: No, thank you.

21 CHAIRMAN HILL: Mr. Chandra, do you have any questions  
22 for the Office of Planning?

23 MR. CHANDRA: Yeah. So, I was -- it's about the change  
24 to the rule. My understanding -- and I was emailing with Ms.  
25 Elliott, who I think drafted the amendment, she was mentioning

1 that the light, air, and pattern scale requirements are being  
2 brought in through the broad discretion under Section 900 and she  
3 didn't mention to me that they're still literally required to do  
4 that.

5 My understanding was that this might have been actually  
6 like a little bit of a mistake, but there's this one particular  
7 scenario where those provisions don't apply anymore, but a lot of  
8 other scenarios, I would say in most other scenarios, those  
9 provisions are still applying, but my understanding was that it  
10 was through the broad discretion that the Board could consider  
11 these things, but there was no actual text that required a  
12 conversion to comply with them, you know, the way the rule used to  
13 be; it had the actual text.

14 MR. JESICK: Yes, and just for the record, I was CCed on  
15 those emails, and I think you're correct in your recollection that  
16 it was our opinion that, you know, the Board has fairly broad  
17 discretion under Subtitle X, Chapter 9 to look at different  
18 issues, as it pertains to any special exception.

19 MR. CHANDRA: Okay. Thank you.

20 The reason I asked that, and I think Mr. Hood, you might  
21 be recalling a lot, when I reviewed the record for the amendment  
22 of 1921, a lot of the comments for two people who brought up this  
23 potential issue was that, no, this is a text amendment that was  
24 eliminating redundant language and simplifying the Code, and I  
25 think this might have just fallen through the radar.

1           It seems like there are no longer any enumerated  
2 protections under the Board's discretion. Of course you all have  
3 the discretion to see the intent and purpose whenever, and you  
4 always have that discretion, but I think that it's made it harder  
5 for property owners.

6           You know, now, it's I have to convince the Board that it  
7 should be considered and then the Board should consider it;  
8 whereas, before it was, these things must be considered and met,  
9 which, in my view, is a change to the law, but that's my general  
10 view of the law. So, I'll stop on that.

11           If you don't mind, I have one more technical question  
12 for the OP, if that's okay?

13           CHAIRMAN HOOD: Well, before you go there, let me just  
14 respond to you. I think, yeah, it might have been in dialogue  
15 with the Committee of 100, if that's the case, the goal was always  
16 to make the regulations readable (audio interference), but this is  
17 showing me, obviously, that maybe what Ms. Richards and Mr.  
18 Hargrove and what they mentioned to us at the time -- and I'm  
19 going to follow-up on it, believe me -- if that makes it more  
20 complicated, then we need to go back and do what we need to do.

21           It's never our goal to make anything more complicated,  
22 and from what I'm hearing now, that misperception is out there.  
23 So, I get it, trust me.

24           Thank you, Mr. Chairman.

25           MR. CHANDRA: Thank you, I appreciate that.

1 I had one question for Mr. Jesick, and it was regarding  
2 the new structure they're proposing and the side yards that are, I  
3 guess, on the east side of the house. I understand that there's a  
4 non-conforming side yard currently, and it's grandfathered in  
5 because it's less than five feet, but I don't understand why the  
6 new building should be allowed to also non-conform and be within  
7 that same, I think the current, existing building is four foot  
8 eight and the new building is also going to be, you know, less  
9 than five feet, at four feet, eight inches.

10 So, if you could (audio interference) for me, I guess I  
11 don't quite understand that.

12 MR. JESICK: Sure thing.

13 Let me see if I have the citation in my report. Well, I  
14 don't have the exact subsection, but if you have an existing, non-  
15 conforming side yard, you can build an addition to your house, as  
16 long as that new addition is at least -- has a side yard of at  
17 least three feet.

18 So, I think, if I'm looking at the data right, I think  
19 the existing side yard is four feet, seven inches, and that they  
20 would be continuing that same dimension for the addition. So,  
21 that is permitted under the regulations.

22 MR. CHANDRA: Thank you.

23 And does it matter that they're, you know, the existing  
24 house kind of comes out at four seven and then it comes away from  
25 the sideline? So, the part that they're proposing to add on to is

1 | actually not at four foot seven; it's much further in. It's a  
2 | technical issue, but I was just trying to understand it.

3 |           MR. JESICK: I'll have to look at the plans again and  
4 | see exactly what you're talking about. I'm not sure that I  
5 | followed you there.

6 |           MR. CHANDRA: Thank you.

7 |           CHAIRMAN HILL: Okay. Is there anyone here -- okay, so,  
8 | do we have any more for the Office of Planning?

9 |           (No verbal response)

10 |           CHAIRMAN HILL: Is there anyone here, Mr. Young, wishing  
11 | to testify?

12 |           MR. YOUNG: Yes, we do.

13 |           CHAIRMAN HILL: Okay.

14 |           MR. YOUNG: We have six people. Do you want me to bring  
15 | all of them in or ...

16 |           CHAIRMAN HILL: No, let's do them in threes.

17 |           MR. YOUNG: Okay.

18 |           CHAIRMAN HILL: Do you know their names?

19 |           MR. YOUNG: Yes. I have Monica Shimamura, Cindy  
20 | Paladines, and Matthew Fay.

21 |           CHAIRMAN HILL: Thank you.

22 |           MR. YOUNG: We actually only have one more. There were  
23 | a couple that dropped off, it looks like.

24 |           CHAIRMAN HILL: So, Shimamura, Fay, and who did you say  
25 | -- Paladines?

1 MR. YOUNG: Yes.

2 CHAIRMAN HILL: Okay. And do you want to bring in the  
3 last person in then.

4 MR. YOUNG: Yeah, the last person is Laura Richards.

5 CHAIRMAN HILL: Okay. Let's see.

6 Let's go ahead and, Ms. Richards, can you hear me?

7 (No verbal response)

8 CHAIRMAN HILL: Ms. Richards, can you hear me?

9 MS. RICHARDS: (Indiscernible.)

10 CHAIRMAN HILL: Hello?

11 MS. RICHARDS: Hi. I'm muted.

12 CHAIRMAN HILL: We can hear you now.

13 MS. RICHARDS: Okay. That's fine.

14 I had to -- it had a delay, yes.

15 CHAIRMAN HILL: Okay. Can you hear me, though, now?

16 MS. RICHARDS: Perfectly.

17 CHAIRMAN HILL: Okay. Wonderful.

18 Well, Ms. Richards, welcome back --

19 MS. RICHARDS: Thanks.

20 CHAIRMAN HILL: -- and I'm going to start with you  
21 because maybe you will be able to also help some of the other  
22 people who are giving their testimony. So, I'm going to give you  
23 three minutes there and you can begin whenever you'd like.

24 MS. RICHARDS: Okay.

25 MR. MOY: Mr. Chairman?

1 CHAIRMAN HILL: Yes.

2 MR. MOY: If she's representing the Committee of 100,  
3 she gets at least five minutes.

4 CHAIRMAN HILL: Right. Thank you.

5 I wasn't sure whether she was.

6 Ms. Richards, are you representing the Committee of 100  
7 today?

8 MS. RICHARDS: Yes, I am.

9 CHAIRMAN HILL: Okay. Then you'll get five minutes.

10 MS. RICHARDS: Okay. And this is a short statement, so  
11 I may not use it.

12 But this case is proceeding under provisions of the new  
13 1921 and -- well, let's skip all that -- but we were among several  
14 individuals of organizations who submitted written and/or oral  
15 testimony opposing certain aspects of the changes proposed by OP  
16 on the ground that they diminished various protections afforded to  
17 residential landowners at RF districts that were adopted in 1411.

18

19 OP repeatedly asserted that the amendments proposed in  
20 1921 would make no such changes, and there appears no evidence in  
21 the record that the Commission questioned this assertion or,  
22 otherwise, took cognizance of the ample testimony, to the  
23 contrary.

24 This case may be the first under the new rules adopted  
25 in 1921; although, from today's schedule, I gather they are coming

1 to through thick and fast.

2           We are now rising to bring to your attention the  
3 unfortunate fact that in this case, as a result of those  
4 revisions, some of the protections previously enjoyed by  
5 neighboring landowners against (audio interference) effects are no  
6 longer available. And then we list specifically, the light and  
7 air, the privacy, the conversions.

8           Now, those, the 320.2 provisions that you've heard so  
9 much about, so I'm not going to go over them because I think Mr.  
10 Chandra did a pretty good job and some people in the other cases  
11 also did a pretty good job.

12           But if you go to 5203, you'll see that some of those are  
13 sort of put back in the special exception standards, but they're  
14 not contained in the substance and provisions of 320 and some are  
15 simply gone completely. In particular, the pop-back rule, the,  
16 you can't build back more than 10 feet, I couldn't find that  
17 anywhere. That's substantive. It's not procedural, and the  
18 absence of that provision is one of the key factors that allows  
19 these sort of huge, behemoth-type buildings.

20           But as you can see, there is a perception, and one with  
21 the residential developer community and the residents themselves  
22 and, you know, people like us, that these new rules substantively  
23 took away protections and if you didn't take the ball away, you  
24 certainly hid a lot of them. But I think they need a revisiting.

25

1           These were not technical amendments and they're having a  
2 highly prejudicial effect and it was particularly galling because,  
3 you know, there was about entire panels of people who appeared at  
4 the Commission and they kept saying, You can't do this. And then  
5 there are some protections that are absolutely gone. That's the  
6 some of the protections afforded to the rooftop elements. They  
7 simply have less protection.

8           Another substantive protection that's gone -- you used  
9 to only be able to get a special exception from two of the three  
10 key provisions of 320. Now, there is no limit on the number of,  
11 you know, special exception, items of special exception relief  
12 that one can seek. So, it's really open season and it's going to  
13 stay that way if you don't go back and look at these things again  
14 and just parse them through and see how they all work together.

15           You've had enough -- I think today's agenda really was  
16 most eloquent testimony to the impacts of 1921. So, those are my  
17 -- I think you got our letter, and you had a chance to look at it,  
18 and I don't want to be repetitive, so those are, basically: Would  
19 you ask the Zoning Commission to go back and redo this, please?

20           (Laughter)

21           MS. RICHARDS: And in the meantime, would you apply  
22 these protections in your discretion to this and other cases.

23           CHAIRMAN HILL: Right. No, I appreciate that, Ms.  
24 Richards. I just laughed because the chairman of the Zoning  
25 Commission, as you know, has been with us all day today, and is

1 with us.

2 MS. RICHARDS: Hi, Mr. Hood.

3 And I appreciated his comments, especially the ones when  
4 he said, these regulations aren't working the way they're supposed  
5 to work. Because it's you're not getting the result you want.  
6 You thought you were giving a little flexibility, a little relief,  
7 and you end up with something that he doesn't want to live next  
8 door to, nobody else wants to live next door to. And it's all  
9 done from the rules adopted.

10 CHAIRMAN HOOD: So, Mr. Chairman, can I just say  
11 something to Ms. Richards?

12 CHAIRMAN HILL: Go ahead.

13 CHAIRMAN HOOD: Ms. Richards, I appreciate the work  
14 you've done. I know, because I've already been on it, that that  
15 was not the intent of the Zoning Commission to take away  
16 protections. All right. I can go out right now on the record and  
17 say that was not our intent.

18 Now, I want to go back and talk to the manuscripters  
19 [sic] who put stuff in place and who move things around, because I  
20 can tell you, it seems like we have more confusion now than we had  
21 previously.

22 But I do agree, and I heard you. You said the Zoning  
23 Commission, let's put it back in there, and I agree, let's do  
24 that. But then, also, (audio interference), so I agree with that,  
25 as well.

1           But the truth is, that was not the intent of the Zoning  
2 Commission. I don't know if I have five, but I know that I have  
3 one, because that was not our intent and I just verified that.

4           MS. RICHARDS: Thank you, sir.

5           CHAIRMAN HOOD: So (audio interference).

6           MS. RICHARDS: Thank you. We will give detailed  
7 suggestions when you open it up again, line-by-line, okay.

8           CHAIRMAN HOOD: Sure. Thank you.

9           MS. RICHARDS: Thank you.

10          CHAIRMAN HOOD: Thank you, Ms. Richards.

11          CHAIRMAN HILL: Thanks, Ms. Richards.

12          MS. RICHARDS: Sure. Thanks for hearing us.

13          CHAIRMAN HILL: Let's see. Ms. Fay are you there or Mr.  
14 Fay -- I'm sorry.

15          MR. FAY: Yep, Mr. Fay is here.

16          Can you hear me?

17          CHAIRMAN HILL: Okay. Mr. Fay, before you go.

18          Mr. Rice, again, I'd like to kind of talk to you all  
19 about the stuff that Ms. Richards has been bringing up, as well as  
20 Mr. Chandra, and just, again, further clarity on the changes that  
21 have been made, and we can talk about it. But if you could just  
22 kind of make that note.

23                 I know there was something else that I was interested in  
24 talking to you about, but that might have been about six hours  
25 ago.

1 MR. RICE: Yeah, it was.

2 CHAIRMAN HILL: Let's see. Mr. Fay, can you hear me?  
3 Again, I'm sorry.

4 MR. FAY: And before I start, if I can, I know there  
5 were two individuals that had signed up to testify who had dropped  
6 off. Both of them have logged back on. They were in transit,  
7 just on their phones listening. It's Mr. Huling, and a Mr. Bello,  
8 if there's still time for them to be able to speak.

9 CHAIRMAN HILL: Sure. Of course.

10 Let's see. Let me do this.

11 Mr. Young, just hang on. Let me get through who I've  
12 got here and then we'll try to bring Mr. Huling and Mr. Bello in,  
13 unless they're already here.

14 So, Mr. Fay, can you go ahead and give you testimony,  
15 please.

16 MR. FAY: Yep, absolutely.

17 So, my name is Matt Fay. I live at 4016 U Street, which  
18 is on the block where the development is proposed. You may be  
19 aware, there is substantial community opposition. There is a  
20 community petition that was signed, supporting responsible  
21 development. The LPCA, LeDroit Park Civic Association has voted  
22 against this, and you'll hear more about that opposition.

23 You know, I know that Mr. Sullivan and Mr. Agorsor have  
24 wondered out loud about, you know, the nature of our opposition  
25 and I think, you know, I listened in to the last case -- I didn't

1 | listen to the ones before that -- but in the last case there were  
2 | comments about folks who lived in an RA-1 in a single-family home,  
3 | only to discover that they lived in an RA-1 and not an RF  
4 | neighborhood.

5 |           We do live in an RF neighborhood; in fact, the block  
6 | where this is proposed is all single-family homes. There may be  
7 | one or two that are subdivided. All of the buildings that  
8 | surround the perimeter of the block are single-family homes, are  
9 | conforming RF-1, with the exception of one apartment building.

10 |           And so, as we begin kind of to prepare for our  
11 | discussions with the developer, we went back to the zoning rules.

12 | I am not an attorney, I have no skill in this area, but we went  
13 | into Chapter 1 of Section E, the general provisions for  
14 | residential plats and said, you know, what is it about this  
15 | development that just doesn't sit right with us?

16 |           And the quote that we pulled out is like an addition to  
17 | the purpose statements of individual chapters. The provision of  
18 | the RF zones are intended to Subsection F, prohibit the conversion  
19 | of plats and row houses for apartment buildings, as anticipated in  
20 | the RA zone.

21 |           And our takeaway is that to do a conversion to an  
22 | apartment building in an RF-1 Zone requires, you know, meeting of  
23 | a very, very high bar and that high bar comes both, in the form of  
24 | community benefit, which I think could be translated into  
25 | Inclusionary Zoning. It could translate into a really conscious

1 effort to fit into an RF-1 Zoning from an appeal.

2 But despite that, the apartment building that's being  
3 proposed is literally being stretched to the limits of zoning.  
4 They're proposing to build it as high as they can, as big as they  
5 can, as wide as they can, as deep as they can, and so it's just  
6 not following the spirit of what the RF-1 neighborhood is intended  
7 to be.

8 The comparison, the 27 bedrooms in a single apartment  
9 building compares to, roughly, 30 bedrooms in 10 single-family  
10 buildings, single-family homes on the north side of that same  
11 block. It's a striking contrast between the density being  
12 proposed and what is there today.

13 Mr. Sullivan is incredibly talented. I have listened to  
14 him frame arguments many, many times over the last several months  
15 and he is very good at holding to the very strict letter of the  
16 law, and I'm impressed.

17 But what we are seeing, also, is that if we give any  
18 kind of room for wiggle, they're going to wiggle as far as they  
19 can possibly go. And so, one ask of this committee is to not  
20 approve any of the lot conversions. It is one of the few  
21 opportunities to hold them to a smaller building that is within  
22 the RF-1 standard and that is one of the mechanisms to hold them  
23 to a smaller building, smaller structure, still consistent with  
24 the neighborhood that they're looking to build in. Thank you.

25 CHAIRMAN HILL: Thank you, Mr. Fay.

1 Does the Board have any questions for Mr. Fay?

2 (No verbal response)

3 CHAIRMAN HILL: All right. The next person I have is  
4 Ms. Shimamura.

5 MS. SHIMAMURA: Hello, this is Monica Shimamura.

6 CHAIRMAN HILL: Hi.

7 Could you give me your name and address, please? I'm  
8 sorry.

9 MS. SHIMAMURA: Sure. My name is Monica Shimamura. I  
10 live at 415 T Street. So, I'm two doors down from 421 T Street  
11 and I live on the alley -- I live on and use the alleyway that is  
12 in question.

13 I wanted to just address the -- there's a couple of  
14 points that I wanted to address as a person who doesn't work as a  
15 zoning person or a lawyer for my day job. One of the things is  
16 that the new construction does not seem to comply with the setback  
17 rules. I know that Mr. Chandra, and we have talked about the  
18 setback rules, but I still don't quite understand, because the  
19 rule states that there needs be a five-foot minimum on either side  
20 of the freestanding building of new construction.

21 The proposal doesn't seem to meet that. It's not five  
22 feet. So, as a layperson, it doesn't quite make sense to me.

23 I'm directly affected as a neighbor, and I ask that the  
24 proposal be required to follow the minimum setback zoning rule.

25 Also, the proposal indicates the new building will

1 contain large, below-grade window wells that run along the sides,  
2 on the east and west sides, which essentially eliminates any  
3 setbacks. So, again, I am asking that these window wells should  
4 not be permitted.

5 The new construction will also be built all the way up  
6 to the adjoining property. We heard Mr. Fay talk about this, too.

7 It goes up to the property lines on the east and west side. It's  
8 going to be one of the largest complexes on T Street and U Street  
9 around the adjoining blocks. So, basically, this proposal is  
10 pushing the limits of development on this area, on this lot.

11 Furthermore, since the window wells run along property  
12 line on both of the east and west sides of the adjoining property,  
13 it limits the access from the front of the house. Basically, what  
14 I'm saying is that from the front, there's no way to access the  
15 back of the house because you can't go on the two sides, because  
16 there's no extra space.

17 So, my question is, how is the Emergency Services, such  
18 as the fire, police, ambulances, any of those accessing the  
19 property? I'm just very concerned as a neighbor and I am opposed  
20 to this application and I hope the Board denies the application.  
21 So, thank you.

22 CHAIRMAN HILL: Okay. Thank you, Ms. Shimamura.

23 CHAIRMAN HOOD: Mr. Chairman?

24 CHAIRMAN HILL: Yes, Chairman.

25 CHAIRMAN HOOD: Can I take about a 10-minute break? I

1 have somebody that I need to deal with at my door.

2 CHAIRMAN HILL: Okay. Sure.

3 CHAIRMAN HOOD: Can we take 10 minutes?

4 CHAIRMAN HILL: Okay. Can we all take 10 minutes, then?

5 Thank you.

6 CHAIRMAN HOOD: Sorry about that.

7 (Break taken in proceedings)

8 CHAIRMAN HOOD: Thank you, Mr. Chairman.

9 You're on mute. I might not have wanted to hear what  
10 you were going to anyway.

11 CHAIRMAN HILL: Oh, I said thank you, Mr. Chairman, and  
12 I'm smiling because there's so many people on this call, it's too  
13 bad we can't have like a big pizza party. I mean, goodness, it's  
14 8:30 at night, and I know that all you people have also been  
15 around for a long, long time, so I appreciate that.

16 Let's see now. So, we had just finished speaking with,  
17 I think it was Mr. May -- Mr. Fay -- no, I'm sorry, Ms.  
18 Shimamura.

19 Did we have any questions for Ms. Shimamura?

20 (No verbal response)

21 CHAIRMAN HILL: Okay. All right.

22 Ms. Shimamura, thank you so much.

23 MS. SHIMAMURA: Thank you.

24 CHAIRMAN HILL: And then Ms. Paladines, are you there?

25 MS. PALADINES: I'm here. It's Paladines.

1 CHAIRMAN HILL: Paladines.

2 Well, I appreciate seeing the tree; at least, it's like  
3 something festive to look at.

4 MS. PALADINES: Yeah, we're trying to keep LeDroit Park  
5 festive.

6 CHAIRMAN HILL: Let's see. Okay. Would you please go  
7 ahead and give us your testimony?

8 MS. PALADINES: Yeah, sure.

9 So, my name is Cindy Paladines. Thank you so much, I  
10 know it's late and you've been at it for quite some time. I live  
11 on the row that sits on the same alley that would service the  
12 property being discussed today, so I live at 409 T Street.

13 And since the first iteration of this proposal, all of  
14 my neighbors on the square have either signed a petition with, I  
15 think at last count, almost 70 households represented, which I  
16 believe is in your case file, or testified against the proposal  
17 because of its size and density and the effects that it would have  
18 on the square and on the neighborhood.

19 LeDroit Park Civic Association also voted, near  
20 unanimously, to oppose the building on both, historic and zoning  
21 grounds, as and Mr. Hood noted in a previous case, we're the ones  
22 who have to live with it. So, their vote was especially  
23 emblematic of the neighborhood's concerns, I believe.

24 The proposed new building will be built unusually deeply  
25 in a rectangular fashion, if you will, into the square, and will

1 have adjacent neighbors on all sides and that's partly why you see  
2 such community opportunity to it. As other neighbors of mine have  
3 mentioned, the alley that would service the rear of the new  
4 building is unusually narrow, not only at its entrance, but for  
5 about half the length of the alley. So, it's very difficult.  
6 There's no way, obviously, that you could have two cars side-by-  
7 side, but it's very difficult to even get one car down the alley,  
8 in general.

9 All the other properties that sit on the alley are  
10 single-family homes and use the main streets, so 4th Street, 5th  
11 Street, U Street, and T Street, for trash-service needs. So, this  
12 would be the only property using the alley for trash disposal, and  
13 importantly, all of the other homes also have the streets for  
14 academy by Emergency Services, should this be required.

15 So, given that the new building, which is, as Mr.  
16 Chandra mentioned, unusually large, and it will be unusually deep  
17 into the square, my neighbors and I are concerned not only about  
18 the daily issues regarding trash to service such a large building  
19 with such anticipated density, but also emergency vehicle access,  
20 which my neighbor Monica also mentioned. So, by emergency vehicle  
21 access, I mean fire, police, ambulances, et cetera.

22 So, this begs the question, and, again, I'm a layperson;  
23 I don't work on any of these issues. So, you know, my question  
24 is, to what extent is this proposal even feasible from a fire  
25 department, fire safety prospective? To what extent is this

1 | proposal ingress and egress of Emergency Services for an apartment  
2 | building or for a building that would have such density, you know,  
3 | be allowable.

4 |           And I understand that some of this will probably come  
5 | into play during the permitting process, but before Zoning opines  
6 | on this proposal and especially given some of the ambiguity that  
7 | we've discussed today around the application of new, amended  
8 | regulations and the impacts on adjacent neighbors, it would seem  
9 | important to have some opinion from these service providers,  
10 | Emergency Services providers, you know, to review the proposal's  
11 | fitness in this regard.

12 |           And this is important not just from the perspective of  
13 | future residents of this proposed new building that will sit so  
14 | deeply into a square and be served by a really, really narrow,  
15 | long alley, but also for adjacent neighbors that, you know, will  
16 | be affected by any emergency that happens.

17 |           And as my neighbors mentioned, obviously, we're  
18 | concerned about the additional TASC associated with this density.

19 |           You know, parking in LeDroit Park is already limited, even in the  
20 | midst of a pandemic, and so density of this scale will only serve  
21 | to limit it further.

22 |           Thank you so much for your time. We actually had pizza  
23 | in anticipation of this hearing, so I hope you are also able to do  
24 | the same. Thanks.

25 |           CHAIRMAN HILL: Thank you.

1           Okay. Thank you does anybody have any questions for the  
2 witness?

3           (No verbal response)

4           CHAIRMAN HILL: And there's been a couple of comments  
5 about FEMS, right. That does come through the permitting side of  
6 things, so, you know, it would pass or not, and so -- but that's  
7 not here with us.

8           Let's see. All right. Is Mr. Huling --

9           MR. YOUNG: I think his name is Mr. Huling.

10          CHAIRMAN HILL: Oh, Huling, I'm sorry.

11          Mr. Huling, are you there? Mr. Huling?

12          MR. HULING: Yes, can you hear me?

13          CHAIRMAN HILL: Yes. Yes.

14          MR. HULING: Okay. Thank you. I just --

15          CHAIRMAN HILL: Could you identify yourself for the  
16 record, Mr. Huling.

17          MR. HULING: Yes, my name is Michael Huling, and I live  
18 at 416 U Street.

19          CHAIRMAN HILL: Okay. Could you go ahead and give us  
20 your testimony, please.

21          MR. HULING: Yes. I'll keep it brief (audio  
22 interference) staying up so late to (audio interference) this  
23 case.

24          As with many other residents, I have significant issues  
25 with (audio interference).

1 CHAIRMAN HILL: Mr. Huling, you need to get closer to  
2 your microphone.

3 MR. HULING: Can you hear me okay now?

4 CHAIRMAN HILL: Yes.

5 MR. HULING: Okay. So, sorry about that.

6 So, with many residents, I have a significant issue. I  
7 oppose this. My name is Mike Huling from 416 U Street.

8 With the trash access, the large massing, the deep into  
9 the square, the rear inside setbacks, the height of the new  
10 addition, and then but the two major things that kind of struck my  
11 attention the most was the density. And I know several people  
12 have mentioned it before, but it really did strike a chord.

13 We are asking -- the developer is asking for 27 bedrooms  
14 to be developed in an existing RF-1 zoned house and it just -- it  
15 would literally, overnight, double the density of the street and I  
16 think that would put a significant strain on the neighborhood, on  
17 the community.

18 And the other issue that kind of came up, which I don't  
19 know if anyone else mentioned, was just the IZ. When this plan  
20 was originally proposed back in February or March, there was going  
21 to be four units of IZ and it was going to have a total of seven  
22 units or seven bedrooms into it, and those four units were going  
23 to be sold at 60 percent of market rent value. So, it was going  
24 to add some value to the community, but as you can see on the  
25 current drawings, there are now just two existing IZ units with a

1 total of six bedrooms and now the developer, I believe, is only  
2 going to be selling them at an 80 percent market value.

3 So, the developer is asking for a big ask on the  
4 neighborhood for what I really consider as to have really little  
5 gain for those in our city that really need it the most. And for  
6 me, those two issues, the density and the return on value, are  
7 what we can do for our city and community is why I strongly oppose  
8 this development and I ask the Board to deny this request. Thank  
9 you.

10 CHAIRMAN HILL: All right. Sir, thank you for your  
11 testimony.

12 Does the Board have any questions for the witness?

13 (No verbal response)

14 CHAIRMAN HILL: Okay. Is Mr. Bello around?

15 MR. BELLO: Yeah, hi.

16 Can you hear me?

17 CHAIRMAN HILL: Yes. Could you go ahead and please  
18 identify yourself for the record.

19 MR. BELLO: Yeah, hi. My name is Jason Bello and I live  
20 across the street at 416 P Street.

21 CHAIRMAN HILL: Bello, okay. Thank you. Sorry, Mr.  
22 Bello.

23 MR. BELLO: That's okay.

24 CHAIRMAN HILL: Could you go ahead and give your  
25 testimony, please.

1 MR. BELLO: Yeah, thank you so much for taking the time  
2 to hear from us and the thoughtfulness from which you are  
3 evaluating this case.

4 So, we live in a time where we've grown accustomed to  
5 small hoods and I really am disappointed to see that this trend  
6 has continued from the national stage into my beloved community.  
7 At every step in this process, the developer has used falsehoods  
8 to get its way. He's done so tonight, and I just want to call-out  
9 what I know to be true.

10 First of all, the developer has tried to paint the  
11 community as opposed to affordable housing. This is simply not  
12 true. After seeing the original plan, the community specifically  
13 asked the developer to convert some one-bedroom units into family-  
14 sized units -- these are the IZ units -- knowing that this is  
15 where we have the biggest gap.

16 He did this briefly, but then at the last minute,  
17 reduced affordable housing by 40 percent in the version that he  
18 presented to you tonight. The developer will say he's only  
19 dropped one bedroom, but what he's done is reduced the bedrooms to  
20 the minimum allowable by Code and reduce the living space  
21 dramatically.

22 The developer also tries to say that we're opposed to  
23 development. Many of us want to see this eventually be developed  
24 into a multifamily building, just not this specific multifamily  
25 building presented before us.

1 I have said this myself several times in several public  
2 forums, and yet the developer has specifically said that I,  
3 personally, "oppose any development whatsoever."

4 I sit on the zoning committee of the ANC. Most of the  
5 time, developers come to us, we give feedback, the developer  
6 responds, and we end up with a better building that the developer  
7 is excited about and the community is excited about.

8 This time, the developer came back, the community gave  
9 feedback, and the building the developer ended up with was worse.

10 It was so much worse than three members, three of my colleagues  
11 on the zoning committee changed their votes from supporting the  
12 building to opposing it.

13 The feedback from the community has been clear. We  
14 thought the addition was too large and could be scaled down to  
15 match the character of the block and minimize the burden on a one-  
16 way, very narrow alley. We thought the trash should be moved so  
17 that it's not essentially stored in the middle of three other  
18 neighbors' backyards, closer to their houses than to the  
19 developer's. And we wanted quality, affordable housing.

20 The Board has wide latitude to make a judgment here. I  
21 ask you to note that the community is eager to work with the  
22 developer to make something that will be a great addition to the  
23 neighborhood, but I ask you to oppose the current proposal because  
24 that is not it. Thank you very much.

25 CHAIRMAN HILL: All right. Mr. Bello, you're a

1 commissioner?

2 MR. BELLO: No, I'm appointed by the commissioners to  
3 sit on the ZBD committee of the ANC. So, it's a committee on  
4 zoning that advises the ANC.

5 CHAIRMAN HILL: Right. But I'm saying, so the ANC voted  
6 seven, one, one in favor.

7 MR. BELLO: That is correct.

8 In my personal opinion, it was the -- so, what happened  
9 in the ANC meeting is they voted to support the prior version of  
10 the product and the reason that they had voted to support the  
11 prior version of the project was because they liked the amount of  
12 affordable housing in the project and they were willing to give  
13 the developer wide latitude on other areas because of the amount  
14 of affordable housing.

15 When the developer came back with this current proposal,  
16 the ANC actually voted to say, we still support the prior version  
17 of the development and they basically said, we have no particular  
18 opposition to the plan before us, but they did not take a vote to  
19 support the plan before us.

20 CHAIRMAN HILL: Okay.

21 MR. BELLO: I know that sounds confusing. Does that  
22 make sense?

23 Basically, the ANC said we like the old version and they  
24 wanted to express their support of the old version.

25 CHAIRMAN HILL: Right. But they didn't change their

1 | vote.

2 |           MR. BELLO: Correct. And, unfortunately, the community  
3 | was actually not given an opportunity to speak at the ANC meeting.

4 |

5 |           CHAIRMAN HILL: Okay.

6 |           CHAIRMAN HOOD: Mr. Chairman?

7 |           CHAIRMAN HILL: Yeah. Go ahead.

8 |           CHAIRMAN HOOD: The first line of this gets it for me.  
9 | It says the ANC has already weighed in on this development and  
10 | continues to support the first plan that asks for one special  
11 | exception. So, I think Mister -- I forgot who's talking -- man, I  
12 | can't see who's talking.

13 |           MR. BELLO: Mr. Bello.

14 |           CHAIRMAN HILL: Mr. Bello.

15 |           CHAIRMAN HOOD: I think Mr. Bello, I think what he's  
16 | saying is exactly correct because the first line tells us.

17 |           CHAIRMAN HILL: I'm sorry, Chairman Hood. I know it's  
18 | late, so we're even going to have conversation back and forth with  
19 | just you and me.

20 |           The next line says: But note that we do not oppose the  
21 | new plan.

22 |           CHAIRMAN HOOD: But note that we do not oppose the new  
23 | plan.

24 |           So, for me, (audio interference) -- is this Turner? -  
25 | - sending that back to Chairman Turner and tell him that we need

1 something that tells us what (audio interference) is.

2 CHAIRMAN HILL: All right. So, Mr. Bello, all right.  
3 Okay.

4 So, unless anybody had any questions for the witnesses,  
5 I'm going to let them go.

6 Oh, I'm sorry. Hold on. Hold on.

7 Don't leave. Don't leave. Don't leave, Mr. Young.

8 Mr. Chandra, are you really going to make me ask  
9 questions of the witnesses? Go ahead, Mr. Chandra, who do you  
10 want to ask questions of?

11 MR. CHANDRA: I have one quick question because the ANC  
12 vote came up --

13 CHAIRMAN HILL: No, no, no.

14 MR. CHANDRA: To Mr. Bello.

15 CHAIRMAN HILL: Oh, okay. Gotcha. To Mr. Bello. Thank  
16 you.

17 MR. CHANDRA: Just, Mr. Bello, I (audio interference)  
18 the ANC meeting. Could you remind us, it was seven, one, and one?

19 Who was the one opposed?

20 MR. BELLO: The one who was opposed was the SMD who runs  
21 this district.

22 MR. CHANDRA: Okay. So, is that Ms. Norman?

23 MR. BELLO: Yes, Ms. Norman --

24 MR. CHANDRA: Okay.

25 MR. BELLO: -- who is the ANC representative for this

1 specific, the area that includes 421.

2 MR. CHANDRA: Okay. Okay. Thank you.

3 CHAIRMAN HILL: Mr. Sullivan, do you have any questions  
4 for any of the witnesses?

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

6 CHAIRMAN HILL: Okay. Mr. Chandra, I'm sorry, do you  
7 have any questions for any of the other witnesses?

8 MR. CHANDRA: I don't. Thank you.

9 CHAIRMAN HILL: Okay. Mr. Young, if you could please  
10 excuse the witnesses.

11 CHAIRMAN HOOD: And Mr. Chairman, let's keep on top of  
12 it. Let's talk with the ANC about it, because Chairman Turner  
13 knows me, so we can send this back to him, because I want him to  
14 straighten this out.

15 Because then it goes on down here and talks about they  
16 support the overall opposition of the original and the revised  
17 proposal. So, I mean, this is -- come on, Chairman Turner. I  
18 hope you're listening.

19 CHAIRMAN HILL: I mean, we can do a bunch of things and,  
20 Chairman Hood, I'm happy to do whatever, you know, we kind of want  
21 to do. I mean, I've -- you know, in the past, we get ANC letters  
22 like this all the time where it's kind of one way, kind of the  
23 other way.

24 And I'm not saying not to send it back, but I'm saying  
25 at the end of the day, the vote is what the vote is and that's

1 | what I kind of go with and look at, right. I mean, they might say  
2 | all these things one way or the other, but they say approved,  
3 | seven, one, one, right.

4 | CHAIRMAN HOOD: But approving what? Seven, one, one -  
5 | -

6 | CHAIRMAN HILL: I'm not disagreeing with you.  
7 | We can send it back. I'm --

8 | CHAIRMAN HOOD: (audio interference) windshield wipers,  
9 | man.

10 | CHAIRMAN HILL: I know. I know.

11 | So, where is Mr. Sullivan? Mr. Sullivan?

12 | Okay. Mr. Sullivan, you can't be going taking a nap on  
13 | me now, going out there and relaxing.

14 | MR. SULLIVAN: Yeah. Nothing about this makes me  
15 | sleepy.

16 | CHAIRMAN HILL: Well, that's good for your client.

17 | Okay. Let's see. So, oh, we did the witnesses.

18 | Mr. Shaw -- oh, no -- so, Mr. Sullivan, do you -- there  
19 | are some things that I think we're going to end up asking, but I'm  
20 | going through the process here.

21 | Mr. Sullivan, do you have any rebuttal?

22 | MR. SULLIVAN: Sir, I think Mr. Agorsor would like to  
23 | provide some rebuttal testimony.

24 | CHAIRMAN HILL: Okay. Great.

25 | We can't hear you.

1 MR. AGORSOR: (Audio interference) very briefly. More  
2 on the public side of this, if I could.

3 And to the chair, we've been at this project, let's see,  
4 at the very least, since February, so at this point, we've had 11  
5 public meetings on this project, and so I think for the record, I  
6 just want to make a few things pretty clear, which is many of the  
7 community members are in opposition, have talked about the quality  
8 of the IZ units and the affordable component.

9 At no point in time did the community ask for four IZ  
10 units. That was proposed originally (audio interference). (Audio  
11 interference) IZ units were a part of the original proposal in  
12 April and that reduction was literally the response of hearing  
13 comments from public agencies.

14 Secondly, Mr. Bello made a point of mentioning he was on  
15 the ZPD committee. He joined the (audio interference)  
16 preservation (audio interference) committee for the ANC to oppose  
17 the project. So, he wasn't on it originally and joined  
18 specifically to oppose the project.

19 And as for working with the (audio interference) for the  
20 neighborhood, Anita Norman, she -- I've been in contact with her  
21 and met with her in person in February on this project, in person,  
22 and I just want to make it clear that throughout this entire  
23 process, we have tried to connect with the neighbors in opposition  
24 (audio interference) but (audio interference) I'm just going to  
25 read, very briefly, an email, that we sent to Anita and the chair

1 of the BPD committee, which said, I wanted to follow-up to see if  
2 you'd received feedback from the community in regard to  
3 communications. My understanding from speaking with you is that  
4 (audio interference) is that the community does not want to meet  
5 unless it is in person, but I wanted to confirm with you both,  
6 just in case there is any movement since last week to open  
7 communications.

8 Anita Norman's response was, Yes, Chris, you are  
9 correct. Residents are not interested in meeting via Zoom, a  
10 conference call, or one-on-one. They want to meet in person at a  
11 regularly scheduled monthly LeDroit Park Civic Association meeting  
12 once the City gets back to its community meetings.

13 And I want to make clear that reaching out to the  
14 community was prior to any public meeting and since then, we have  
15 had 11 public meetings. So, we're aware of the position of the  
16 neighbors; however, we have gone to the ANC twice and we have  
17 received support from them twice. In addition, we have also  
18 received support from the Historic Preservation Review Board after  
19 three meetings, as well.

20 So, I just want to make it clear that even though there  
21 is opposition to the project and certain neighbors aren't in  
22 support of it, it isn't due to a lack of effort on our part to try  
23 and hear their concerns and address them, and I can touch on that,  
24 as well, in regard to trash if the Board wants to hear more about  
25 that now or later. But I just wanted to make a point of that now.

1 Thank you.

2 UNIDENTIFIED: I think you're muted, Mr. Hill.

3 CHAIRMAN HILL: Mr. Chandra, do you have any rebuttal to  
4 what Mr. Agorsor just said?

5 MR. CHANDRA: Yeah, just two small things I want to  
6 bring -- just clarify.

7 Mr. Agorsor, do you recall if Mr. Bello voted in the  
8 meeting that regarded your proposed development?

9 (No verbal response)

10 MR. CHANDRA: Well, I'm not sure if he can hear, but the  
11 answer (audio interference) --

12 CHAIRMAN HILL: That's all right. Just give him a  
13 second. Hold on. Let me get him back on.

14 Mr. Agorsor?

15 MR. AGORSOR: Yes?

16 CHAIRMAN HILL: Can you hear me? Mr. Agorsor?

17 MR. AGORSOR: Yes, I can hear you.

18 CHAIRMAN HILL: Did you hear the question from Mr.  
19 Chandra?

20 MR. AGORSOR: I was not allowed to vote. The chair of  
21 the committee, Patrick Nelson, asked that he recuse himself. He  
22 did not but wanted to still serve on the committee and offer  
23 commentary. So, he did not vote, but was also a part of the same  
24 meeting. He was a party to for BZA in opposition.

25 CHAIRMAN HILL: Okay. So, he did (audio interference).

1 MR. AGORSOR: But, at the same time, he had already  
2 signed up to be in opposition for a BZA meeting. He was also on  
3 the same (audio interference) while he had party status in  
4 opposition and should have been recused, which was suggested by  
5 Patrick Nelson and Jason refused.

6 MR. CHANDRA: Okay. Thank you.

7 The other -- do you -- the email you mentioned to Ms.  
8 Norman, do you know when that happened? My recollection was it  
9 was a while ago. Do you have a date on those emails?

10 MR. AGORSOR: (audio interference) April 17th and,  
11 again, on April 23rd.

12 MR. CHANDRA: Okay.

13 MR. AGORSOR: I could read the original email, as well,  
14 if need be.

15 MR. CHANDRA: I don't know if that's necessary. I just  
16 want to point out the date. I was part of the community talks  
17 when he did offer to do a Zoom call. This was, like, immediately  
18 when COVID was breaking out and we have several very elderly  
19 neighbors who've lived in this neighborhood for 40-plus years.  
20 So, we were concerned that, you know, they wouldn't have an  
21 ability to talk in the meeting, so we didn't want to do it via  
22 Zoom; we wanted to meet in person.

23 And, unfortunately, we didn't know at the time that  
24 COVID was going to extend for eight months, but it did, and the  
25 next opportunities, which were the LBCA hearings and stuff, I

1 think people presented their testimony.

2 MR. AGORSOR: (audio interference) we said we will meet  
3 whenever it is safe to do it and that's exactly what we did over  
4 the proceeding months. So, if it was in person, we were going to  
5 be there in person. If it was through Zoom, we were going to be  
6 there through Zoom. It was whatever was convenient for the  
7 neighborhood.

8 MR. CHANDRA: Right. I appreciate that. I have no more  
9 questions.

10 CHAIRMAN HILL: Okay. Mr. Sullivan, do you have --  
11 well, actually, I'll go back to Mr. Chandra.

12 Mr. Chandra, would you like to give us a closing?

13 MR. CHANDRA: Yeah, just briefly.

14 I think the issues are apparent. It's getting late. You  
15 know, I think I, personally, and the community, think this is out  
16 of scope with the spirit of the regulations and I think there's  
17 confusion about what the rule change did or didn't do. I know that  
18 the applicant's statement doesn't include any discussion about air  
19 and privacy because, if I recall correctly, in one of the other  
20 meetings they said that their view was that those requirements  
21 were gone.

22 If they're gone, I think the Board should recognize the  
23 900-square-foot rule and the spirit of the law as to (audio  
24 interference), and if they're still in the regulations, then I  
25 think it's clear that a building that's a story taller, you know,

1 more than twice the size of any other buildings on the block, and  
2 which extends further and deeper, creates trash issues, creates  
3 window wells that go all the way up to property lines to eliminate  
4 any side yards, and, you know, basically doubles the current  
5 density of the block is literally out of pattern with the  
6 character, scale, and size of other homes on the block.

7           So, to the extent that we have any clarity on that, you  
8 know, if we don't, I would maybe suggest postponing until we can  
9 get some clarity on this rule, but I think either way you cut it,  
10 it's either against the spirit of the law or if the pattern,  
11 light, air, and privacy requirements are still part of the law,  
12 then, you know, it conflicts with those.

13           CHAIRMAN HILL: Okay. Mr. Chandra, just to remind real  
14 quick -- and it's late at night -- the light, air, and privacy,  
15 and the general conditions are still in place, and so those are  
16 still things that we look at. The 900-square-foot rule is the  
17 900-square-foot rule, whether there's three bedrooms, four  
18 bedrooms, whatever it is, right.

19           And it's not there to get around anything, like, people,  
20 you know, that's like a very hard, fast rule that I -- and I think  
21 you've seen something today also with the 900-square-foot rule,  
22 like, you know, that one just never seems to get approval. In  
23 fact, we sent somebody back to the drawing board earlier today  
24 because of that, right.

25           I'm just going to, before I move on, Mr. Sullivan, there

1 was a thing from DDOT about required, long-term bicycle parking.  
2 Did that get put on your plans?

3 MR. SULLIVAN: Yes, I believe -- is it Emilie? Okay.

4 MS. ROTTMAN: Hi, this is Emilie Rottman.

5 The bicycle parking is located in the cellar level.

6 CHAIRMAN HILL: Okay. So, it's on the plans there?

7 MS. ROTTMAN: Yes.

8 CHAIRMAN HILL: Okay. So, that's one.

9 Then the other, Mr. Sullivan, there's a bunch here, and  
10 I might ask even Mr. Rice to kind of help me out with this. I  
11 mean, something -- and, Mr. Rice, I'm just way too tired to try to  
12 figure this out a little bit.

13 Like, the required parking, you had some thoughts about  
14 the parking, the full-size versus the half-size, and that there's  
15 a self-cert about the 50 percent required.

16 Can you speak a little bit to the couple of things you  
17 had brought to my attention?

18 MR. RICE: Yes, sir. So, OAG's two main concerns was  
19 that the proposed -- those projects on three tax lots and not on a  
20 single lot of record. So, we proposed that the applicant either  
21 file a written agreement with the zoning administrator to reserve  
22 the two required parking spaces at Tax Lot 807 for the project and  
23 the building lot at Lot 13 and record that agreement as a covenant  
24 against the property or just obtain a record subdivision.

25 And then the other --

1 CHAIRMAN HILL: One second. Hold on a second.

2 So, Mr. Sullivan, did you hear that part, and what do  
3 you think of that?

4 MR. SULLIVAN: Yes, we agree to that condition.

5 CHAIRMAN HILL: Right. So, it's not a condition. It's  
6 an either/or; file a written agreement with the ZA under C 701.8  
7 to reserve the two required parking spaces from Lot 807 for this  
8 project, the building on record Lot 13, and record that agreement  
9 as a covenant against Lot 807 or obtain a Record Lot subdivision  
10 to divide Tax Lot 807 into Record Lot 13.

11 Which one are you doing?

12 MR. SULLIVAN: The subdivision.

13 CHAIRMAN HILL: Okay. So, Mr. Rice, we're not done  
14 here, but can you make a note of that for me when I --

15 MR. RICE: Yes, sir.

16 CHAIRMAN HILL: -- whenever I wake up and, like, you  
17 know, remember what's going on. Okay.

18 So, that's one, right.

19 MR. RICE: Yes, it is.

20 CHAIRMAN HILL: Then the other one was the self-cert.

21 Can you please speak to that, again?

22 MR. RICE: So, it was noted in reviewing the application  
23 later on that some of the parking spaces did not appear to be  
24 full-sized, and under C 712.3, that leaves 50 percent of those  
25 parking spots have to be full-size. And so, we would encourage

1 the applicant to either combine the two compact spaces into a  
2 single, full-sized space, or to obtain a variance relief to seek  
3 the alternate parking size.

4 If the applicant wants to proceed, you know, without  
5 agreeing to do either one of those, because it is a self-  
6 certification, we would just encourage the Board to incorporate  
7 certain language that basically states that the applicant is  
8 proceeding under a self-cert and the Board made no determination  
9 today as to whether, you know, it met the requirements of having  
10 50 percent of those parking spaces be full-sized, just to avoid  
11 confusion later on down the road.

12 CHAIRMAN HILL: Mr. Sullivan, did you hear all that?

13 MR. SULLIVAN: Yeah, I disagree with that and we are  
14 self-certified, the requirements that 50 percent of the required  
15 parking spaces, so we need two full-sized spaces, and I believe we  
16 have two full-sized spaces.

17 CHAIRMAN HILL: That's fine. That's fine. If you guys  
18 are self-cert, that's fine. I'm just saying it might get pointed  
19 out that we've discussed this with you so that we're covered,  
20 right.

21 So, we'll see what happens when that happens and, Mr.  
22 Rice, again, remind me of that, okay.

23 MR. RICE: Yes.

24 CHAIRMAN HILL: So, those are those two things.

25 So, now, Mr. Sullivan, back to the case just a little

1 bit. So, even you brought up the discussion about trash, window  
2 wells, and the parking, because that seems to be a lot of  
3 discussion that's gone on. Then there seems to be a lot of  
4 discussion about the alley, and, you know, trash going through the  
5 alley, right.

6 So, can you speak to -- well, I'll put it this way, I  
7 don't think we're going to decide today because I don't think we  
8 could manage the people talking through it right now. It seems as  
9 though Chairman Hood had some things that he wanted to clarify, so  
10 what I'd like to know a little bit, what I'd like to see, and this  
11 might even be a continued hearing, actually, is a little bit more  
12 specificity around, and, you know, I know it's in the record  
13 somewhere, but if you could help me out, because, again, it's been  
14 12 hours, like, where the -- you know, this whole discussion, you  
15 know, point me out, again, where the trash is, where the window  
16 wells are, the parking, and some of the issues that you've heard  
17 from the community about this, and, in particular, then, how that  
18 alley is going to be accessed.

19 Like, how do the trash trucks actually, you know, how  
20 are they going to be able to service that alley, right. So,  
21 that's one question to me.

22 The next question I had was concerning these IZ units  
23 and everything, like, so, you all presented to the ANC and you  
24 presented a certain, I guess -- I don't know if the AMI was at 40  
25 percent or at 80 percent -- that's unclear to me -- do you know

1 | what you presented to the ANC, and is this what you presented to  
2 | the ANC?

3 |           MR. SULLIVAN: Yes, this is what we presented. It's 80  
4 | percent AMI.

5 |           CHAIRMAN HILL: Okay. For two units.

6 |           MR. SULLIVAN: Right. And so, I guess it sounds as  
7 | though Mr. Hood might want some clarification from the ANC that  
8 | -- and I don't know, Chairman Hood, what you might want, like, you  
9 | know, if there's something that -- so, Mr. Sullivan, if you could  
10 | get some kind of a letter that clarifies from the ANC what their  
11 | vote was on the seven, one, one vote.

12 |           I don't need you to present again. I just need you to  
13 | get something from the ANC that they are in support of your  
14 | current application, okay. I'm just looking for clarity, right.  
15 | Just looking for clarity.

16 |           Okay. Just give me a second and then you all can have  
17 | your -- and to use my comment from earlier, then Mr. Hood, you can  
18 | go at him. What did I say? You can go at him -- have at him.  
19 | You can have at him, Mr. Hood -- Chairman Hood. You can have at  
20 | him.

21 |           CHAIRMAN HOOD: Yeah.

22 |           CHAIRMAN HILL: Okay. Give me a second.

23 |           CHAIRMAN HOOD: Somebody watching that for the first  
24 | time would say, what's wrong with that guy?

25 |           CHAIRMAN HILL: Right. And then let's see. For the

1 record, this has been going on for 12 hours, if anybody ever  
2 watches this thing as if we were fresh.

3 CHAIRMAN HOOD: Mr. Chairman, since 9:30.

4 CHAIRMAN HILL: Right. That's right. I've been talking  
5 since that long.

6 And then the last thing, I guess, Mr. Rice, just on a  
7 sidenote, again, this is not -- I would like to talk to you about  
8 some of the stuff that's been brought up with this change in the  
9 regulation, right, so I kind of just want to touch on that a  
10 little bit. I mean I understand what's before us, but I just want  
11 to kind of talk a little bit more about that.

12 I mean, I think there was one other item that I asked  
13 you about, but do you remember what it was? No?

14 MR. RICE: For today's meeting, I've got sidewalls,  
15 special exceptions, ANCs, (audio interference), subdivisions,  
16 conditions into a 290, and now 19-21.

17 CHAIRMAN HILL: Okay. But the sidewall wasn't this one.

18 MR. RICE: Correct.

19 CHAIRMAN HILL: All right. Okay. You're just giving me  
20 your whole litany of things. Okay. Great. So, it's somewhere in  
21 there, I guess.

22 MR. RICE: It's there.

23 CHAIRMAN HILL: So, Mr. Sullivan, you know what I'm  
24 looking for, right, Mr. Sullivan?

25 MR. SULLIVAN: I think so.

1 CHAIRMAN HILL: Okay. Chairman Hood, did you want  
2 anything?

3 CHAIRMAN HOOD: Mr. Sullivan, I think you already know  
4 what I'm asking for, right.

5 MR. SULLIVAN: Yeah, I think so. I mean, I have  
6 questions or, you know, my comments in a closing maybe would end  
7 up in a back-and-forth that would give me some more clarity on  
8 what the Board is looking for, because I have two -- there's two  
9 things going on here -- well, there's several things going on.  
10 I'm not sure where to start.

11 CHAIRMAN HOOD: Well, before you go there, let me just  
12 finish, I just wanted to know if you knew what I was asking for.  
13 And I'm not sure if I asked you all to give me anything. I think  
14 there's some research that I need to do about some things.

15 I do want to see, and you can direct me to where it is  
16 if it's already in the record, I want to see how it fits there,  
17 how it fits exactly respective of what's being proposed sits  
18 there. And I know the BZA might not ask for that, but I think we  
19 should, but I'd like to see a prospective of how what you're  
20 proposing fits.

21 Do you follow me? A prospective.

22 Yeah, I don't think you have one in the record. If you  
23 do, you can just tell me what exhibit it is, but if you don't, I'd  
24 like to see it. Now, don't spend a lot -- even if it's drawn,  
25 don't spend a lot of money on it. I just want to see how it fits.

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MR. SULLIVAN: Well, I'm sure we have it, because we've convinced HPRB to unanimously approve the addition, as compatible with the surrounding neighborhood. So, I'm sure that we have that and anything else that you'd want to see that HPRB has reviewed.

CHAIRMAN HOOD: Sounds good. Thank you.

That's all I have. Thank you, Mr. Chairman.

CHAIRMAN HILL: Okay. And, actually, I don't need a continued hearing now, like, I just need the stuff I need. And so -- right. I've forgotten what I've even asked for.

So, Mr. Sullivan --

MR. SULLIVAN: I'd like a closing in that event.

CHAIRMAN HILL: No, Mr. Sullivan, we're done. You can go. You can just go home now.

MR. SULLIVAN: I wish.

CHAIRMAN HILL: I know, I know, hold on.

All right. So, you've got what I need: trash, window wells, parking.

So, you understand, Mr. Sullivan --

MR. SULLIVAN: Yeah, and I have -- Mr. Agorsor has had meetings with the trash company. I think it would be helpful if he told you about that briefly. He's actually met with them on-site with the trash company.

CHAIRMAN HILL: Go ahead, Mr. Agorsor.

MR. AGORSOR: Thank you, Mr. Chairman.

1 I know it's late, so I'll try to get through this. I'll  
2 just start with the contractors, we've got a signed contract with  
3 Tenleytown since April, and so this trash plan has been developed  
4 in coordination with them. But just publicly available  
5 information on Tenleytown, TB, here in the District, and, again,  
6 this is all on the website, they have equipment designed  
7 specifically for D.C.'s narrow alleyways and streets.

8 Again, also on the website, to provide customized care  
9 for each client, and our equipment receptacles are especially  
10 designed for our region and we customize our collection methods  
11 for each client and property. We can provide curbside, driveway,  
12 alley, or hand-collection of (audio interference), large, or even  
13 small dumpsters. Our lighter trucks won't (audio interference)  
14 your driveway and can fit through your narrow alley or street.

15 And the only reason why I state that is because  
16 Tenleytown has been doing this for over 20 years and their current  
17 chief operating officer for 30 years has been a solid-waste  
18 management deputy administrator for D.C. Department of Public  
19 Works.

20 So, that's just a little bit of background on who's  
21 evening going to be doing the trash collection. So, if there's  
22 any doubt about, you know, us as the applicant or the developer  
23 taking crash, I can sure you that the contracted company that we  
24 have is reputable and will be able to take care of this.

25 As for the trash-management plan --

1 CHAIRMAN HILL: Mr. Agorsor, I'm going to interrupt you  
2 just a second.

3 So, like, listen to me a second. Now, I understand you.  
4 I'm not trying to cut you off. It's just late. And so, really,  
5 like, what I really want to see in the record -- and, Mr.  
6 Sullivan, I'm just trying to get us to the point where we can have  
7 a decision on this, right.

8 So, if you go ahead and give me whatever you think your  
9 trash plan is or whatever you think you want to say about how --  
10 because we heard a lot of testimony about the alley and where the  
11 -- you know, I want to know how the trash is going to come in and  
12 out, right. I want to know where the dumpsters are going to be,  
13 right, because I don't want to have to go dig for it in order to  
14 just get to, for me, a decision.

15 I want to understand a little bit more about the window  
16 wells. So, you can write a little bit of thing about the window  
17 wells, right.

18 And I want to understand about the parking, right, in  
19 terms of how that has been an objection that we've heard tonight,  
20 right.

21 So, just respond to those three things: the trash, the  
22 window wells, and the parking. That's all I want to hear about,  
23 and Mr. Agorsor, I'm not trying to interrupt you, but you don't  
24 need to repeat it all, because I'm not going to remember it.

25 MR. AGORSOR: I understand. It's been a long day.

1 Sure. Sure.

2 CHAIRMAN HILL: Right. Yeah, so those three things.

3 And then Mr. Hood, you wanted maybe a prospective,  
4 right, and then that was it?

5 CHAIRMAN HOOD: I think that's it.

6 CHAIRMAN HILL: Okay. And then we're going to have a  
7 deliberation, and I suppose, and I know this is just unbelievably  
8 ridiculous that I'm going to maybe try to put this on the 13th  
9 again, because that's when -- I'm sorry -- not the 13th, the  
10 23rd, because that's when Mr. Sullivan, you're -- well, you're not  
11 -- weren't you scheduled -- or Mr. Hood, didn't we schedule  
12 something on the 23rd for a decision?

13 CHAIRMAN HOOD: Yeah, I think we did.

14 CHAIRMAN HILL: Was that a Mr. Sullivan thing?

15 CHAIRMAN HOOD: Yes.

16 CHAIRMAN HILL: Okay. Then if we do that, and, Jack,  
17 make sure you reach out to me tomorrow at some point, okay.

18 MR. RICE: I will.

19 CHAIRMAN HILL: If we do that, then what were the dates,  
20 Mr. Moy, again?

21 MR. MOY: In December or January?

22 CHAIRMAN HILL: Well, no, I was going to say -- and, I  
23 don't know, maybe that's -- and I guess, Mr. Sullivan, you can  
24 respond for Mr. Agorsor, like, what is your -- and, you know, I'm  
25 trying to get to a yes or a no for everybody as quickly as

1 possible; however, if it doesn't, financially, if it doesn't throw  
2 your client one way or the other, then the 23rd will be kind of  
3 difficult, but I don't know.

4 MR. SULLIVAN: I mean, he'd strongly -- it's been a long  
5 time, this project. It's been delayed because of the COVID  
6 shutdown and he'd obviously prefer December and it's getting  
7 tougher and tougher to carry --

8 CHAIRMAN HILL: Okay. All right. So, when can you get  
9 -- so, in order for you to get us your stuff, it's the same thing,  
10 you've got to get us the stuff by the 14th. The 14th, you've got  
11 to get us the stuff by the 14th.

12 That means, Mr. Chandra will have an opportunity to  
13 respond by the 21st, Mr. Chandra, and then we'll be here for a  
14 decision on the 23rd.

15 MR. SULLIVAN: Okay. Then, but then -- (audio  
16 interference) gets the final say or do we get a quick response to  
17 that?

18 CHAIRMAN HILL: Well, I guess -- what did we do on the  
19 last one?

20 Yeah, I guess you both were responding --

21 MR. SULLIVAN: No, we had cross-responses -- we had  
22 cross-information and cross-responses.

23 But, I mean, technically, I think it should be in the  
24 order of procedure, which is that the applicant gets to close.

25 CHAIRMAN HILL: I agree.

1 MR. SULLIVAN: I mean, we'd need a day for something  
2 like that.

3 CHAIRMAN HILL: So, the 14th -- if you give us until the  
4 14th, then that means you can give us the response by Friday the -  
5 - I'm sorry, Mr. Chandra, you can give us your response by Friday  
6 the 18th?

7 MR. CHANDRA: Yeah. I mean, we're just talking about  
8 the new issues, right? We're not talking about the whole --

9 CHAIRMAN HILL: No, we're talking about just this one  
10 thing that I asked for. That's the only thing that -- the record  
11 is closed, except for this one, you know, whatever they are going  
12 to submit on the 14th. You'll, then, have until Friday to respond  
13 and then Mr. Sullivan will have his response on the 21st.

14 MR. CHANDRA: And, I'm sorry, what's the rationale  
15 behind him getting a reply and me not getting a surreply? It's  
16 just (audio interference)?

17 CHAIRMAN HILL: It's his application --

18 MR. CHANDRA: Okay.

19 CHAIRMAN HILL: -- so the property owner gets the last  
20 word, or the applicant gets the lost word, right.

21 And so, you, as a party, get to participate, and so he,  
22 Mr. Sullivan, and I'm now telling this for Mr. Moy, again, Mr.  
23 Sullivan is going to give us what we need by the 14th of December.  
24 The opposing party will have until the 18th of December, Friday,  
25 to submit their response. Mr. Sullivan will then have by the

1 21st, to respond to whatever the opposing party gives, and then we  
2 can do a decision on the 23rd, okay.

3 Mr. Moy?

4 MR. MOY: Just a clarification for me, Mr. Chairman.

5 So, with this timeline, you're not expecting or asking for  
6 any filing from the ANC?

7 CHAIRMAN HILL: I forgot about the ANC.

8 MR. MOY: Because you did ask Mr. Sullivan to confirm  
9 ANC's position, right, on the affordable --

10 CHAIRMAN HILL: I know, I forgot. I wasn't even looking  
11 for something for the affordable thing. I was just trying to  
12 understand that the ANC voted on the current application.

13 And so, Mr. Sullivan, I don't know if you think you may  
14 or may not be able to get anything from the ANC that says that.

15 MR. SULLIVAN: We can try. I think we will.

16 CHAIRMAN HILL: All right. Give it a try.

17 I don't -- I mean, that's not something, Mr. Chandra,  
18 that you necessarily need to respond to, right. So,

19 Mr. Sullivan, if you get that at some point in time  
20 before Friday the 18th, that would be helpful and just see what  
21 happens.

22 And then Jack -- Mr. Rice, you can make note of whether  
23 or not we get it so that we don't forget whether or not we got it  
24 and then we can make -- we can still decide if we don't get  
25 anything, you know, we can determine whether or not we want to

1 wait, okay.

2 MR. CHANDRA: Is it by Friday morning or Friday  
3 sometime, just so I can manage my caseload?

4 CHAIRMAN HILL: No problem. COB, Friday. COB, Friday.

5 MR. CHANDRA: Okay. Thank you.

6 CHAIRMAN HILL: And then, Mr. Sullivan, COB, Monday.

7 MR. SULLIVAN: Okay.

8 CHAIRMAN HILL: Mr. Smith, you haven't said anything in  
9 about two hours. So, please don't tell me you need anything.

10 Do you need anything?

11 MEMBER SMITH: No, I don't need anything.

12 CHAIRMAN HILL: Okay. All right.

13 The only reason why I'm now speaking to Mr. Smith is Mr.  
14 Moy, we got a problem -- we're going to have a problem on the 23rd  
15 of December. I don't know what to say.

16 MR. MOY: We'll work it out. I'll have some remedies  
17 for you to look at.

18 CHAIRMAN HILL: All right. Mr. Chandra, you have your  
19 hand up?

20 MR. CHANDRA: So, my understanding is the 23rd is not  
21 going to be testimony. It's just going to be -- okay. I just  
22 want to prepare.

23 CHAIRMAN HILL: It's going to be a decision meeting.

24 MR. CHANDRA: Okay. Thank you.

25 CHAIRMAN HILL: All right. So, for the record, I'm

1 closing this case. I'm closing the hearing, except for the  
2 information that we --

3 MR. SULLIVAN: I have a question.

4 CHAIRMAN HILL: Sure, Mr. Sullivan.

5 And I apologize, I forgot, you were supposed to get a  
6 conclusion.

7 MR. SULLIVAN: Well, I mean, the things that I'm going  
8 to say in the conclusion are probably all related to things that  
9 we're going to file, and so I'm sure I will be saying it as part  
10 of that anyway, so I don't want to beat a dead horse or waste your  
11 time tonight.

12 But I do need some clarity on this question. The Zoning  
13 Commission explicitly removed the light and air, privacy,  
14 character, scale, and pattern test from this special exception.  
15 I've heard comments today where the BZA may write it back in,  
16 effectively, de facto, over -- after the Zoning Commission removed  
17 it, and that's not clear.

18 I think we can meet that test. We can win that test. We  
19 can -- you know, we'll get approved under that test, as well. So,  
20 I don't want to be -- I guess I'll just say I'll argue that and  
21 then the Board can make their decision, as they see fit on that  
22 point.

23 But we've already made that argument in our previous  
24 filings. The Office of Planning has made the argument, and when  
25 it comes to character, scale, and pattern, who better than HPRB to

1 defer to on that aspect of it?

2 But I don't think that was clear in the discussion.

3 CHAIRMAN HILL: Okay. And I know Chairman Hood is about  
4 to say something and if Chairman Hood weren't here, I would still  
5 say this, and this is all I have to say, Chairman Hood, and then  
6 I'll give it over to you.

7 The way the regulations are written now is the way that  
8 you're supposed to be arguing the case, right. So, that's what I  
9 would be looking at; however, since the Chairman is with us today,  
10 I will let him respond to this.

11 CHAIRMAN HOOD: So, all I'm going to say is I disagree  
12 with you, Mr. Sullivan. I don't think the intent was to remove  
13 anything. I think the intent was a reorganization.

14 I am going to verify that, and I've already confirmed  
15 that, I think. But, again, if that's making it confusing, then we  
16 need to put it back in where it needs to go.

17 And if I'm incorrect, I stand corrected. And if we did  
18 that, sometimes things show up and I don't think that was the  
19 intent of the Zoning Commission.

20 There are a number of ways that those things happen, and  
21 I don't believe that what you just -- your statement, that we took  
22 something out is accurate. But I would suggest you do as exactly  
23 what you said, which is continue to make sure that you argue that  
24 point, because I don't believe it's out.

25 Now, how what Mr. Chandra mentioned about (audio

1 interference) to do that, or they can change something, you're  
2 correct, they can't, but I do believe that it is still there and  
3 I'm going to confirm that. And if we need to put it back there  
4 for the public's sake, then that's what we need to do. I'll leave  
5 it at that.

6 CHAIRMAN HILL: All right. So, to provide clarity onto  
7 that clarification, Mr. Sullivan, as part of this response, then,  
8 please go ahead and clarify how you're meeting the, you know, what  
9 used to be the light and air argument, right, okay.

10 Did you hear me?

11 In other words, I just want to make sure we're --

12 MR. SULLIVAN: I'll argue in the alternative. I'll  
13 argue both ways. I mean, it's clearly gone from the regulations,  
14 so I'll say that, but I'll make the argument as if it's still  
15 there, as well, because we have made that argument and we can make  
16 that.

17 CHAIRMAN HILL: Right. And the reason why I'm trying to  
18 pull up exactly what I was going to read through, but -- where the  
19 heck did it go?

20 Oh, anyway. Listen, that's why I just don't want there  
21 to be in confusion. I'm going to try again.

22 Again, so, an explanation to the trash, window wells,  
23 and parking, arguments that have been brought up and concerns.  
24 Some kind of letter, if possible, or some acknowledgment from the  
25 ANC that they voted on what the current plan is, and if you don't

1 get it, that doesn't mean that we're not going to be able to come  
2 to a decision, because I think there is enough in the record to  
3 figure it out, but it would be helpful, right.

4           Then, this next piece, again, is, I guess, then,  
5 Chairman Hood had asked for, like, a whatever -- I don't know what  
6 you called it -- the Chairman had the thing with the -- what did  
7 you call it with the diagram?

8           CHAIRMAN HOOD: Prospective.

9           CHAIRMAN HILL: Prospective, thank you.

10          I just -- prospective, right. So, the prospective.

11          And then, now, the last thing is, go ahead and argue,  
12 again, the light and air issues, or summarize. Summarize whatever  
13 is actually already in the record, right.

14          And the reason why I'm pointing that out is because that  
15 is now something that Mr. Chandra will probably make comments to  
16 on the 18th, okay. And so, then, you can make comments back to  
17 him on the 21st, okay.

18          MR. SULLIVAN: Okay.

19          CHAIRMAN HILL: I'm just trying to be as clear as I can  
20 possibly be and make sure that nobody is confused as to what we  
21 are asking for, right.

22          So, did I miss anything?

23          (No verbal response)

24          CHAIRMAN HILL: No? Nobody is looking -- okay.

25          So, then, I guess that's it.

1 So, then, Mr. Sullivan, did you have a conclusion?

2 MR. SULLIVAN: Yeah, I do, briefly.

3 There's some history on this. Six years ago, this could  
4 be done as a matter-of-right to 60 percent lot occupancy and 40  
5 feet in height. So, we're not talking about things that are being  
6 done or getting bigger. Everything is getting tighter and more  
7 restrictive and I've heard hyperbole on hyperbole on absolute,  
8 flat-out falsehood today describing what is proposed here, which  
9 is approved, again, by HPRB.

10 I've heard the term, big as we can, high as we can, and  
11 pushing the limits of development. As high as we can is 35 feet.  
12 Our addition is 32 feet.

13 As big as we can is 60 percent lot occupancy. We're 42  
14 percent lot occupancy.

15 The rear yard is 44 feet. The requirement is 20 feet.

16 I haven't -- I've heard the terms massive. I've heard  
17 monstrosity, and I've heard those other misrepresentations.

18 With no attached impact, what's the impact of a 42  
19 percent lot occupancy addition at 32 feet in height? When you  
20 look at it, does it make your stomach hurt? What is it? What's  
21 the impact of that?

22 When the Board adopted this special exception relief in  
23 June of 2015, they made the IZ requirement for the fourth and  
24 sixth unit. There's been one case in five years where somebody  
25 asked for an IZ unit. Everybody does three units. Everybody

1 avoids the IZ requirement.

2           And I've heard Board members and Commission members say  
3 in those hearings, why does nobody offer that IZ requirement?

4           Here we are, second case ever where it's offered, and  
5 you see why nobody offers it, maybe; it's difficult to do  
6 something like this. And so, I just -- I think that the comments  
7 may never get to any real evidence of any sort of impact. They're  
8 certainly not adversely affecting the use of these properties,  
9 unless you don't want the people that are going to be residing in  
10 this place living there. So, that's the only thing that I can  
11 assume is the objection.

12           So, that's all I have to say. And I would just ask the  
13 Board to defer to the HPRB, which looked at this several times,  
14 had at least two meetings, and then in the end, unanimously, eight  
15 to nothing, supported this addition as compatible with the  
16 Historic District. Thank you.

17           CHAIRMAN HILL: Okay. Great.

18           Mr. Sullivan, that might have been your best conclusion  
19 ever.

20           I hope -- Chairman Hood -- never mind.

21           CHAIRMAN HOOD: Mr. Sullivan, I'm not going to go at you  
22 because it's late, but what I learned from John Parsons and all of  
23 them when we I first came on, we don't defer to the HPRB, they  
24 don't defer to us. We don't defer to the Old Georgetown Board.  
25 We do what we have to do. So, that deferring, let's just take

1 that off the table. Let's not start that. Some of the veterans  
2 who taught me, I heard that when I first got on there.

3 And the other thing is, while we appreciate what you're  
4 saying -- while I appreciate what you're saying, you know, we have  
5 a little more that we have to look at, and, you know, the  
6 residents of this city live there. You go home. A lot of other  
7 people go home. And I'm not getting on you, but you kind of got  
8 on us, so I'm going to give it right back to you.

9 So, I think in all fairness, the Board has to -- we have  
10 to balance all of that. And you're right, we have to look at the  
11 regulations. We also have to make sure that we're considerate and  
12 compassionate, because zoning (audio interference), and for me,  
13 the Court of appeals has told the Zoning Commission -- that's why  
14 it's hard for the Zoning Commission members come to the Board of  
15 Adjustments, because we have a whole lot more that we look at.

16 So, when I come and ask for a prospective, maybe the  
17 Board doesn't ask for that, but that's what I'm used to, and the  
18 Court of Appeals has said, has told the Zoning Commission, you  
19 have more jurisdiction. So, guess what? If the Court told me  
20 that, I'm going to exercise that.

21 Thank you, Mr. Chairman.

22 CHAIRMAN HILL: All right. Chairman Hood.

23 All right. There with go. All done.

24 Okay. We know the date.

25 All right. I'm going to excuse everyone from the room.

1 Thank you all very much. Thank you all for a very long day and I  
2 hope that some of it was enjoyable.

3 So, we have a lot of stuff on the 23rd and I know that  
4 some people are leaving early on the 23rd.

5 So, actually, Chairman Hood, are you with us on the 23rd  
6 or are you just going to be here now for decisions, obviously?

7 CHAIRMAN HOOD: I'll just drop when whenever you all  
8 tell me to be here.

9 CHAIRMAN HILL: Who -- all right.

10 So, Mr. Moy, we're going to have to figure out that 23rd  
11 stuff, okay.

12 MR. MOY: Yes, sir. We'll figure it out.

13 CHAIRMAN HILL: Okay. So, we made it 12 hours,  
14 basically, okay.

15 So, welcome to the club, Mr. Smith.

16 (Laughter)

17 MEMBER SMITH: First one (audio interference).

18 CHAIRMAN HILL: I'm sorry, Mr. Smith?

19 MEMBER SMITH: I said, yep, definitely welcome to the  
20 club. This was my first 12 hours.

21 CHAIRMAN HILL: Mr. Moy, is there anything else before  
22 the Board?

23 MR. MOY: Definitely not, Mr. Chairman.

24 CHAIRMAN HILL: All right. We stand adjourned.

25 Bye-bye.

1                   (Whereupon, the above-entitled matter went off the  
2 record at 9:18 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 12-09-20

Place: Teleconference

was duly recorded and accurately transcribed under my  
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