

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 3, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Webex, pursuant to notice at 10:14 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE-BROWN ROBERTS
BRANDICE ELLIOTT
ANNE FOTHERGILL
MATTHEW JESICK
ELISA VITALE

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, Esq.

JOHN RICE, Esq.

The transcript constitutes the minutes from the
Regular Public Hearing held on March 3, 2021

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(10:14 a.m.)

CHAIRPERSON HILL: So the hearing will please come to order.

Good morning, ladies and gentlemen. We are convening and broadcasting this public hearing by videoconference. This is the March 3rd, 2021, public hearing of the Board of Zoning Adjustment, District of Columbia. My name is Fred Hill, Chairperson, and joining me today is Lorna John, Vice Chair; Chrishaun Smith, Board Member; and representing the Zoning Commission is Anthony Hood.

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

The webcast video will be available on the Office of Zoning's website after today's meeting session. Accordingly, everyone who is listening on Webex or by telephone will be muted during the meeting, and only persons who have signed up to participate or testify will be un-muted at the appropriate time.

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

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1 If you are experiencing difficulty accessing Webex or
2 your telephone call-in, or if you have forgotten to sign up 24
3 hours prior to the hearing, then please call our OZ hotline number
4 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'll 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 completed the oath or affirmation as required by Subtitle Y 408.7.

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

22 The order of procedures for special exceptions and
23 variances is in Subtitle Y 409. The order of appeals is in
24 Subtitle Y 507.

25 At the conclusion of each case, an individual who is

1 | unable to testify because of technical issues may file a request
2 | for leave to file a written version of the planned testimony to
3 | the record within 24 hours following the conclusion of public
4 | testimony in the hearing. If additional written testimony is
5 | accepted, then parties will be allowed a reasonable time to
6 | respond, as determined by the Board. The Board will then make
7 | its decision at the next meeting, but no earlier than 48 hours
8 | after the hearing.

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

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

22 | Although the Board favors the use of summary orders
23 | whenever possible, an applicant may not request the Board to
24 | issue such an order.

25 | The District of Columbia Administrative Procedures Act

1 requires that the public hearing on each case be held in the open
2 before the public. However, pursuant to 405(b) and 406 of that
3 Act, the Board may, consistent with its Rules of Procedures and
4 the Act, enter into a closed meeting on a case for purposes of
5 seeking legal counsel on a case, pursuant to D.C. Official Code
6 Section 2-575(B)(4), and/or deliberating on a case, pursuant to
7 D.C. Official Code Section 2-575(B)(13), but only after providing
8 the necessary public notice and, in the case of an emergency
9 closed meeting, after taking a roll call vote.

10 Preliminary matters are those which relate to whether
11 a case will or should be heard today, such as postponement,
12 continuance, or withdrawal, or whether proper and adequate notice
13 has been given.

14 Mr. Secretary, do we have any preliminary matters
15 today?

16 MR. MOY: Thank you, Mr. Chairman. We do, but the
17 staff would suggest that the Board address those preliminary
18 matters when I call the case for Board efficiency.

19 CHAIRPERSON HILL: Okay, great. Thank you.

20 Chairman Hood, do you have to read a long thing like
21 that just before you guys open?

22 CHAIRMAN HOOD: Yes, I do.

23 CHAIRPERSON HILL: Oh. Is it really that long?

24 CHAIRMAN HOOD: It sounds very similar to yours.

25 CHAIRPERSON HILL: Okay, all right, because I'm

1 surprised, we can't just like post it, you know.

2 CHAIRMAN HOOD: No, I think we have to read it because
3 there are instructions in there for the public and others, and
4 sometimes the instructions are actually good for us well so we
5 can remember.

6 CHAIRPERSON HILL: Okay, so your vote --

7 CHAIRMAN HOOD: You don't have that problem. You're
8 younger than I am, so you don't have that problem.

9 (Laughter.)

10 CHAIRPERSON HILL: All right, okay. Mr. Moy, if you
11 could call our first case?

12 MR. MOY: Yes. Thank you, Mr. Chairman.

13 So this would be, the first case in the public hearing
14 session is Case Application Number 20384, this is of Charles Wood
15 and Eliza Van Beuren, captioned and advertised for a special
16 exception under Subtitle D, Section 52.01 from the rear yard
17 requirements of Subtitle D, Section 306.2, and pursuant to
18 Subtitle X, Chapter 10, for an area variance from the lot
19 occupancy requirements, Subtitle D, Section 304.1. This would
20 construct a rear deck to an existing two-story, attached
21 principal dwelling unit, R-3 Zone, at premises 2414 Observatory
22 Place, N.W., Square 1301, Lot 543.

23 The preliminaries here, Mr. Chairman, as you'll recall,
24 are basically twofold. One is the applicant had requested a
25 postponement the other day and it's under -- in the case record

1 under Exhibit 3. There's also the motion to waive the 21-day
2 filing deadline, which also includes filings that were submitted
3 outside of the 24-hour deadline prior to the hearing, which
4 includes revised self-certification, burden of proof,
5 architectural plans, and the statement of existing and intended
6 uses.

7 That's it, Mr. Chairman.

8 CHAIRPERSON HILL: Okay. Mr. Shaut, are you there?

9 MR. SHAUT: I am, Chairman.

10 CHAIRPERSON HILL: Can you hear me?

11 MR. SHAUT: I can. Can you hear me?

12 CHAIRPERSON HILL: Sure. Yes, I can. Thank you. Mr.
13 Shaut, can you tell me why you need the postponement?

14 MR. SHAUT: We need the postponement -- so we originally
15 planned -- we originally asked BZA for a variance special
16 exception. We were given the information that we were not going
17 to be granted -- more than likely would not be granted the
18 variance for the 16-by-10-foot deck and were therefore told to -
19 - that we would have a better chance moving to a special
20 exception. And what that meant was that we needed to resubmit
21 all of our information.

22 What we did was send everything to DCRA for a revised
23 memorandum, which we did not get back and that's why we were
24 asking for the postponement. What we did -- what we went ahead
25 and did was a self-certification and submitted all of our plans.

1 We've been -- you know, we've been on the docket for
2 very long and we're just trying to do the best possible scenario
3 to get our special exception for our clients, Charles Wood and
4 Eliza Wood.

5 CHAIRPERSON HILL: Okay. How much time do you need?

6 MR. SHAUT: Well, we have submitted all documents. We
7 submitted them at a later time because we are self-certified. So
8 we have -- all documents are actually currently there, and we
9 would request that the Board allow us to put them on record at
10 this time.

11 CHAIRPERSON HILL: Okay, but you don't have a report
12 from the Office of Planning off of the new proposal?

13 MR. SHAUT: I'm sorry?

14 CHAIRPERSON HILL: You don't have something from the
15 Office of Planning concerning your new proposal?

16 MR. SHAUT: All of the information has been submitted.

17 CHAIRPERSON HILL: Okay. Mr. Moy, when can we get them
18 back again?

19 (Pause.)

20 MR. SHAUT: I'm sorry, Mr. Chairman?

21 CHAIRPERSON HILL: No, that's all right, Mr. Shaut.
22 I'm asking the Secretary about dates for you.

23 MR. SHAUT: Right. I was -- if I may clarify, I was --
24 -- what was explained to me by DCRA -- well, the Office of Planning
25 was that while we are asking for a postponement request, we may

1 | also be asked for our new documents to be brought in front of
2 | you and put on record at this time, because it -- you know,
3 | obviously, you guys have a lot of things to go through, but
4 | relatively speaking, we believe this is a relatively simplistic
5 | --

6 | CHAIRPERSON HILL: I got you.

7 | MR. SHAUT: -- situation --

8 | CHAIRPERSON HILL: Mr. Shaut, Mr. Shaut, what I'm
9 | saying is that I don't have a new report -- I'm looking at your
10 | record -- I don't have a new report from the Office of Planning
11 | based upon your new proposal, so that's what I still need from
12 | the Office of Planning.

13 | And also have you presented to your ANC yet?

14 | MR. SHAUT: Yes, we presented to the ANC for the larger
15 | deck proposal, which was the 16-by-10, and ANC was in favor of
16 | that. So --

17 | CHAIRPERSON HILL: So you're not going to go back before
18 | them for the smaller deck?

19 | MR. SHAUT: I don't believe so.

20 | CHAIRPERSON HILL: Okay, that's fine.

21 | So, Mr. Moy, if we allowed the material into the record
22 | for the Office of Planning to take a look at, as well as us, when
23 | do you think we actually have space available to have this case
24 | back before us, and giving time for the Office of Planning to
25 | give us a report?

1 MR. MOY: Yes. Thank you, Mr. Chairman. Normally, I
2 like to give the Office of Planning at least two weeks to review
3 because they have their own time schedule, unless Ms. Fothergill
4 disagrees with that. But the earliest the Board could come back
5 for a continued hearing, Mr. Chairman, would be March the 17th.
6 So that's the earliest. If that date is not accommodated, then
7 I would recommend March the 31st. One of those two dates, sir.

8 MS. FOTHERGILL: Mr. Chairman, this is Ms. Fothergill
9 from the Office of Planning. May I --

10 CHAIRPERSON HILL: Yes, please. Go ahead, Ms.
11 Fothergill.

12 MS. FOTHERGILL: So the Office of Planning report
13 currently states we would support a special exception if they
14 revised to a special exception, with the understanding that they
15 would be reducing the deck size and, if so, if we found that it
16 met the special exception criteria, which is the same criteria
17 reviewed in the report for the rear yard. So we can provide
18 another report for you or we could reference that at the hearing,
19 at the time of the hearing.

20 CHAIRPERSON HILL: I got you. Okay. I mean, could you
21 just submit something into the record, Ms. Fothergill? (Audio
22 interference) just that says that you're approving -- just repeat
23 -- well, you don't have to put the whole report in there again,
24 but just so I remember --

25 MS. FOTHERGILL: Yes.

1 CHAIRPERSON HILL: -- when we're reviewing the report.
2 Okay? You're in approval of their special exception as stated,
3 but, you know, that's -- you don't have to -- and you can refer
4 back to the original report.

5 MS. FOTHERGILL: Yes, I can do that. And also, we do
6 not need much time to do that, and I know time is of the essence
7 for this applicant. So Mr. Moy was giving us two weeks, but we
8 can submit that as soon as you need it.

9 CHAIRPERSON HILL: All right. Well, then, Mr. Moy,
10 what were the two dates that you mentioned again? March 31st is
11 pretty far away, I guess.

12 MR. MOY: Then I would suggest March 17th --

13 CHAIRPERSON HILL: Okay.

14 MR. MOY: -- unless you want to do it next week, but I
15 think you have too many cases for next week.

16 CHAIRPERSON HILL: How many cases on March 17th and how
17 many cases next week?

18 MR. MOY: I'm anticipating we will have eight cases on
19 17th of March.

20 CHAIRPERSON HILL: Okay, let's do that then, let's do
21 the 17th.

22 MR. MOY: Okay. And if the OP decides they can do that
23 quick turnaround with a supplemental, then I would suggest that
24 they should make that filing by Thursday, March the 11th.

25 MS. FOTHERGILL: We can do that. Thank you.

1 MR. MOY: All right. Thank you.

2 CHAIRPERSON HILL: Okay, great, Ms. Fothergill.

3 All right. So then what did you say again? You said
4 March 17th, is that what you said, Mr. Moy?

5 MR. MOY: Yes.

6 CHAIRPERSON HILL: Okay. Mr. Shaut, did you hear that?

7 MR. SHAUT: Yes. Mr. Chairman, if I could just plead
8 one last time that we could possibly enter these things in and
9 have OP submit? You know, our clients have been waiting for a
10 year and I know you guys are just so backed up, you know, they're
11 just looking for outdoor space for their --

12 CHAIRPERSON HILL: I understand, Mr. Shaut. I
13 understand, Mr. Shaut. We're going to allow everything into the
14 record, you all -- you don't have to now -- you've put everything
15 in there, correct?

16 MR. SHAUT: Yes, sir.

17 CHAIRPERSON HILL: Yeah, we're allowing everything into
18 the record. And then OP is going to give a supplemental and then
19 we're going to be back before you in two weeks.

20 MR. SHAUT: Okay.

21 CHAIRPERSON HILL: Okay? Okay. We'll see you on the
22 17th, all right?

23 MR. SHAUT: Thank you.

24 CHAIRPERSON HILL: No problem.

25 All right, Mr. Moy. Okay, you guys, I'm going to take

1 a quick break now, if that's all right? And then let's come back
2 in 15 minutes, okay?

3 Thank you all.

4 (Whereupon, the above-entitled matter went off the record
5 at 10:28 a.m., and reconvened at 10:45 a.m.)

6 CHAIRPERSON HILL: All right, Mr. Moy, you can start
7 us down the road.

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

9 The Board is back in its public hearing session after
10 a quick break and the time is at or about 10:45.

11 CHAIRPERSON HILL: Yeah, can go ahead and please read
12 us in at whichever case is next.

13 MR. MOY: Yes. Okay, this would be Case Application
14 Number 20329 of Ekop I Graham. And I'm going to read the caption
15 for the transcript. It is, as amended for a special exception,
16 pursuant to Subtitle D, Section 5201. This is from the side yard
17 requirements of Subtitle D, Section 206.3, to construct a new
18 semi-detached building with two principal dwelling units in the
19 R-2 Zone. The said premise is 1138 51st Street, N.E., Square
20 5201, Lot 809.

21 And, as the Board will recall, this was last heard at
22 the Board's meeting session on January 29th, and then the Board
23 scheduled a limited scope hearing for today, March the 3rd.

24 CHAIRPERSON HILL: Is Ms. Banks there?

25 (Pause.)

1 CHAIRPERSON HILL: I'm trying to reach the applicant.
2 I don't know who the applicant is. Can they identify themselves?

3 (Pause.)

4 CHAIRPERSON HILL: I only see a Grevious?

5 MR. MOY: Yeah, I believe he's the applicant, Mr.
6 Chairman, unless I'm wrong.

7 CHAIRPERSON HILL: Okay. Mr. Grevious, can you hear
8 me?

9 (Pause.)

10 CHAIRPERSON HILL: Mr. Grevious?

11 MR. GREVIOUS: Hello?

12 CHAIRPERSON HILL: Hello. Can you hear me?

13 MR. GREVIOUS: Yes. Can you hear me?

14 CHAIRPERSON HILL: Yes.

15 MR. GREVIOUS: Okay. I had trouble getting the mike
16 un-muted.

17 CHAIRPERSON HILL: Sure. Mr. Grevious, I see your
18 applicant -- the applicant representative I thought was Mr. Banks
19 or Ms. Banks; is that correct or no?

20 MR. GREVIOUS: No. Banks is the architect of record -

21 -

22 CHAIRPERSON HILL: Okay. Are you the applicant?

23 MR. GREVIOUS: -- and I work for Banks.

24 CHAIRPERSON HILL: You work for Banks?

25 MR. GREVIOUS: Yes.

1 CHAIRPERSON HILL: Okay. Is there anything -- is the
2 applicant here, Mr. Grevious?

3 MR. GREVIOUS: No, I don't see -- I don't see that she
4 is -- oh, no, she isn't here, I'm representing her.

5 CHAIRPERSON HILL: Okay. Is there anything in the
6 record that says that you're representing her?

7 MR. GREVIOUS: Yes, we filed a document.

8 CHAIRPERSON HILL: Do you know which exhibit?

9 MR. GREVIOUS: No, offhand I do not.

10 CHAIRPERSON HILL: Okay. Mr. Rice?

11 MR. RICE: I believe the exhibit is Exhibit 4.

12 CHAIRPERSON HILL: Okay. Oh, then I'm sorry. Okay.

13 All right, great, Mr. Grevious. So, Mr. Grevious, you
14 know that we voted to approve this and then there was some
15 testimony that came in after the fact. You're aware of this,
16 correct?

17 MR. GREVIOUS: Yes, I am.

18 CHAIRPERSON HILL: Can you speak to the testimony and
19 what's happened since then?

20 MR. GREVIOUS: Well, since then I have reached out to
21 Ms. Frances Hammett in terms of explaining to her what our
22 situation is with respect to her property, which is adjacent to
23 the project site, and addressed her concerns.

24 CHAIRPERSON HILL: Okay. So she is satisfied?

25 MR. GREVIOUS: Well, she's not here, so I suspect she

1 is.

2 CHAIRPERSON HILL: Okay. And the ANC, what happened
3 at the ANC?

4 MR. GREVIOUS: Well, initially, they gave me their
5 support, but when they filed their letter of support, they
6 withdrew their support and they based that on Mrs. Hammett's
7 letter.

8 CHAIRPERSON HILL: So now is the ANC in support in the
9 fact that Ms. Hammett is now in support? You don't know?

10 MR. GREVIOUS: I don't know.

11 CHAIRPERSON HILL: Mr. Rice, have you -- I'm just trying
12 to make sure I'm clear now because I see the ANC, are they in
13 opposition now?

14 MR. RICE: They appear to be in opposition based upon
15 the lack of a Community Benefits Agreement. If you'll give me
16 one second, I'm going to make sure there's been nothing else
17 entered into the docket.

18 CHAIRPERSON HILL: It was just -- they started talking
19 about the stuff that Ms. Hammett brought up.

20 (Pause.)

21 CHAIRPERSON HILL: I still don't understand --

22 MR. RICE: So the ANC, sir, remains in opposition.
23 Their concerns continue to be related to the Community Benefits
24 Agreement, but they also feel the project is out of character
25 with the area --

1 CHAIRPERSON HILL: Which exhibit --

2 MR. RICE: -- and they basically --

3 CHAIRPERSON HILL: -- are you in, Mr. Rice?

4 MR. RICE: The latest is Exhibit 49, sir.

5 CHAIRPERSON HILL: Yeah, I see all they talk about is
6 the -- and are we -- does this qualify as great weight?

7 (Pause.)

8 CHAIRPERSON HILL: It's not on the form; it doesn't say
9 that they took a vote. I still don't see --

10 MR. RICE: (Audio interference) --

11 CHAIRPERSON HILL: So this doesn't qualify --

12 MR. RICE: It wouldn't qualify as great weight.

13 CHAIRPERSON HILL: It does not?

14 MR. RICE: Yes, sir, that's correct.

15 CHAIRPERSON HILL: Where do you see -- I'm sorry, where
16 do you see that they're in opposition?

17 MR. RICE: It states that the ANC agrees with Ms.
18 Hammett's concerns about (audio interference) development on page
19 1, which supports her petition in opposition. And then I believe
20 --

21 CHAIRPERSON HILL: Okay, all right.

22 MR. RICE: -- there's also a statement that (audio
23 interference) --

24 CHAIRPERSON HILL: We can work that out later. I got
25 you. Okay. I'm sorry to interrupt you, Mr. Rice, it's just a

1 long day.

2 Mr. Jesick, do you have anything you'd like to provide
3 to the Board?

4 MR. JESICK: Thank you, Mr. Chairman, and members of
5 the Board. No, the Office of Planning's position remains the
6 same. We recommended approval of the relief previously and our
7 recommendation stays the same.

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

10 MR. YOUNG: We do not.

11 CHAIRPERSON HILL: Okay. Does the Board have any
12 questions for the Office of Planning or OAG, or Mr. Grevious?

13 VICE CHAIR JOHN: Just one question, Mr. Chairman, of
14 Mr. Grevious. Could you let us know what your discussions were
15 with the applicant? For example, with the neighbor, did you, for
16 example, discuss the fence?

17 MR. GREVIOUS: Excuse me?

18 VICE CHAIR JOHN: Can you let us know what your
19 discussions with the neighbor were? Did you discuss the fence?

20 MR. GREVIOUS: Well, I recently sent a letter to the
21 neighbor by email and expressed that we would not be building a
22 fence.

23 VICE CHAIR JOHN: I see. Okay, thank you.

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

25 CHAIRMAN HOOD: Mr. Chairman --

1 CHAIRPERSON HILL: Oh, Chairman Hood?

2 CHAIRMAN HOOD: -- again -- I do again -- I know we
3 dealt with this previously, but I do again want to mention for
4 the record, this benefits package issue is totally out of the
5 scale -- of the realm of what we're supposed to be deliberating
6 on. Mr. Holmes is a friend of mine, but I understand that we
7 can't deal with community benefits packages, it's totally
8 inappropriate in this situation.

9 So I just wanted to state that for the record. Thank
10 you.

11 CHAIRPERSON HILL: Okay. Thank you, Chairman Hood.

12 All right. Mr. Grevious, do you have anything you'd
13 like to add at the end?

14 MR. GREVIOUS: At this time, no, I do not.

15 CHAIRPERSON HILL: Okay, all right. Then I'm going to
16 close the record and the hearing and excuse everyone but the
17 Board members.

18 Thank you, Mr. Grevious.

19 (Pause.)

20 CHAIRPERSON HILL: Okay. There's nothing new in terms
21 of my feelings about this. I mean, I was comfortable when we
22 first voted in favor of it. I see that there was testimony that
23 Ms. Hammett gave that spoke to a lot of issues that I guess have
24 now been somewhat addressed, or at least some of her concerns -
25 - I guess the main thing was that she didn't have an opportunity

1 to kind of speak with the applicant ahead of time. So I'm still
2 going to rest on the Office of Planning's record and -- I'm sorry
3 -- report and their analysis, and vote to approve.

4 Chairman Hood, would you like to add anything?

5 CHAIRMAN HOOD: Okay, forgive me for today, because I'm
6 going back from screen to screen trying to un-mute my phone, so
7 it makes it -- I mean un-mute the computer, so it makes it --

8 CHAIRPERSON HILL: Take your time, take your time.

9 CHAIRMAN HOOD: Okay. I would just vote again to
10 reaffirm my vote from previously. I think Ms. Hammett's, as you
11 mentioned, has been addressed, and if it hasn't been addressed
12 for the trees issue, I think when you get the building permits
13 and issues like that it will be addressed at the appropriate
14 time. So I will be voting to reaffirm the vote.

15 Thank you, Mr. Chairman.

16 CHAIRPERSON HILL: Thank you.

17 Mr. Smith?

18 BOARD MEMBER SMITH: I second Chairman Hood's comments.
19 I will be voting to reaffirm the vote.

20 CHAIRPERSON HILL: Ms. John?

21 VICE CHAIR JOHN: I would not change my vote based on
22 Ms. Hammett's testimony. I am disappointed that the builder is
23 not agreeing -- the applicant is not agreeing to put up a fence
24 between the two properties and I think a 6-foot fence would be
25 appropriate, but I can otherwise continue to support the

1 application.

2 CHAIRPERSON HILL: Okay, great. And I'll go ahead and
3 make a motion to approve Application Number 20329, as captioned
4 and read by the Secretary, and ask for a second. Ms. John?

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: Mr. Moy, the motion has been made
7 and seconded. If you could take a roll call vote?

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

9 So when I call your name, if you would please respond
10 with a yes, no, or abstain to the motion made by Chairman Hill
11 to approve the application for the relief requested. The motion
12 was seconded by Vice Chair John.

13 Zoning Commission Chair Anthony Hood?

14 CHAIRMAN HOOD: Yes.

15 MR. MOY: Mr. Smith?

16 BOARD MEMBER SMITH: Yes.

17 MR. MOY: Vice Chair John?

18 VICE CHAIR JOHN: Yes.

19 MR. MOY: Was that a yes?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Thank you.

22 Chairman Hill?

23 CHAIRPERSON HILL: Yes.

24 MR. MOY: And we have a Board seat vacant.

25 The staff would record the vote as 4 to 0 to 1. And

1 | this is on the motion made by Chairman Hill to approve, seconded
2 | by Vice Chair John; also in support of the motion is Mr. Smith
3 | and Zoning Commission Chair Anthony Hood.

4 | Motion carried, sir.

5 | CHAIRPERSON HILL: Thank you, Mr. Moy. When you get a
6 | chance, you can call our next one.

7 | (Pause.)

8 | MR. MOY: Okay, this would be Case Application Number
9 | 20394 of Rover Enterprises, LLC.

10 | This is an application for special exception relief
11 | from the rear addition requirements of Subtitle D, Section
12 | 1206.3, and this would construct a three-story rear addition to
13 | an existing attached three-story principal dwelling unit in the
14 | R-20 Zone. It is located at premises 3550 Whitehaven Parkway,
15 | N.W., and it is -- it is -- and it is in Square 1296, Lot 382.

16 | That's it, Mr. Chairman.

17 | CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy.
18 | Mr. Hebard, are you there?

19 | MR. HEBARD: Yes. Good morning.

20 | CHAIRPERSON HILL: Good morning. Could you turn on
21 | your camera for me, Mr. Hebard?

22 | MR. HEBARD: Yes.

23 | CHAIRPERSON HILL: Great, perfect. All right, let's
24 | see, Mr. Hebard.

25 | Okay. So the first thing is there's a 21-day rule and

1 | you have some sun studies, as well as some other items, I guess,
2 | that you're trying to get into the record, correct?

3 | MR. HEBARD: Correct, specifically the sun studies.

4 | CHAIRPERSON HILL: Is it just the sun studies? Or you
5 | also have your PowerPoint presentation, is that -- what else came
6 | in, I guess, after -- oh, just the sun study?

7 | MR. HEBARD: Correct.

8 | CHAIRPERSON HILL: Okay. I don't have any issue
9 | allowing the sun study into the record because I want to see it
10 | and I'm looking at it now. And so, unless the Board has an issue,
11 | I'll go ahead and waive the 21 days and allow the sun study into
12 | the record. So we've gone ahead and done that.

13 | Mr. Herberd (sic) -- Herbard (sic)?

14 | MR. HEBARD: It's pronounced Hebard.

15 | CHAIRPERSON HILL: Hebard. Mr. Hebard, did you
16 | introduce yourself for the record yet?

17 | MR. HEBARD: No.

18 | CHAIRPERSON HILL: Could you please do so?

19 | MR. HEBARD: My name is Brandon Hebard; I'm an architect
20 | with Edge Design Build, representing the applicant, Mr. Allen
21 | Kabiri. I think he's also on the call.

22 | CHAIRPERSON HILL: Okay. Well, we'll see. Are you
23 | going to be presenting to us, though, Mr. Hebard?

24 | MR. HEBARD: I'm prepared to, yes.

25 | CHAIRPERSON HILL: Okay, great. So why don't you go

1 ahead and walk us through your presentation and how you're meeting
2 the standard for us to grant the relief requested. And I'm
3 putting 15 minutes on the clock there, just so I know where we
4 are, and you can begin whenever you like.

5 MR. HEBARD: Okay. Will Mr. Young bring up the
6 presentation?

7 (Pause.)

8 MR. HEBARD: Okay, next slide.

9 (Pause.)

10 MR. HEBARD: The zoning map, I call your attention to
11 the red circle. That's 3550 Whitehaven, it's fronted at
12 Whitehaven Parkway. The property slopes towards the alley, and
13 that's improved with a three-story townhome and existing carriage
14 house in the rear. It's in the R-20 District.

15 Next slide?

16 So this is the existing plat. The property is currently
17 under construction and being improved. You can see the addition
18 in the front. This is currently permitted by DCRA.

19 CHAIRPERSON HILL: Mr. Hebard, can I interrupt one
20 second? I'm kind of looking at some stuff.

21 So your affidavit of maintenance was not filed, but you
22 did file an affidavit of posting, is that correct?

23 MR. HEBARD: We filed the affidavit of posting and we
24 did file an affidavit of maintenance. Perhaps it may have been
25 the incorrect form, but it was submitted to the record, both the

1 affidavit of posting and the affidavit of maintenance, six days
2 before today's meeting.

3 CHAIRPERSON HILL: Okay. So you've maintained the
4 posting in the correct amount of time?

5 MR. HEBARD: Yes, sir.

6 CHAIRPERSON HILL: Okay. I mean, unless the Board has
7 any issues, I'm just going to kind of allow everything to move
8 forward, because I do think that, you know, we have now the ANC
9 report and it seems as though we'll be able to kind of listen to
10 everything.

11 Also, if we need to officially waive the PowerPoint,
12 which is Exhibit 37, as well as the ANC report, which is Exhibit
13 39, into the record, I would go ahead and do so.

14 And unless the Board has any issues with anything I
15 just said, please speak up.

16 All right, Mr. Hebard, you can keep on moving forward.

17 MR. HEBARD: Next slide, please?

18 So this is current conditions. This would be the photo
19 from Whitehaven Parkway. You can see the demolished front wall,
20 which will align with the neighbor to the east, that's the
21 lighter-brick townhome.

22 Next slide?

23 Conditions at the rear. You can see both neighbors to
24 the west and east. The image to the right is taken from the
25 alley. This is the carriage house. You can get a sense for the

1 grade. And in the background is the rear walls of the existing
2 townhomes.

3 Next slide?

4 This is -- so, specifically, the applicant is seeking
5 to extend on the two lower levels 12 feet and on the two upper
6 levels 6 feet. This requires relief to Subtitle D, 1206.3,
7 pursuant to Subtitle D, 5201.

8 Next slide, please?

9 This is the proposed plat. I draw your attention to
10 the red circle, that's the location of the proposed 12-foot
11 addition.

12 As you'll see, the neighbor's home to the west, Lot
13 381, I believe that's 3600 Whitehaven, the addition would not
14 extend beyond the rear wall of that neighbor.

15 To the east is Lot 383, that's 3548. The existing rear
16 wall extends 13 feet beyond. So the proposed addition of 12 feet
17 would extend 25 feet beyond this rear wall and, respectively, 19
18 feet on the upper levels.

19 Next slide?

20 The proposed building section, you can get a sense for
21 how the rear addition steps back from 12 feet to 6 feet at the
22 upper levels. At the second level, there's a walk-out terrace;
23 on the third, a cantilevered deck.

24 Next slide?

25 The proposed rear elevation. You can get a sense for

1 the brick materiality, as well as the lap siding above. We
2 believe this is in harmony with many of the other properties on
3 the block.

4 Next slide?

5 So key points. We do have letters of support from both
6 adjoining neighbors, east and west. We have the Office of
7 Planning report recommending approval.

8 We did meet with the ANC on Monday and there were no
9 public comments, and we did receive their recommendation for
10 special exception. Again, the only relief being requested is
11 from the rear yard setback requirements.

12 Next slide?

13 So this is the proposed -- or, I'm sorry, the sun study.
14 On the left, this would be existing by right, this is currently
15 being constructed at the property, and shown to the right is the
16 massing model, which includes the rear addition.

17 Next slide?

18 So the block is organized east to west, which means the
19 rear of the building faces south, which is favorable. There's a
20 lot of good southern exposure here. So the only real impact
21 would be in the afternoon and evenings. Looking at the top and
22 the bottom, existing against proposed, you can see there's a
23 negligible impact to the available light.

24 Next slide?

25 And, similarly, this is the winter solstice sun study.

1 I think that concludes my presentation. I will be
2 available for any questions.

3 CHAIRPERSON HILL: Okay, great.

4 Does the Board have any questions for the applicant?

5 CHAIRMAN HOOD: Yes, Mr. Chairman.

6 VICE CHAIR JOHN: After --

7 CHAIRMAN HOOD: I'm sorry --

8 VICE CHAIR JOHN: -- after you, Mr. Hood.

9 CHAIRMAN HOOD: Okay. Mr. Herbert (sic) -- how do you
10 pronounce your name? I'm sorry. Did I get that right? Hebard.

11 Okay, Mr. Hebard, on the sun study, the first one, the
12 matter of right versus what's being proposed, it didn't look like
13 it was any difference, at least around the -- of the study, is
14 that a correct assumption?

15 MR. HEBARD: There is a small difference, but, yes,
16 it's very minimal.

17 CHAIRMAN HOOD: Okay. All right, that's all I had, Mr.
18 Chairman.

19 Thank you, Vice Chair.

20 VICE CHAIR JOHN: Thank you. Mr. Hebard, my question
21 goes to the 25-foot depth of the extension on the first floor or
22 is that on the basement? I'm looking at the section drawing,
23 and I want to be sure that it's the basement that extends 25 feet
24 and the -- what I consider to be the first floor is 12 feet beyond
25 the existing house, I believe it's 381? You can correct me.

1 MR. HEBARD: Correct. The 12-foot addition is proposed
2 at both the basement and the main level. And that 25-foot
3 measurement comes from the existing being 13 feet beyond the east
4 neighbor plus the 12-foot addition, to make 25 feet.

5 VICE CHAIR JOHN: But only in the basement, not on the
6 first floor?

7 MR. HEBARD: The addition includes -- the 12-foot
8 addition includes the first floor, the main level. So it would
9 be both the basement and the main floor.

10 VICE CHAIR JOHN: Okay, okay. All right, thank you.

11 CHAIRPERSON HILL: Mr. Smith?

12 BOARD MEMBER SMITH: One additional question and it's
13 along the lines of the sun study that Chairman Hood brought up.

14 So I do recognize that it is fairly negligible, I do
15 see -- I do see changes. My question is, being that the sun
16 study was just uploaded within the 24 hours, has the applicant -
17 - I mean the neighbor to the east that provided a letter of
18 support seen the sun study to know what the impacts would be on
19 the property?

20 MR. HEBARD: So the sun study was not uploaded in the
21 last 24 hours, that's been on ICIS now for close to 14 days. We
22 had the letters of support from both neighbors prior to completing
23 the sun study. The sun study came about because we did receive
24 a comment from the neighbor to the east four houses down. She
25 did not -- or there were no additional comments from the public

1 at our ANC meetings.

2 BOARD MEMBER SMITH: Okay. Thanks for the
3 clarification.

4 CHAIRPERSON HILL: All right. Can I turn to the Office
5 of Planning?

6 (Pause.)

7 CHAIRPERSON HILL: Ms. Thomas, can you hear me? That's
8 okay, take your time.

9 MS. THOMAS: I can't un-mute.

10 CHAIRPERSON HILL: Oh, now we got you.

11 MS. THOMAS: Yeah, I -- okay.

12 CHAIRPERSON HILL: We can hear you.

13 MS. THOMAS: Oh, you can hear me?

14 CHAIRPERSON HILL: Yes.

15 MS. THOMAS: Okay, okay. Yes, the Office of Planning
16 -- Karen Thomas for the Office of Planning and the Office of
17 Planning will stand on the record in support of this application.
18 I'll be happy to take any questions.

19 CHAIRPERSON HILL: Okay, great. Does anybody have any
20 questions for the Office of Planning?

21 Does the applicant have any questions for the Office
22 of Planning?

23 MR. HEBARD: No.

24 CHAIRPERSON HILL: Mr. Young, is there anyone here
25 wishing to testify?

1 MR. YOUNG: We do not.

2 CHAIRPERSON HILL: Okay. Does the Board have any final
3 questions of anybody?

4 Okay. Mr. Hebard, do you have anything you'd like to
5 add at the end?

6 MR. HEBARD: No, sir.

7 CHAIRPERSON HILL: Okay. I'm going to close the hearing
8 and the record, excuse everyone but the Board.

9 (Pause.)

10 CHAIRPERSON HILL: Okay, I can start. I actually didn't
11 have any issues with it. I thought that there was a lot in the
12 record for us to take a look at to kind of analyze. I thought
13 the sun study was very help. I thought that the -- I thought it
14 was an interesting project. I mean, I love to have kind of like
15 that slope and then the long back thing in the back and
16 everything.

17 But, in any case, I think that it meets the standards
18 for which we can grant this with, you know, the -- from 5201.4,
19 as well as the general exception -- sorry, general special
20 exception standards of X 901.2.

21 Also, I would agree with the analysis that was provided
22 by the Office of Planning, as well as the analysis that was
23 provided by the ANC, which is the great weight. And, you know,
24 the chairman has been before us there, Mr. Murphy, Commissioner
25 Murphy, as well as Commissioner Aputa (phonetic).

1 So I'm going to be voting in favor.

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

3 CHAIRMAN HOOD: I don't have anything to add, but I
4 would agree with your comments, Mr. Chairman.

5 CHAIRPERSON HILL: Thank you, Chairman Hood.

6 Mr. Smith?

7 BOARD MEMBER SMITH: I don't have anything to add as
8 well, I agree with your comments.

9 CHAIRPERSON HILL: Thank you, Mr. Smith.

10 Vice Chair John?

11 VICE CHAIR JOHN: I have nothing to add, Mr. Chairman.

12 I --

13 CHAIRPERSON HILL: All right, I'm -- I'm sorry. Thank
14 you, Ms. John.

15 I'm going to make a motion to approve Application
16 Number 20394, as captioned and read by the Secretary, and ask for
17 a second. Ms. John?

18 VICE CHAIR JOHN: Second.

19 CHAIRPERSON HILL: Motion has been made and seconded.

20 Mr. Moy, can you please take a roll call?

21 MR. MOY: All right. When I call your name, if you
22 would please respond with a yes, no, or abstain to the motion
23 made by Chairman Hill to approve the application for the relief
24 being requested? The motion was seconded by Vice Chair John.

25 Zoning Commission Chair Anthony Hood?

1 CHAIRMAN HOOD: Yes, to approve.

2 MR. MOY: Mr. Smith?

3 BOARD MEMBER SMITH: Yes, to approve.

4 MR. MOY: Vice Chair John?

5 VICE CHAIR JOHN: Yes, to approve.

6 MR. MOY: Chairman Hill?

7 CHAIRPERSON HILL: Yes, to approve.

8 MR. MOY: And we have a Board seat vacant.

9 The staff would record the vote as 4 to 0 to 1. And
10 this is on the motion made by Chairman Hill to approve. Motion
11 seconded by Vice Chair John. Also in support of the motion, Mr.
12 Smith and Zoning Commission Chair Anthony Hood.

13 Motion carried, sir.

14 CHAIRPERSON HILL: All right, Mr. Moy. Thank you.

15 All right, we can call our next case whenever you can.

16 MR. MOY: All right. This is Case Application Number
17 20396 of 3315 11th Street Holdings, LLC. This is captioned and
18 advertised for a special exception from the minimum parking
19 requirements of Subtitle C, Section 701.5. This would raise the
20 existing two-story attached principal dwelling unit and construct
21 a new four-story, nine-unit apartment building with cellar and
22 penthouse in the MU-4 Zone.

23 The site, the premises is at 3315 11th Street, N.W.,
24 and it is in Square 2841, Lot 45.

25 Mr. Chairman, there are two letters in opposition that

1 | was submitted to the Zoning Office within that 24-hour deadline,
2 | so it's not in -- currently in the record for you to address.
3 | And there's a waiver by the applicant to allow affidavits that
4 | are not notarized, and I think that's due to the -- our emergency
5 | protocol during the pandemic.

6 | CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

7 | All right. Unless the Board has any opposition to
8 | this, I'd like to see the letters in opposition, so I would go
9 | ahead and waive the 24 hours and allow them into the record.

10 | Mr. Moy, if you could ask the staff to please upload
11 | them into the record so we can take a look.

12 | In terms of the waiver for the notarized affidavit, I
13 | guess, Mr. Kadlecek, are you presenting today?

14 | MR. KADLECEK: Yeah, I'll be presenting partially, as
15 | well as the applicant itself and the architect.

16 | CHAIRPERSON HILL: Okay. If you could please
17 | introduce yourself for the record.

18 | MR. KADLECEK: Sure. Hi. Good morning, Mr. Hill and
19 | members of the Board. I'm Cary Kadlecek from the law firm of
20 | Goulston & Storrs on behalf of the applicant.

21 | CHAIRPERSON HILL: Okay, Mr. Kadlecek, is this your
22 | first time with us since COVID? No, you've been here before?

23 | MR. KADLECEK: I think only once before since COVID.

24 | CHAIRPERSON HILL: All right. Okay. Well, there you
25 | go.

1 All right. Well, good to see you. Welcome back.

2 Commissioner, do you want to introduce yourself for
3 the record.

4 MR. WRAY: Good morning, Chairman, and members of the
5 Board. My name is Michael Wray. I'm with ANC 1A.

6 CHAIRPERSON HILL: Okay. And who else is with you
7 here, Mr. Kadlecek?

8 MR. KADLECEK: I also have Brian Athey, who's the
9 applicant, and Adam Crain, who's the project architect.

10 CHAIRPERSON HILL: Okay. Who's Ms. Sheehan?

11 MR. KADLECEK: She's my colleague.

12 CHAIRPERSON HILL: Okay. Great.

13 All right. Well, let's get everybody introduced, why
14 not. Ms. Sheehan, can you go ahead and introduce yourself for
15 the record.

16 MS. SHEEHAN: Yes. My name is Lee Sheehan, and I'm a
17 colleague with Cary Kadlecek.

18 CHAIRPERSON HILL: Okay. And Mr. Athey?

19 MR. ATHEY: Yes, this is Brian Athey. I'm the
20 president of the entity that's the applicant.

21 CHAIRPERSON HILL: Okay. Mr. Athey.

22 And Mr. Crain?

23 MR. CRAIN: Hello. My name is Adam Crain. I'm the
24 project architect from 2Plys.

25 CHAIRPERSON HILL: Okay. Mr. Kadlecek, I'll go ahead

1 -- oh, can you tell me about why you need a waiver from the
2 notarized affidavit?

3 MR. KADLECEK: As Mr. Moy mentioned, because of the
4 pandemic, and the inability to get things notarized in person.
5 As you've probably been aware, we and other applicants have
6 been requesting a waiver of that to submit posting affidavits
7 without notarize.

8 CHAIRPERSON HILL: Okay. All right.

9 Does the Board have any issues with this? I do not.
10 I'll go ahead and waive that unless folks might have raised
11 their hand. No, all right. Fine.

12 So, okay, Mr. Kadlecek, you can go ahead and begin
13 your presentation whenever you'd like. I got 15 minutes on the
14 clock just I know where we are.

15 MR. KADLECEK: Great. Good morning, again, Chairman
16 Hill, Members of the Board. Again, for the record, my name is
17 Cary Kadlecek. I'm here representing the applicant in this
18 case.

19 We are here today for the proposed project located at
20 3315 11th Street NW, which is located in the Columbia Heights
21 neighborhood. The proposed project is a nine-unit, residential
22 building that has opted into inclusionary zoning and will
23 provide one affordable unit.

24 Our application requests special exception approval,
25 pursuant to relief from the requirement for one parking space.

1 As discussed in our filings, the minimum parking
2 requirement of one space cannot be met, due to the physical
3 constraints of the property. The property is very narrow with
4 neither an existing curb cut at the front, nor alley access at
5 the rear. Fortunately, the property is well-positioned for
6 walkability and numerous transit options nearby.

7 The applicant has also agreed to a transportation
8 demand management plan reviewed and approved by DDOT and has
9 leased one offsite parking space nearby. We are pleased to
10 have the support of ANC 1A, which has conditioned its support
11 on the applicant leasing one offsite space to which the
12 applicant has agreed and, in fact, has already done. Their
13 report is found at Exhibit 29 in the record.

14 In addition to the ANC support, the applicant is
15 pleased to have the support of both the Office of Planning and
16 DDOT with their written reports, found at Exhibits 33 and 34 in
17 the record.

18 With that, I will turn it over to Mr. Crain to give
19 you a brief overview of the project, itself, and then Mr. Athey
20 will give you a little bit more background.

21 MR. CRAIN: Thank you, everyone for having me.
22 Are we able to pull up the drawings?

23 CHAIRPERSON HILL: Which exhibit do you want, Mr.
24 Crain?

25 MR. CRAIN: It looks like we've got it pulled up

1 here.

2 CHAIRPERSON HILL: Or which exhibit are they for our
3 benefit, do you know?

4 MR. CRAIN: That would be Exhibit 11.

5 CHAIRPERSON HILL: There we go.

6 MR. CRAIN: Go to the next slide, please. The second
7 page. Here we go.

8 So, the subject property is on the east side of the
9 Columbia Heights neighborhood and abutting up against Parkview
10 and 11th Street Northwest. Kind of in a commercial district
11 surrounded by restaurants. As our attorney mentioned, it's a
12 very walkable area.

13 Next slide, please.

14 Kind of zoom in on the context of this block, you'll
15 see 11th Street Northwest on the plan is south, but that's
16 actually west. That's got a bus route on it. Sherman Avenue,
17 on the backside of the lot, that also has a bus route. 11th
18 Street Northwest in front has bike lanes going both north and
19 south on both sides.

20 Next slide, please.

21 This is a 3-D rendering showing the proposed
22 building. I should mention that we are proposing a raze of the
23 existing building and this will be an entirely new structure in
24 its place.

25 Next slide.

1 This shows a site plan of it and also how it relates
2 to the two adjacent properties. The larger one on the right-
3 hand side, that's the El Chucho Restaurant. On the left-hand
4 side is a two-level, existing single-family property.

5 As you see these circular cutouts, that property has
6 two existing chimneys. In respect and response to those, we
7 have kind of carved the required cutouts to keep a 10-foot
8 radius clear of those two chimneys. That's kind of what
9 informed and drove the building massing, which does seem a bit
10 irregular, but, you know, we've had to make some adjustments
11 due to that.

12 We are proposing a bay window and public space which
13 will be submitted in the (audio interference) for DDOT. On
14 this site plan, you can see that there's a three-foot easement
15 at the rear, which is pedestrian, kind of a pedestrian trash
16 alley, obviously, too small for a car, but there is access
17 through that three-foot walkway from the rear for trash.

18 Next slide, please.

19 This is an overview of the floor plans of the entire
20 building. We've got the cellar plus four levels, plus
21 penthouse. We are opting into the IZ program. The thought
22 behind this is, you know, we've got these significant cutouts
23 due to the chimney adjacent, so we're making up for some of
24 that space with the 75 percent lot occupancy that the MU-4 Zone
25 allows as IZ versus 60 percent.

1 While we are using that lot occupancy, I do want to
2 point out in the gross square footage FAR, the IZ bonus allows
3 this zone to go up to 3.0 FAR. We are only going up to 2.63.
4 So, rather than using the extra 0.5 of FAR with that bonus, we
5 are only using 1.3. With are paying into the housing fund to
6 achieve the penthouse space.

7 CHAIRPERSON HILL: Mr. Crain, why aren't you using
8 all of the bonus?

9 MR. CRAIN: Actually, with the chimney cutouts, we
10 literally can't. The physical restraints prevent us.

11 CHAIRPERSON HILL: Okay.

12 MR. CRAIN: So, the IZ unit we are proposing is unit
13 4 which is at the rear of the first floor. We do have the
14 zoning-required bike parking on the cellar level and it's
15 really two units per floor, then we have multilevel units on
16 the fourth floor and penthouse, as shown.

17 Next slide.

18 These are just more detailed plans if you care to
19 view some of the bedroom/bathroom layouts. The units are one-
20 bedroom or studios.

21 Next slide. Can we go to the next slide, please.

22 Third and fourth floor, we start getting into the
23 multilevel units. These would have multiple bedrooms.

24 Please go to the next slide.

25 This just shows the upper-most level, the penthouse,

1 that'll have roof terraces within the required setbacks.

2 If you go to the next slide, these are the last two
3 pages that just show the elevations. This shows the outline of
4 the existing building, the one that does have the chimneys and
5 kind of the cutout that we have with roof decks in those
6 chimney cutouts.

7 The next slide, it'll be the last one showing the
8 remaining elevations, looking from kind of the El Chucho side
9 looking north.

10 So, I'm happy to answer any questions --

11 CHAIRPERSON HILL: Okay.

12 MR. CRAIN: -- or we can discuss neighbor outreach.

13 CHAIRPERSON HILL: Mr. Kadlecek, I'm sorry, I didn't
14 mean to interrupt you.

15 Who's next or are you guys done?

16 MR. KADLECEK: Mr. Athey.

17 MR. ATHEY: Yeah, good morning. I'm happy -- you
18 know, as noted before, I am Brian Athey. I am representing the
19 applicant and I am happy to answer any questions, talk about
20 neighbor outreach.

21 You know, as Adam noted, we have the 10-foot cutouts
22 on one side of the building. We have reached out to that
23 neighbor several times, spoken to both, Ms. Gilliam and her
24 daughter and, you know, she just doesn't want us to touch her
25 roof, so that's why we're doing that.

1 And then on the other side, Norm Veenstra is one of
2 the owners of that building. I've known Norm, you know,
3 through the development community for, I don't know, maybe 10
4 years, 5 or 10 years, and so I've talked to him at length, too.
5 So, they both know about the project, obviously are well-
6 informed.

7 And then, we are, you know, as Cary mentioned,
8 pleased to have ANC support. We went through the process, of
9 course, and in any event. I'm happy to answer any questions
10 that you may have.

11 CHAIRPERSON HILL: Okay. Great.

12 MR. KADLECEK: That concludes our presentation, so
13 we're open to questions now.

14 CHAIRPERSON HILL: Okay. Great. Give me one second.

15 Let's see. Does the Board have any questions for the
16 applicant?

17 CHAIRMAN HOOD: Yes.

18 VICE CHAIR JOHN: So --

19 CHAIRMAN HOOD: Go ahead, Vice Chair.

20 VICE CHAIR JOHN: So, I believe there's some
21 conditions by DDOT. Do you have any comments on that?

22 MR. KADLECEK: No, we're in agreement with that.
23 That's the TDM plan that we agreed to with DDOT.

24 VICE CHAIR JOHN: Okay. And what about the ANC's
25 concerns; they're in Exhibit 29.

1 MR. KADLECEK: They are conditioned with respect to
2 offsite parking. Yeah, we agreed to that condition, as well.
3 That was a condition that the ANC supported and as we
4 mentioned, that space has already been leased and we are
5 committing to continue leasing an offsite space.

6 MR. ATHEY: It's actually a multiple-year lease, just
7 to give you a little bit more information. We actually leased
8 that before with the BZA process, you know, and so it's been in
9 place for several months.

10 VICE CHAIR JOHN: Okay. Thank you.

11 MR. ATHEY: Thank you.

12 CHAIRPERSON HILL: Okay. Does anyone else have
13 questions for the applicant at this time?

14 CHAIRMAN HOOD: Mr. Chairman, I have a question for
15 Mr. Crain.

16 Mr. Crain, why is the IZ unit -- why not make the IZ
17 unit on the top? Why is the IZ unit placed where it is?

18 MR. CRAIN: It's, I guess, it's really for ease of
19 access from the first floor and because that unit exceeds the
20 minimum required size.

21 CHAIRMAN HOOD: Is that the only reason it's placed
22 there?

23 MR. CRAIN: I don't know. I'm not sure that's the
24 only reason, but it's for convenience.

25 Is there an issue that exists with not choosing

1 another unit?

2 CHAIRMAN HOOD: Well, most of the time, IZ units
3 usually get the most, less desirable. And I understand
4 fundamentally from a finance issue why it's probably there, but
5 why don't we look and try to place the IZ unit elsewhere. I'm
6 not understanding why it is where it is, in the back on the
7 lower level.

8 MR. ATHEY: It's on the -- but it's not below grade,
9 so I don't think it's any -- it's not an undesirable unit by
10 any stretch, I don't think.

11 MR. CRAIN: I would actually argue that it is a
12 little more desirable in the fact that it is one of the few
13 units that has direct access to green space in the rear yard.
14 Additionally, it is one of the few units that has outdoor
15 space. So it's got a terrace at the rear, whereas none of the
16 cellar units do, the unit at the first floor of the front, or
17 units 6 and 7 on the second floor do. So, they'll have a nice
18 outdoor space, whereas some of the units above do not.

19 CHAIRMAN HOOD: So, it's your testimony that it's not
20 where it's located because it's an IZ unit; it also brings in
21 an amenity to the location of where it's positioned now.
22 That's your testimony?

23 MR. CRAIN: It was chosen because it meets the
24 requirements, but one of the added benefits of the location,
25 the unit that we've chosen is that it has an outdoor space.

1 CHAIRMAN HOOD: Okay. Thank you.

2 And I will be looking forward to having a dialogue
3 with Commissioner Wray, as well.

4 Thank you, Mr. Chairman.

5 CHAIRPERSON HILL: Okay. Anyone else?

6 (Negative head shake.)

7 CHAIRPERSON HILL: I guess, Mr. Athey?

8 MR. ATHEY: Yes?

9 CHAIRPERSON HILL: Right. So, you guys couldn't get
10 them to move the chimney? You guys couldn't agree to move the
11 chimney?

12 MR. ATHEY: We tried. That's why I think we should
13 have legislation that codifies a cost that you pay a neighbor
14 to do it.

15 No, we couldn't do it. So now we have this cutout in
16 the building.

17 CHAIRPERSON HILL: Right. Okay. Fascinating. All
18 right.

19 MR. ATHEY: It's a real problem in the city, in my
20 view, but we could address that another day.

21 CHAIRPERSON HILL: Sure. Well, I don't have anything
22 to say about it, so ... well, I shouldn't say that. I can
23 testify just like you.

24 MR. ATHEY: Yeah, that's right.

25 CHAIRPERSON HILL: So, Commissioner Wray, could you

1 please give us your testimony.

2 MR. WRAY: Good morning, everyone. As has already
3 been stated, the ANC is in support, provided the condition that
4 the applicant continues to lease a space somewhere in the
5 neighborhood that will be accessible to one of the tenants of
6 this nine-unit building.

7 We did hear, you know, from the community. I've also
8 read the letters in opposition and most of them address the
9 parking, which we feel this is a sound mitigation, especially
10 when added with the DDOT requirements for additional bicycle
11 parking.

12 A number of neighbors, just to put it on the
13 record --

14 CHAIRPERSON HILL: Can everybody mute their line if
15 they're not talking.

16 I'm sorry, Commissioner, I'm just getting some
17 background noise. Okay. Go ahead, Commissioner.

18 MR. WRAY: Okay. Thank you.

19 A number of the other issues that we often here and
20 I've seen in the letters deals with the height of the building,
21 and so just so it's on the record, the ANC understands that the
22 height of the building is not part of the relief that is being
23 requested; in fact, it is by-right by the regulation as a
24 treatment for the MU-4 zone. So, we did not try to address
25 height issues at the ANC.

1 I did want to try and clarify, and I'm still not sure
2 it's clear to me here that the IZ unit is, in fact, being
3 provided. We read the Office of Planning report and it
4 mentions a \$33,000 payment. Maybe that's only for the
5 penthouse portion, but I do want to make sure that it's clear
6 today, because the ANC is very -- we very much want to see the
7 IZ unit actually be provided.

8 MR. ATHEY: We're doing both.

9 MR. WRAY: Okay. You are doing both.

10 MR. ATHEY: Yes.

11 MR. WRAY: That clarifies that point.

12 MR. ATHEY: It's very crystal -- yes, absolutely.

13 MR. WRAY: Okay. Perfect. I really appreciate that
14 because it was important to us and I will be curious to talk to
15 the Chairman Hill -- or Hood, sorry, about the placement. We
16 did discuss the placement being on the first floor and its
17 sizing and its position. You know, we are cognizant that we
18 don't want it to be in the basement or in a lesser-desirable
19 location, but if there's something in particular, I'm happy to
20 talk to that, but that's my testimony. Thank you.

21 CHAIRPERSON HILL: Okay. Does the Board have any
22 questions for the commissioner?

23 CHAIRMAN HOOD: Yes, Mr. Chairman.

24 Commissioner Wray, thank you for taking your time,
25 again, as always, to come in and testify. We appreciate it.

1 Chairperson Boese, I want to make sure I didn't miss
2 -- I read his submission. I want to make sure that his issue
3 is on the radar, his letter. I know he has mentioned it to the
4 ZC before, but could you expound on that again, because I want
5 to make sure that the ZC, that we don't miss it, and what he
6 wrote in his letter in this case.

7 MR. WRAY: Sure. Sure. And I signed onto that
8 letter, in fact, I wrote that letter. So, the concern when we
9 read the OP report, it was not clear to us that the first floor
10 IZ unit was actually going to be provided. We thought that the
11 payment was in lieu of that IZ unit and we would be very much
12 upset to have heard that that was the case.

13 So, that was our confusion, based on the OP -- the
14 wording of the OP report, I just didn't know that.

15 CHAIRMAN HOOD: Okay. So, I think that -- I want to
16 make sure that we didn't have anything outstanding for our
17 Chairperson Boese and yourself.

18 Let me ask you, the positioning of the (audio
19 interference) from the penthouse as well as the IZ unit, that
20 gives me a little better comfort level, but how do you feel
21 about the positioning of the -- knowing that they're doing
22 both, how do you feel about the positioning of the IZ unit?

23 MR. WRAY: I think it's probably good. The one
24 concern that we did talk about was trash, because where they
25 have to store the trash between pickups is likely going to be

1 | in that back area and that balcony would sort of overlook that.
2 | So, there was some discussion about opening, freeing up some
3 | more space in the back by moving some of the AC compressor
4 | units so that the trash could be, you know, stored maybe
5 | underneath and out of the way so that it wasn't an eyesore for
6 | the people that would be living on that first-floor balcony.

7 | That balcony looks out over the community garden, so
8 | it's actually, even though it's an alley space, it's a very
9 | nice alley to look out to. So, overall, I don't see it as
10 | being a detrimental position for this unit.

11 | CHAIRMAN HOOD: Okay. All right. Thank you.
12 | Commissioner Wray for all of your comments. It gives me a
13 | comfort level, especially if you endorse it. I greatly
14 | appreciate it. Thank you.

15 | MR. WRAY: Thank you.

16 | I may need to drop off from the call, so I appreciate
17 | the time, everyone.

18 | MR. ATHEY: Thank you, Commissioner Wray.

19 | CHAIRPERSON HILL: Thanks, Commissioner.

20 | Okay. Let's see. Did I turn to the Office of
21 | Planning?

22 | MS. BROWN-ROBERTS: Good morning, Chairman and
23 | members of the BZA. This is Maxine Brown-Roberts from the
24 | Office of Planning on BZA Case 20396.

25 | The request of special exception relief is for

1 parking, from the parking requirements of Subtitle C 701.15,
2 where one parking space is required and the request has
3 provided none. Pursuant to Subtitle C 703.2, in which a
4 proposal has to meet at least one of the conditions. Our report
5 outlines that the proposal meets more one of these
6 requirements.

7 The main factor is that the property does not abut an
8 alley to allow parking spaces to be accessed from the rear.
9 The property is 17 feet wide and if the parking space were to
10 be accessed from the street, a 12-foot-wide driveway would have
11 to be provided, leaving only 5 feet for the building. This
12 driveway would also require a curb cut off of 11th Street,
13 which would have to be approved by DDOT. Therefore, due to the
14 physical constraints of the property, it is not possible to
15 locate the required one parking space of the property.

16 To mitigate this provision of the required on-site
17 space, the applicant has secured one offsite space to serve the
18 development and this space would be within walking distance of
19 the property. The property is also serviced by a number of
20 buses and the Columbia Heights Metro Station.

21 The proposal also meets the general special exception
22 requirement of Subtitle X 901.2, in that the intent of the
23 zoning regulation is that all required parking is provided on-
24 site so as not to impact traffic and pedestrian movements;
25 however, if parking cannot be located on the site, then

1 Subtitle C 703.2 cites another set of requirements to mitigate
2 the provision of the on-site parking.

3 And as demonstrated, the proposal would meet many of
4 the requirements. Not providing one parking space on the site
5 would not affect the use of neighborhood properties; rather,
6 because this site does not have an alley access, on-site
7 parking would be accessed from the street, which would
8 adversely affect street parking and pedestrian movements on the
9 sidewalk. The Office of Planning, therefore, recommends
10 approval of the requested special exception.

11 Also, Mr. Chairman, just to address the IZ unit, just
12 to clarify that one IZ unit is required for the nine-unit, and
13 that has been provided, and then the additional IZ requirement
14 for the penthouse is being provided as a donation, so that's
15 the two differences in meeting their IZ requirements.

16 So, thank you, Mr. Chairman, and I'm available for
17 questions.

18 CHAIRPERSON HILL: Okay.

19 VICE CHAIR JOHN: Yes. And now I am confused. So,
20 was the IZ unit provided because of the requirement to provide
21 an IZ unit for every fifth unit or fourth unit or was it to get
22 the additional FAR?

23 MS. BROWN-ROBERTS: In addition to using the
24 additional FAR, then they had to provide an IZ unit to go with
25 that. So, that is how they are providing for that IZ unit.

1 | Then they are doing the penthouse, because it's a livable space
2 | in it, then they also have to provide either provide (audio
3 | interference) on-site or they can make a donation. In this
4 | case, they have opted to make a donation.

5 | VICE CHAIR JOHN: So, are they getting credit for the
6 | IZ unit twice, in addition?

7 | MS. BROWN-ROBERTS: No. So, it's one for the unit
8 | and then -- because they're getting an additional FAR, so
9 | that's one. And then the second one is because they're
10 | occupying the penthouse. So, they're not, you know, doing just
11 | one thing; they're addressing both.

12 | VICE CHAIR JOHN: Forgive me. So, in the MU-4 zone,
13 | there's no requirement to have an additional IZ unit for each
14 | fourth apartment, right?

15 | MS. BROWN-ROBERTS: No. It's for the additional FAR
16 | that they're getting.

17 | VICE CHAIR JOHN: All right. Thank you.

18 | CHAIRPERSON HILL: Okay. Ms. Brown-Roberts, the only
19 | question I had, and maybe even the developer will be able to
20 | answer this. So, like, that court that got cut out because of
21 | the chimney, like, if the property next door that doesn't want
22 | to remove the chimney right now, years later, builds up to the
23 | same height, there's just this weird now interior court, right?

24 | MS. BROWN-ROBERTS: Yes.

25 | CHAIRPERSON HILL: (Audio interference) is nodding

1 his head and everybody is nodding their head.

2 MR. CRAIN: Yes.

3 CHAIRPERSON HILL: And that court, then, would be
4 compliant? Like, it would be an approved court?

5 MR. CRAIN: Yes, it would be, because it's not used
6 for egress; it's basically a terrace or a balcony. It's just
7 now has a wall on one side.

8 MR. ATHEY: It's akin to like a deck feature.

9 MR. CRAIN: Right.

10 CHAIRPERSON HILL: That's just crazy.

11 MR. ATHEY: We've got to follow New York and codify
12 chimney extensions so these things don't happen.

13 CHAIRPERSON HILL: When you say codify chimney
14 extensions, what are you talking about?

15 MR. ATHEY: Well, what I'm saying is some
16 municipalities have regulations in place that say, hey, if
17 somebody is building up above you, that in exchange for you
18 agreeing to do their chimney extension, you're paid a fee, you
19 know, a fee for like every linear foot of the extension, right,
20 so that there's not this, like, standoff between neighbors
21 about either party-wall issues or chimney extension issues.

22 CHAIRPERSON HILL: But then the chimney extension,
23 you're saying -- and I love it -- you had to mention New York,
24 right, like we're the dumb people. So, like --

25 MR. ATHEY: I didn't say that. I'm way partial to

1 Washington over New York.

2 CHAIRPERSON HILL: I'm just making a joke. It's a
3 long day.

4 MR. ATHEY: Yeah.

5 CHAIRPERSON HILL: So, the chimney goes all the way
6 up, then?

7 MR. ATHEY: In that case, you know, we're required to
8 extend the chimneys either two or three feet above the
9 roofline, so I always forget which of the two. So --

10 CHAIRPERSON HILL: There would be this crazy chimney
11 going all the way up above your building?

12 MR. ATHEY: It's not a chimney. Usually, it's like a
13 metal -- it's sort of a metal tube that takes the gas, you
14 know, up along. By the way, it is all over the city because of
15 this requirement, now. Now you'll start noticing them when you
16 drive around.

17 CHAIRPERSON HILL: In D.C.?

18 MR. ATHEY: Yeah. That's where neighbors actually
19 agree to these chimney extensions.

20 CHAIRPERSON HILL: Yeah, but I haven't seen them
21 going up that high.

22 MR. ATHEY: You'll see them now that we're talking
23 about them, I'm telling you.

24 CHAIRPERSON HILL: Going up that high?

25 MR. ATHEY: Sure. They have to.

1 CHAIRPERSON HILL: No, no, that's interesting. Okay.
2 I understand. I didn't realize they went up that high and
3 nobody agreed to it.

4 You tried, obviously, and you really tried,
5 obviously.

6 MR. ATHEY: Tried hard and tried with some money
7 behind it.

8 CHAIRPERSON HILL: That's the only way to try.

9 MR. ATHEY: Yeah.

10 CHAIRPERSON HILL: What, did you write a really sweet
11 note and say, Come on.

12 MR. ATHEY: You try that first and then ...

13 (Laughter.)

14 CHAIRPERSON HILL: Okay. All right. So, does
15 anybody have any questions?

16 (Negative head shake.)

17 CHAIRPERSON HILL: No?

18 All right. Mr. Young, is there somebody here wishing
19 to testify?

20 MR. YOUNG: Yeah, we have two individuals. One is
21 calling in by phone, so I'll wait for them to go second and
22 then I'll remove them.

23 CHAIRPERSON HILL: Okay. Great.

24 Is it Mr. Linn?

25 MR. LINN: That is correct, sir.

1 CHAIRPERSON HILL: Can you hear me?

2 MR. LINN: I can.

3 CHAIRPERSON HILL: Okay. Could you introduce --

4 MR. LINN: Can you hear me?

5 CHAIRPERSON HILL: Yes, I can, thank you.

6 Could you introduce yourself for the record?

7 MR. LINN: Sure. My name is Chris Linn, spelled L-i-
8 n-n. I live at 3325 11th Street. I am one of the two late
9 letter submissions that came in over the last 24 hours that I
10 think Mr. Chairman you said you would allow to be included in
11 the record here.

12 CHAIRPERSON HILL: Yep.

13 All right. Mr. Linn, go ahead and give your
14 testimony. You'll have three minutes to give your testimony
15 and you can begin whenever you'd like. I'm just looking up
16 your letter.

17 MR. LINN: Okay. I appreciate it.

18 So, I think in summary here, the ANC got a little
19 ahead of themselves and we have a proactive developer here who
20 reached out and kind of addressed this back in the fall and the
21 full ANC heard it at their January meeting, I believe. But the
22 neighbors didn't know what was going on because the placard
23 wasn't up, which it isn't required to be legally, I guess, but
24 we had not gotten the letter yet either.

25 So, in summary, the issues are something that

1 Commissioner Wray actually alluded to, and it sounds like it
2 might have been discussed, which is the issue of garbage in the
3 rear of the building. You know, I don't care if there's a
4 parking space for an actual car or not; the lot is kind of
5 landlocked there, so it would be pretty impossible to do it and
6 the lot, you know, currently doesn't have a parking space now.

7 It used to be a yoga studio, but going from a yoga
8 studio to a building with 11 apartments in it with the amount
9 of garbage it's going to produce, I don't think the current
10 design, from what I can see, accommodates space for the amount
11 of trash the building is going to produce, because it appears
12 they put the HVAC units below grade, where a parking space, you
13 know, would probably go normally if the lot were conducive to
14 actually putting it. So, my issue is not with a parking space
15 for a car; my issue is that the parking space is where the
16 garbage would go, essentially, and without that space, it
17 pushes more garbage onto the alley. There's a couple of
18 restaurants and a grocery store there, so the rodent population
19 is very familiar with that corner of the alley and as an
20 adjacent neighbor here who has a balcony in the back and
21 probably people in that property will, as well, I want to raise
22 the issue of how the trash will be managed, given the increased
23 number of residents that will likely be occupying that space.

24 I think that's all I've got. I'll give you another
25 minute back so you can move forward with this.

1 CHAIRPERSON HILL: Okay. Thank you, Mr. Linn, for
2 your testimony.

3 Does the Board have any questions for Mr. Linn?
4 (Negative head shake.)

5 CHAIRPERSON HILL: Does the applicant have any
6 questions for Mr. Linn?

7 MR. ATHEY: No.

8 CHAIRPERSON HILL: All right. Mr. Linn, thank you
9 very much for your testimony.

10 MR. LINN: My pleasure.

11 CHAIRPERSON HILL: Mr. Young, can you bring up the
12 person who's trying to speak on the telephone and could you
13 excuse Mr. Linn.

14 MR. YOUNG: Yes. So, this is Mr. Palmer and I'll
15 unmute him now.

16 MR. PALMER: Hello?

17 CHAIRPERSON HILL: Mr. Palmer, can you hear me?

18 MR. PALMER: Yes, I can hear you.

19 CHAIRPERSON HILL: Could you introduce yourself for
20 the record, please.

21 MR. PALMER: My name is Cleve Palmer and I live at
22 1031 Lamont Street and I stand in opposition to the zoning
23 parking waiver for the building located at 3315 11th Street
24 Northwest. Currently, I'm at 3317. My neighbor, who's also in
25 opposition to -- she won't be testifying, presenting -- but

1 she's also in opposition to the waiver.

2 Do you want me to go ahead with my presentation or
3 it's more than three minutes.

4 CHAIRPERSON HILL: Yes, please, go ahead.

5 MR. PALMER: Okay. Now, let me add something to what
6 the gentleman just said a minute ago about the rat situation.
7 At my -- at 1031 11th Street, my backyard abuts the alley, it's
8 next to the alley, okay. Now, I have had a problem with rats
9 even before this building goes up because the restaurant next
10 to the building has a rat problem. I would park my car in the
11 back in the upper level by my yard and I had to move it because
12 the rats would eat the wires in my car, and I had to get that
13 repaired.

14 Also, I had a garden at the lower level. There's two
15 levels to my backyard. And I started a garden last year -- two
16 plots, I had to move it because the rats would eat my
17 vegetables there and I moved it around to the front.

18 Now, there would be a tremendous rat problem.
19 There's already a tremendous rat problem as it stands right now
20 and if you add nine additional dwelling units, it's just going
21 to exacerbate that, okay.

22 The second point that you've already talked to about
23 having offsite parking to address the issue of the one parking
24 space that's required on-site, to me it makes no sense to give
25 a -- if you give a waiver for the parking situation when

1 | somebody is renting a space, there's no guarantee that that
2 | space will be rented for as long as the building stands there.
3 | The Zoning Commission will not be monitoring on an annual
4 | basis, whether or not there is an arrangement between the
5 | occupants of the building, the owners of the building, and the
6 | rental, where they're renting the space from. At any point,
7 | they could stop renting the space or if the property changes
8 | ownership, they don't have to agree to an arrangement with a
9 | parking company for a space. In the event the parking company
10 | closes their parking development and build something else on
11 | that block, then there's no space available.

12 | There's too much of a concession to have an offsite
13 | parking arrangement as a way of getting around, having the
14 | requirement for one parking space on the property. So, to me,
15 | that doesn't make any sense. It's just like giving away the
16 | store, to me.

17 | Okay. Let me move on. I have lived at my current
18 | address for 44 years and have seen that on-street parking
19 | situation deteriorate as the population densely increased in
20 | the area. The zoning statutes as they currently stand have
21 | been inadequate to stem the increasing (audio interference)
22 | parking congestion in our community. So it makes no sense to
23 | waive those standards when such actions only intensifies the
24 | parking problem that our residents are currently facing. Such
25 | actions are clearly in the interest of property investors and

1 not in the interest of the community residents whose interests
2 such statutes are written to serve.

3 Let me give you an idea about what's happening along
4 that area, in the meeting area of the building. I had
5 exhibits, but one of the things we've already talked about, I
6 had a picture of the front of the building. You see that the
7 building is pretty narrow. I was very surprised that they are
8 going to try to get nine units in that building.

9 CHAIRPERSON HILL: Mr. Palmer?

10 MR. PALMER: Yes?

11 CHAIRPERSON HILL: I just want to let you know -- and
12 I'm not trying to -- I just need you to kind of wrap it up just
13 a little bit. You were allowed three minutes and you've got
14 four or so, which is fine. I just want to let you know --

15 MR. PALMER: Sir, three minutes is not enough time.
16 Now, you gave the investors as long as they want. But the main
17 thing, I understand how this works. We don't get much time --

18 CHAIRPERSON HILL: Mr. Palmer, I'm --

19 MR. PALMER: I understand. I understand. I
20 understand.

21 CHAIRPERSON HILL: I'm not trying to cut you off.
22 I'm just trying to tell you it's the regulations. It's not me.

23 MR. PALMER: The regulations are screwed up if
24 anybody in opposition gets three minutes.

25 CHAIRPERSON HILL: Everybody gets three minutes.

1 MR. PALMER: Yeah, everybody gets three minutes.
2 Some people may have more to say than others.

3 CHAIRPERSON HILL: Okay.

4 MR. PALMER: But I can understand how this works.
5 Let me make the main point that I want to make.

6 CHAIRPERSON HILL: Okay.

7 MR. PALMER: With the 9 of 20 units that you appear
8 to be about to approve, you take those 9 and you add up what's
9 under construction on 11th Street and around the corner on
10 either proposed or on construction you have 64 new dwelling
11 units that are going to come online, okay --

12 CHAIRPERSON HILL: Okay. But Mr. Palmer, this is
13 just about this one application.

14 MR. PALMER: I know that. I'm saying, to me, isn't
15 the zoning regulations supposed to control the congestion in
16 the area?

17 CHAIRPERSON HILL: We look at each application on its
18 own.

19 MR. PALMER: I know that. But I'm saying, isn't the
20 point of the zoning statutes is to --

21 CHAIRPERSON HILL: Mr. Palmer --

22 MR. PALMER: I'm just trying to get to understand why
23 I would testify, because if it's not about congestion in the
24 area, then I have nothing to say.

25 CHAIRPERSON HILL: Mr. Palmer, I'm going to give you

1 another minute to wrap up, so go ahead and make your --

2 MR. PALMER: Can you answer that question, is it
3 about --

4 CHAIRPERSON HILL: Mr. Palmer, I'm not here to get
5 yelled at by you and I appreciate --

6 MR. PALMER: Okay then. Can you please answer my
7 question? Isn't the statute supposed to limit congestion in
8 the area by providing some on-site parking?

9 CHAIRPERSON HILL: Mr. Palmer, we're here because
10 this one applicant is requesting for one less parking space.

11 MR. PALMER: I know. I understand that.

12 CHAIRPERSON HILL: But that's all we're here for.

13 MR. PALMER: I know that, but I'm trying to get an
14 idea of what the purpose of the statute is.

15 CHAIRPERSON HILL: If you want to look at the Office
16 of Planning's report, which is in the exhibit --

17 MR. PALMER: You can't tell me -- I'm testifying at a
18 zoning adjustment statute hearing and you cannot tell me what
19 the purpose of the statutes are for?

20 CHAIRPERSON HILL: Mr. Palmer, I'm going to give you
21 another minute to wrap up.

22 MR. PALMER: Okay, then. My whole thing is this,
23 that the purpose of the zoning statutes is to limit increasing
24 congestion, put a limitation on congestion. It's not about one
25 application; it's about the total situation that we face in our

1 community.

2 CHAIRPERSON HILL: Okay.

3 MR. PALMER: Now, if you don't care about the total
4 situation, there's no need for me to talk.

5 CHAIRPERSON HILL: Okay. All right. Thank you, Mr.
6 Palmer.

7 MR. PALMER: Okay. Let me point one -- let's say
8 nine units in our neighborhood -- if that was the only units in
9 our neighborhood that added to congestion, that wouldn't be a
10 problem.

11 CHAIRPERSON HILL: Okay.

12 MR. PALMER: But what I have already pointed out,
13 there's going to be, in the coming period of time, there's 64
14 proposed.

15 CHAIRPERSON HILL: Okay.

16 MR. PALMER: I already have to walk two blocks
17 sometimes to find a parking space.

18 My understanding is this is supposed to be about
19 congestion in the area as far as parking. You say no --

20 CHAIRPERSON HILL: Okay. Mr. Palmer --

21 MR. PALMER: Thank you.

22 CHAIRPERSON HILL: Okay. Thank you for your
23 testimony, Mr. Palmer.

24 All right. Does anybody have any questions for Mr.
25 Palmer?

1 (Negative head shake.)

2 CHAIRPERSON HILL: All right. Okay.

3 CHAIRMAN HOOD: Mr. Chairman?

4 CHAIRPERSON HILL: Yes?

5 CHAIRMAN HOOD: I don't necessarily have any
6 questions for Mr. Palmer, but to try to help him get an
7 understanding, if you don't mind?

8 CHAIRPERSON HILL: Sure.

9 CHAIRMAN HOOD: The Board of Zoning and Adjustment is
10 a relief valve for the Zoning Commission has put in place. So,
11 what happens, Mr. Palmer, and others that are listening, what
12 happens is there is a strict application of the zoning law.

13 In every city or every jurisdiction, there's a Board
14 of Zoning Adjustment. Some of them call it the Special
15 Exception Board or whatever the case may be in the
16 jurisdictions. There's a relief valve that the Board of Zoning
17 Adjustment has to the strict application of the law.

18 What Mr. Palmer was talking about was the congestion
19 in the area. That goes to the long-area plan, which the Office
20 of Planning and others look at; it's a bigger plan.

21 This Board's function is to look, specifically, as
22 the chairman mentioned, at this particular case.

23 Now, some of the issues that Mr. Palmer was
24 mentioning, and I understand, especially in this area, I
25 understand that there may be some concern, but that's a bigger

1 policy question. That's a bigger issue.

2 In this case, what we look at, is what the
3 regulations say, and as others already know, we look at what
4 the regulations say, and we look at whether this applicant or
5 any applicant that comes in front of this Board has mitigated
6 some of the major issues. That's what this Board's function is
7 and that's why we're doing this fact-finding.

8 I think it's important for residents to understand
9 that. But here's the thing, while it's not just this Board,
10 the Zoning Commission does not do enforcement. The BZA does
11 not do enforcement, but I think it's important because when it
12 goes to court, they're not going to send it back to any of the
13 residents; they're going to send it back to this Board and back
14 to the Zoning Commission.

15 So, that's my two cents. Hopefully, that can shed
16 some light to the questions that Mr. Palmer was asking and,
17 again, this Board will continue to do its due diligence to make
18 sure the mitigation methods are in place if it moves forward to
19 lessen impacts on this community, and that's what this Board is
20 all about.

21 Thank you, Mr. Chairman.

22 CHAIRPERSON HILL: Well, I appreciate it, Mr. Hood,
23 and I appreciate your calm clarification on what is going on.
24 And if the witness is still listening, again, what I was trying
25 to get across is that this property is basically a by-right

1 property; they're able to do this within the zoning
2 regulations. They're here because they need one less parking
3 space and that's parking space actually has been now set aside
4 in perpetuity, as I understand it, meaning forever for somebody
5 in this building. So, meaning there is another spot being
6 provided.

7 And that is correct, is that not, Mr. Kadlecek?

8 MR. KADLECEK: Yes, Mr. Hill, that's correct. The
9 applicant is committing to providing an off-site space in
10 perpetuity in accordance with the condition that the ANC
11 endorsed. We're comfortable being in the BZA order, which, as
12 you are well aware, effectively runs as a covenant with the
13 property.

14 CHAIRPERSON HILL: Right. And so that spot is,
15 basically, being replaced, but somewhere else. And so, you
16 know, that the person, Mr. Palmer, who can hear the testimony.

17 And, again, our job at this Board is to determine
18 whether or not they're meeting the standards for us to grant
19 the one parking space relief that they're asking for.

20 But Chairman Hood, thank you for your comments.

21 Let's see. Does anybody have any more questions for
22 the applicant?

23 Ms. Vice chair?

24 VICE CHAIR JOHN: Yes. One quick question for the
25 applicant.

1 Can you discuss how trash will be managed at the
2 property, because I've heard that concern from the ANC, as
3 well, as the rest of the neighbors.

4 MR. ATHEY: Sure. We'll have trash in the rear, a
5 trash enclosure, and then the trash will be picked up by a
6 private trash service which will come to the rear alley and
7 service the building.

8 VICE CHAIR JOHN: How often will that happen?

9 MR. ATHEY: You know, I haven't really thought about
10 it on this building, but, you know, I would think twice a week,
11 but, you know, it could be more. You know, I just haven't
12 really thought about it, to be honest, since we've got a ways
13 here.

14 VICE CHAIR JOHN: Well, you know, when the neighbors
15 have concerns, we typically inquire further, and so what about
16 rat abatement --

17 MR. ATHEY: Sure.

18 VICE CHAIR JOHN: -- do you commit to retain a
19 company to take care of that?

20 MR. ATHEY: Absolutely. Anytime we do construction,
21 we do that, and we will do it.

22 VICE CHAIR JOHN: Okay.

23 MR. ATHEY: You know, I think most of the issues are
24 related to the restaurant, but we'll do what we can do.

25 VICE CHAIR JOHN: And after construction, you would

1 maintain that same service after --

2 MR. ATHEY: We'll maintain a service, as needed. I
3 mean the last thing that I want is any resident, you know, in
4 our building having rat issues, you know?

5 VICE CHAIR JOHN: Of course.

6 Now, in some developments, the trash is kept in the
7 basement area and then taken out during the trash pickup days.

8 So, that's not possible in this project and did you
9 consider it?

10 MR. ATHEY: It's not possible here, due to the site
11 constraints, but, yeah, I mean it really doesn't allow for it
12 with the cutout and everything else going on. It's a tight
13 situation.

14 VICE CHAIR JOHN: Okay.

15 MR. ATHEY: It's a small building.

16 VICE CHAIR JOHN: All right. Thank you.

17 CHAIRPERSON HILL: Okay. Anyone else for the
18 applicant?

19 (Negative head shake.)

20 CHAIRPERSON HILL: Okay. Let's see. What was I
21 going to say?

22 Oh, so just kind of for the record, as I was kind of
23 talking about it and we were talking about, you know, the IZ
24 units. I know that we sometimes talk about the IZ units and
25 I'm just kind of speaking to my Board members in that no one

1 | wants to see -- and I don't think in this case it is the case,
2 | that the worst unit is the IZ unit, but at the same time, I
3 | also think that people need to be able to make enough money so
4 | that that IZ unit can actually be provided. So, it's not,
5 | like, you know, the best unit needs to be the IZ unit. And so
6 | I'm just kind of making that comment and we can kind of talk
7 | about that if anybody wants to.

8 | And then the other is that, I don't know, Chairman
9 | Hood, about this chimney thing. I mean, you know, I don't know
10 | where or how, or anybody gets to talk about that. And at the
11 | same time, just to look to the developer, you know, I don't
12 | want somebody telling me I have to extend my chimney either,
13 | even if I decide I don't want to extend it for whatever reason
14 | it is. So, I don't know where that weird play is. So, since I
15 | just had a chance to talk, I'm going to talk.

16 | Chairman Hood, did you have a comment?

17 | CHAIRMAN HOOD: I don't have a comment. I've
18 | witnessed a few chimney issues, as well. I don't know if that
19 | is ever going to be resolved, but, you know, I think it's a
20 | case-by-case. All of them -- from my experiences, all of them
21 | have been different, how to approach and different scenarios
22 | and different situations. I don't know if that could ever be
23 | regulated or codified or whatever the case may be.

24 | I think this applicant did the best they could with
25 | asking nicely, financing, or whatever the case is. Sometimes,

1 | some things are best left up to those parties that are
2 | involved.

3 | So, Mr. Chairman, if we want to go back to the IZ
4 | unit, I just pitched that to get the discussion started, I'm
5 | making sure, but I appreciate this applicant letting me know --
6 | while he said it was an amenity, I wanted to make sure and I
7 | also wanted to make sure that the community viewed it as that.
8 | He also is providing money to the Housing Production Trust
9 | Fund, as well, as I understand it. So, there's a two for one,
10 | so I don't have any issues with it.

11 | But as we continue to deliberate, I would like -- and
12 | let me just backup. I did not see Mr. Palmer's testimony. If
13 | somebody could direct me to that in the record, that would be
14 | very helpful, because I was looking for that and maybe I just
15 | missed it. I do miss things.

16 | So, that's all I have, Mr. Chairman. And I'm not
17 | just talking because I have a chance to talk, but I was just
18 | opining on what you asked.

19 | CHAIRPERSON HILL: Thank you, Chairman Hood.

20 | All right. Let's see, anyone else have any questions
21 | or any comments?

22 | (Negative head shake.)

23 | CHAIRPERSON HILL: Mr. Kadlecek, do you have anything
24 | you'd like to add at the end?

25 | MR. KADLECEK: Nothing further, thank you.

1 CHAIRPERSON HILL: All right. I'm going to close the
2 hearing and the record and allow everyone to be excused. Thank
3 you all very much.

4 I'm ready to deliberate, however, I would rather not
5 start because I need to take a breath. And so, Chairman Hood,
6 may I start with you?

7 CHAIRMAN HOOD: Sure. I will start, but, again, I'll
8 go back to my question that I just asked. I wanted to make
9 sure that I really understood everything that Mr. Palmer and
10 others, and I think the person's name he was -- there's another
11 letter in the --

12 CHAIRPERSON HILL: Mr. Linn seems to be in there and
13 then --

14 CHAIRMAN HOOD: Right. I saw that.

15 CHAIRPERSON HILL: I don't know. Or Mr. Moy, if
16 you've seen Mr. Palmer's letter?

17 CHAIRMAN HOOD: And Ms. Schilling, Kate Schilling, he
18 accompanied his comments with one of the letters and I was not
19 clear whether it was Ms. Schilling or others.

20 For me, I know this seems like it's very
21 straightforward, but I want to make sure that I grapple -- and
22 I'm not using "struggle" -- I want to make sure that I grapple
23 with all of his issues with going forward. I know that this
24 may be very simplistic, but I would also want to make sure that
25 I consider whatever comments he had. That's why I wanted them

1 to be in writing. I heard him verbally, but I wanted to be
2 able to digest that in writing, but I'm not sure where the
3 Board is as far as moving on that action.

4 So, thank you, Mr. Chairman.

5 MR. MOY: Yeah, Mr. Chairman, just to follow-up on
6 Mr. Hood to confirm, in the record, there's no written
7 testimony from Mr. Palmer. He's a call-in, so I'm suspecting
8 it was not previously -- he did not previously --

9 CHAIRPERSON HILL: Yeah, I got you.

10 MR. MOY: Yeah. Okay.

11 CHAIRPERSON HILL: So, he called in, Chairman Hood.

12 CHAIRMAN HOOD: So, I guess my question is -- and I
13 couldn't hear all of his questions, I mean, all of his
14 concerns. One of them seemed -- it seemed to me more like a
15 policy issue, Mr. Chairman, and I don't want to definitely not
16 disregard it. I want to take it into consideration.

17 I know -- I think this is pretty straightforward, but
18 I wanted to see his comments to make sure that I'm not missing
19 anything, because I think the mitigations are ready for
20 approval, but I want to make sure I'm not missing anything. I
21 understand the issue of the congestion in the neighborhood. I
22 understand that. That's what the law says, that we can look at
23 different mitigation methods, and as long as we do that, if
24 that goes -- and I don't know if Mr. Palmer is still
25 listening -- but if that goes to court, they're going to look

1 at what this applicant or any applicant has done for
2 mitigation. If they meet that, then they're not going to send
3 it back to nobody but to the Board or the Zoning Commission.

4 So, those are my comments, Mr. Chairman. But I did
5 want to be considerate of Mr. Palmer. I'm sure others do, but
6 it's unfortunate we don't have anything in writing.

7 CHAIRPERSON HILL: Okay. Well, I'll come back to
8 you, Chairman Hood if that's all right.

9 Mr. Smith?

10 BOARD MEMBER SMITH: Yeah, I agree with Mr. Hood that
11 it is unfortunate that we don't have anything in writing from
12 him. I do completely agree with him. I think his concerns
13 more so deal with the policy. It sounds like his concerns deal
14 with the amount of density that would be allowed within the
15 zone and the amount of -- well, it sounds like the parking
16 regulations.

17 But we have to act on the regulations as we see them
18 and the current regulations state that for a unit of this
19 number -- I mean, building with this number of units is
20 required to have one parking space. So that's the reason why
21 we're here. We're here for a special exception regarding the
22 special exception to reduce the amount of parking to be
23 required.

24 The applicant -- and that is because the regulations
25 speak to parking provided on-site, but as Chairman Hood and

1 Chairman Hill already addressed, the parking will be offsite in
2 a perpetual agreement where they will have to be required to
3 provide that one parking space. The number of units is by-
4 right.

5 So I completely hear his concerns regarding density
6 and parking, but I will also say that the special exception
7 regulations give us the power to mitigate some of these
8 impacts. So, not only is the applicant providing one
9 additional parking space, they are agreeing to a condition by
10 DDOT for a transportation to Main Management program to
11 increase the number of parking spaces on this site.

12 I will also bring up that there are a number of bus
13 lines that are running in very close proximity to this building
14 and it's also in close proximity, fairly close proximity to the
15 Columbia Heights Metro Station and to the Petworth Metro
16 Station. So, that may mitigate some concerns. And also being
17 that the design of these units are largely one bedrooms or
18 studio apartments, we may not see a large amount of families
19 living within this building that would increase additional
20 pressure on parking spaces along the block.

21 So, I do hear his concerns and, you know, I'm
22 completely onboard with Mr. Hood in that I do believe that it's
23 more so a policy concern.

24 CHAIRPERSON HILL: Okay. Vice Chair John?

25 VICE CHAIR JOHN: So, I agree with the analysis so

1 far. I think the applicant is only here for parking relief and
2 so we look at the regulations to see if the applicant meets the
3 requirement. And so in this case, there is no curb cut at the
4 back -- I'm sorry -- at the front and DDOT is unlikely to allow
5 a curb cut in the front. And so, I agree with the analysis of
6 the Office of Planning in terms of how the application meets
7 the requirement.

8 The application only needs to meet one of those,
9 which is the physical constraints of the property and the
10 applicant has done that.

11 And there's also, as Mr. Smith said, proximity to
12 transit in terms of the Metro bus and so on. I also agree that
13 the applicant will be able to mitigate some of those concerns
14 through the provision of this offsite parking in perpetuity and
15 the provision of bike racks and so on.

16 I also believe that the application should be
17 conditioned on DDOT's recommended conditions, as well as the
18 ANC's conditions.

19 I am mindful of the residents' concerns about the
20 trash situation because it could be a nuisance for, especially
21 the person living in the IZ unit, and I understand why that IZ
22 unit is located in that area; however, I don't know what my
23 colleagues think, but I would think that we ought to impose a
24 condition that would address the trash situation to mitigate
25 the problem of rats and the smells that would be there if the

1 trash is not picked up on a regular basis.

2 So, I don't know what anybody else thinks, but
3 otherwise, I can support the application.

4 CHAIRPERSON HILL: Okay. This is going to be a long
5 day.

6 VICE CHAIR JOHN: No. I'm sorry --

7 CHAIRPERSON HILL: No, that's all right. That's
8 okay.

9 VICE CHAIR JOHN: So, the trash accumulating in
10 alleys.

11 CHAIRPERSON HILL: That's okay.

12 So, let me talk about what I think about the
13 regulation, right. They're here for parking relief, right,
14 from the one spot, right.

15 And I am sorry that Mr. Palmer is frustrated and
16 believe me, he's lived there for 44 years and I understand a
17 lot of change has gone on in that area in that time and there's
18 been a lot more traffic that's gone on and I understand all the
19 additional cars that have come in. So, I get that, and I am
20 sorry for the inconvenience that's happened over the years;
21 although, that area has gotten better in 44 years.

22 So, but what's before us is one parking space, right.
23 Everything else is by-right. One parking space, right.

24 So, they, the applicant, has gone ahead and found
25 another parking space that is going to go on a covenant with

1 the building, will go on with the building. Somebody else is
2 going to take up that one parking space.

3 In addition to that, they have gone ahead and agreed
4 to DDOT's concerns and conditions about the two additional
5 parking spaces that's in excess of the regulations. And then
6 the ANC, it was the people right there, they've gone ahead and
7 talked about the one-off site parking space.

8 There are two people that came and testified from the
9 public, right, and this is after the ANC meeting, after
10 everybody has had a chance to kind of, like, vet this through
11 the public, that have had some issues here with this project.
12 I think that based upon what I heard from the applicant
13 responding to trash, that they will be taking care of the trash
14 issues, meaning that they have a nine-unit apartment building
15 that they're going to want to be rented and, you know, or sold
16 or whatever it is and they, I believe, will address the trash
17 issues in a way that is best serving them.

18 However, Ms. John, if you want to go ahead, we can
19 bring them back in because I have to figure out what the
20 condition is, or you can think about what you think the
21 condition is for yourself. I do know that there's a restaurant
22 next door and there's restaurants in that alley in that area,
23 and so I don't see how they are being held responsible for the
24 restaurant that's next door or that's in that area.

25 I also live on an alley and have restaurants next

1 door to me, and rats are just part of the city. But, you know,
2 nonetheless, I believe they've met the criteria for us to grant
3 the application. I believe that the Office of Planning's
4 analysis is accurate. I believe that the ANC's analysis is
5 accurate, and I believe that the one parking space, and even
6 the thing -- and that is, you know, Chairman Hood, to another
7 thing that maybe offline we can have this discussion -- I mean,
8 I haven't seen that cutout that high for a chimney in a long
9 time, right, so, meaning they're doing everything within the
10 regulation they can to build this building.

11 And, you know, the city needs more housing. They're
12 getting an IZ unit out of this. I mean, I think it's a good
13 project. So, I'm going to be voting in favor and I think they
14 meet the regulations, and I think all you do, as well, it's
15 just now this condition with the trash that I think Ms. John is
16 throwing in. And then I'm going to go to Chairman Hood,
17 because I didn't figure out, Chairman Hood, exactly where you
18 stand or if any more of this has been helpful for the
19 discussion.

20 So, let me go to Chairman Hood first and then I'll
21 come back to Ms. John.

22 CHAIRMAN HOOD: Mr. Chairman, I think this has been
23 very helpful. Board Member Smith and Vice Chair John have
24 helped me to see this along, but I think that when I look at --
25 I'm sitting here thinking of what Mr. Palmer and others, Mr.

1 Linn and others have mentioned.

2 While I don't disagree with any of it, I actually
3 have some issues, longstanding issues with some things like, I
4 heard one of the persons in opposition mention shoeorning, but
5 I have had to learn to kind of, especially in the position that
6 we do, serving on the Board and on the Commission, I've learned
7 how to, I've had to learn how to strike the balance because
8 some people want it, and some people don't.

9 So, you know, for me, it's about striking the balance
10 and learning to coexist. I think this is a prime case of the
11 applicant doing everything that's required and making sure that
12 we lessen impacts.

13 So, I am prepared to move forward. I just didn't
14 want to miss anything that Mr. Palmer was saying even though I
15 think, again, as I've stated, a policy issue about the
16 congestion. There's congestion all over the city.

17 And, yeah, we drive our cars, but then it's about
18 bikes and I don't want to get in trouble about that anymore,
19 because I've already been down that road, but I think it's
20 about mitigating all of that and I think in this particular
21 case, that has been mitigated.

22 But I do agree with Vice Chair John about the trash.
23 And, Mr. Chairman, we can only hold this applicant to what
24 they're responsible for and what's going on outside of their
25 property, not the restaurants and everything else. And I'm

1 | sure that if someone was to file a complaint, BZA would look at
2 | all of that.

3 | But I do want to say this to Mr. Palmer, as well.
4 | Whatever the conditions are, they're not enforced by the Board
5 | or the Zoning Commission. The zoning administrator, which
6 | comes out of DCRA does the enforcement.

7 | So, Mr. Chairman, I am prepared to move forward. I
8 | think all the requirements, once we fine-tune what Vice Chair
9 | -- if we can fine-tune what Vice Chair John has mentioned,
10 | because I think, again, we can hold them responsible about the
11 | trash on their property.

12 | So, that's where I am with that, Mr. Chairman.

13 | CHAIRPERSON HILL: Okay. Vice Chair John, what is it
14 | that you might like to do?

15 | VICE CHAIR JOHN: I'm going to ask OAG to help here.
16 | If everyone else is in agreement, I don't want to impose my
17 | views on the rest of the Board.

18 | I appreciate that the applicant has committed to
19 | maintaining a trash service, trash and pest abatement service,
20 | and it would be helpful to have it in the order so there's
21 | no -- not dispute -- but there's a clear understanding of
22 | what's expected. That's all.

23 | CHAIRPERSON HILL: The clear understanding being that
24 | they maintain a trash and pest abatement plan?

25 | VICE CHAIR JOHN: Service. Service.

1 CHAIRPERSON HILL: Service.

2 VICE CHAIR JOHN: Service. And I have seen that
3 condition in previous applications.

4 MR. RICE: Are you talking about (audio interference)
5 construction, or (audio interference) CO?

6 VICE CHAIR JOHN: Well, many times it's through
7 construction, but in this case because of the number of units,
8 I can see there could be a continuing problem after
9 construction, but I will defer to you on this one for your
10 thoughts.

11 MR. RICE: Okay. I think with regard to the rat
12 abatement and the trash, during construction, it could be
13 considered more of a construction issue. After CO, it's
14 something that would be handled by property management
15 conditions, but as the applicant has already indicated a
16 willingness to increase these conditions, the best thing might
17 be just to confirm with them that they are okay with the
18 insertion of the conditions and then we'll, you know, include
19 them in the order.

20 VICE CHAIR JOHN: Okay. That works.

21 CHAIRPERSON HILL: Okay. Then, Ms. John, I'm going
22 to bring back in the applicant.

23 VICE CHAIR JOHN: Okay. Thank you.

24 CHAIRPERSON HILL: Okay. I'm going to reopen the
25 hearing.

1 Mr. Young, is the applicant here? Is Mr. Kadlecek
2 still there?

3 MR. ATHEY: This is Brian Athey. I'm here.

4 CHAIRPERSON HILL: Okay. Give me one second, Mr.
5 Athey.

6 MR. KADLECEK: I'm here, as well.

7 CHAIRPERSON HILL: Okay. Great.

8 So, what I think I heard from Board Member (sic) John
9 was we wanted to put in a condition that after the project is
10 finished, you will maintain -- and Ms. John, I don't mean to
11 speak for you -- you'll maintain a trash and rat abatement
12 service.

13 Is that correct, Ms. John?

14 VICE CHAIR JOHN: Yes, that's correct.

15 MR. ATHEY: Okay. Those are two different things,
16 right. So, a private trash company would do the trash and this
17 trash is going to be on the property and, of course, but yes,
18 we would certainly agree to do that.

19 The rat abatement, I feel like, to be honest, I'm
20 being penalized for it being around other restaurants because I
21 haven't -- if you went and had -- if every property in the city
22 that had nine units or more had to have a continual rat service
23 in the city, it would be -- it's quite an imposition.

24 You know, I mean, what I could agree to is a private
25 trash service in perpetuity and then in the event that my

1 residents complain of, you know, a rat issue, then we'd hire a
2 rat service to abate that, you know, but I think I should be
3 responsible for my own property and not others. That's all
4 with the rat thing.

5 VICE CHAIR JOHN: So, that would work for me. I just
6 don't want to leave it hanging. And as a homeowner in the
7 city, I am concerned about the trash problem and I, and
8 neighbors, take affirmative steps to make sure that the alley,
9 you know, don't have a serious rat problem.

10 MR. ATHEY: I understand.

11 VICE CHAIR JOHN: Okay. So, that's what I'm
12 interested in. I would hate -- and I know you're not
13 responsible for the shop next door. I'm not expecting that. I
14 can only ask the applicant to do what's reasonable, and so
15 that's what I'm asking for because the residents are truly
16 concerned that with the increase in density and the number of
17 new residents, there could be a problem.

18 And so, to the extent that the applicant has the
19 opportunity to assist, we can't mandate that and that's why the
20 Chairman asked you if you would agree to those conditions.

21 CHAIRPERSON HILL: So, what I understood the
22 condition to be is that, Ms. John, you're concerned about the
23 trash and that what Mr. Athey seems to say is that the
24 condition, if Mr. Rice is listening, is, again, you know, they
25 will agree to providing a trash service to the building as well

1 as if the residents complain of a rat issue, will then provide
2 rat abatement services.

3 Is that correct, Ms. John?

4 VICE CHAIR JOHN: That's fine.

5 MR. ATHEY: That's correct.

6 VICE CHAIR JOHN: For his property.

7 CHAIRPERSON HILL: Yes, for his property.

8 All right. Mr. Athey, so you're in agreement?

9 MR. ATHEY: That's fine with me.

10 CHAIRPERSON HILL: Okay. Mr. Rice, do you
11 understand?

12 MR. RICE: Yes, sir.

13 CHAIRPERSON HILL: Okay. All right.

14 So does anybody else everything else?

15 (Negative head shake.)

16 CHAIRPERSON HILL: Okay. I'm going to close the
17 hearing again and excuse everyone. Thank you.

18 All right. Okay. So I think we're in agreement, so
19 I'm going to try to make a motion and let's see what happens,
20 right.

21 So, I'm going to make a motion to approve Application
22 Number 20396, as captioned and read by the secretary with the
23 condition that DDOT has provided, which is provide welcome
24 packets and install two additional short-term bike spaces in
25 excess of the regulations, as well as the ANC condition, which

1 is the applicant will secure one offsite parking space for
2 exclusive use of the project resident as set forth. And then
3 also, they will provide trash services for the building in
4 perpetuity, as well as if the residents of the building have a
5 rat issue, provide rat abatement services, as well.

6 And ask for a second, Ms. John?

7 VICE CHAIR JOHN: Second.

8 CHAIRPERSON HILL: The motion been made and seconded,
9 Mr. Moy, could you take a roll call.

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

11 So, when I call your name, if you would please
12 respond with a yes, no, or abstain to the motion made by
13 Chairman Hill to approve the application for the relief
14 requested. The motion was seconded by Vice Chair John, and it
15 also includes the conditions as the chairman has cited for the
16 record.

17 Zoning Commission Chair Anthony Hood?

18 CHAIRMAN HOOD: Yes, to approve.

19 MR. MOY: Mr. Smith?

20 MEMBER SMITH: Yes, to approve.

21 MR. MOY: Vice Chair John?

22 VICE CHAIR JOHN: Yes, to approve.

23 MR. MOY: Chairman Hill?

24 CHAIRPERSON HILL: Yes, to approve.

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

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

5 The motion carries, sir.

6 CHAIRPERSON HILL: Okay. Great. Thank you.

7 Can you all just give me one second. I just want to
8 ask -- I'll be one second.

9 (Pause.)

10 CHAIRMAN HOOD: Mr. Moy, how many more cases do we
11 have? Do you have your list available?

12 MR. MOY: Yes, I do. I always do, sir, as you know.
13 I have about six, I believe.

14 CHAIRPERSON HILL: What do you guys want to do.
15 There's one, two, three, four, five, six, seven left, right. I
16 would like to at least take a little break and then maybe do
17 one more and then have lunch or do y'all just want to have
18 lunch?

19 (No verbal response)

20 CHAIRMAN HOOD: Well, I was waiting to let the Board
21 say something, but if I wait any longer --

22 (Laughter.)

23 CHAIRPERSON HILL: On the table is a quick five-
24 minute break, come back and do one more, and then have lunch.
25 There's seven cases. If y'all are really hungry, then let's

1 just do that. I actually am kind of okay, that's why I'm
2 saying it.

3 CHAIRMAN HOOD: I will yield to the Vice Chair.

4 VICE CHAIR JOHN: I'm fine with whatever the chairman
5 wants to do.

6 CHAIRPERSON HILL: Dang, okay.

7 So, Mr. Smith, are you starving?

8 BOARD MEMBER SMITH: Sure. I'll go with that.

9 (Laughter.)

10 CHAIRPERSON HILL: Okay. So, we're going to take a
11 five-minute break. A five-minute break. We're going to come
12 back, do a case, and then we'll have lunch.

13 Okay. Thanks. Bye.

14 (Whereupon, the above-entitled matter went off the
15 record at 12:27 p.m., and reconvened at 12:35 p.m.)

16 CHAIRPERSON HILL: All right. Mr. Moy, let's do it.

17 MR. MOY: All right. Thank you, Mr. Chairman.

18 The time is at or about 12:35 p.m. and up next is
19 case Application Number 20362 of Tirzah, T-i-r-z-a-h, Lollar,
20 L-o-l-l-a-r, and John R. Lollar.

21 And this application is captioned and advertised for
22 a for a special exception under Subtitle E, Sections 205.5 and
23 5201, from the rear addition requirements of Subtitle E,
24 Section 205.4. This would construct a rear addition and to
25 replace an existing rear deck addition to an existing flat in

1 the RF-1 zone, at premises 1327 Q Street Northwest, Square 240,
2 Lot 73).

3 And I believe there's a request for a 21-day filing
4 deadline and I believe it's because the applicant, to allow the
5 applicant to respond to the Office of Planning with revised
6 plans.

7 CHAIRPERSON HILL: Okay. Mr. Sullivan, could you
8 introduce yourself for the record, please.

9 MR. SULLIVAN: Yes, thank you, Mr. Chairman, and
10 Board members.

11 Marty Sullivan with Sullivan & Barros on behalf of
12 the applicant.

13 CHAIRPERSON HILL: Okay. And who's here with you
14 today, Mr. Sullivan?

15 MR. SULLIVAN: So, we have the applicant, Mr. Lollar
16 and Janet Blumberg is the architect.

17 CHAIRPERSON HILL: Okay. Are you going to be
18 presenting, Mr. Sullivan?

19 MR. SULLIVAN: Yes, I will present. It's fairly
20 simple, so I'll probably do all the presenting and everyone
21 else is available if there's questions.

22 CHAIRPERSON HILL: Okay. You can begin whenever you
23 like, Mr. Sullivan.

24 MR. SULLIVAN: All right. Thank you, Mr. Chairman.
25 So, this is a request for 10-foot rule relief.

1 If Mr. Young could please load the PowerPoint. And
2 we could -- it would probably be best to start at -- next
3 slide, please.

4 This just shows the location and context.

5 Next slide, please.

6 So, here's a view from the subject property. There's
7 going to be an addition here.

8 Next slide, please.

9 So, we're asking for relief of four feet, four inches
10 beyond the 10-foot rule on one side. And it only goes two and
11 a half feet past the building on the other side. So, here, you
12 see a side elevation highlighting the addition. It's just a
13 two-story addition.

14 Next slide, please.

15 We do have what I'd like to call the "trifecta" of
16 the Office of Planning and ANC and both adjacent neighbors, and
17 with unanimous support from the ANC. There's two sets of
18 support letters from the neighbors because the application was
19 changed after it was originally filed and then they submitted
20 updated letters. A second story was added.

21 Next slide, please.

22 Here's another side elevation view.

23 Next slide, please.

24 And this shows the relative rear lot lines or
25 building lines. It's the property to the north. The addition

1 will go 14 and a half feet past and just 2 and a half feet to
2 the property to the South.

3 And next slide, please.

4 And here's a rear elevation showing the proposal.

5 And then we have shadow studies, and I put them in the
6 PowerPoint, but they're hard to read, so I would direct the
7 Board to Exhibit 32B, because it's a little easier to see the
8 difference between the 10-foot matter-of-right and the 14-and-
9 a-half-foot addition.

10 And as you would expect, the additional shadow is
11 quite minimal and so the application is -- satisfies the light
12 and air test. As far as privacy, there's no windows on the
13 sides.

14 Next slide, please.

15 And we obviously meet the general special exception
16 requirements. It's a two-unit building, will continue to be
17 so, and doesn't adversely affect the use of neighboring
18 properties.

19 Next slide, please.

20 And as mentioned, it will meet the light and air
21 test.

22 And I think this is it. We can take questions at
23 this point because the rest is the shadow studies and I've
24 talked about those. So, if you have any questions for myself
25 or for the architect or the owner. Thank you.

1 CHAIRPERSON HILL: Okay. Does the Board have any
2 questions for the applicant?

3 (Negative head shake.)

4 CHAIRPERSON HILL: Okay. I'm going to turn to the
5 Office of Planning.

6 MR. COCHRAN: Thank you, Mr. Chairman. This is Steve
7 Cochran, representing the Office of Planning and one-third of
8 the trifecta in BZA Case 20362.

9 And OP is pleased to stand on the record and answer
10 any questions you might have.

11 CHAIRPERSON HILL: All right. Thank you, Mr. Cochran
12 from the Museum of the Bible.

13 And let's see, does anybody have any questions of the
14 Office of Planning?

15 (Negative head shake.)

16 CHAIRPERSON HILL: Does the applicant have any
17 questions of the Office of Planning?

18 MR. SULLIVAN: No, thank you.

19 CHAIRPERSON HILL: Mr. Young, is there anyone here
20 wishing to testify?

21 MR. YOUNG: We do not.

22 CHAIRPERSON HILL: Okay. Mr. Sullivan, do you have
23 anything at the end?

24 MR. SULLIVAN: No, thank you.

25 CHAIRPERSON HILL: Okay. Did I do this -- so, I did

1 -- I don't know if I mentioned, I guess as far as the 21-day
2 filing for the revised plans, you know, I do want to waive the
3 requirement because I'd like to see the plans. I don't think
4 it's going to prejudice everybody. Everyone has seen the
5 plans, and everyone is on the same page. And unless the Board
6 has any issues, I'm going to allow those into the record.

7 If you have any issues, please raise your hand.

8 Okay. I don't see any, so we're going to go ahead
9 and do that.

10 So, Mr. Sullivan, if you don't have anything else,
11 which I think you said no, I'm going to go ahead and close the
12 record and the hearing and excuse everyone from the room.

13 Okay. I thought it was relatively straightforward.
14 I didn't have an issue with it. I mean, I thought that the
15 shadow study was helpful. I also thought the Office of
16 Planning's analysis was concise and I would agree with their
17 recommendation and I don't have any real concerns.

18 However, I'll turn to my Board members if they would
19 like to add anything.

20 Chairman Hood?

21 CHAIRMAN HOOD: No, I would agree, Mr. Chairman. I
22 think that the requested rear addition relief requested amounts
23 to four feet, four inches and, again, I think they meet all the
24 aspects of the 5201, 4(a), and all of that section, as well as
25 proposing, and I think Mr. Sullivan mentioned the trifecta. I

1 would be cautious because he will tell us that that is in the
2 regulations.

3 So, anyway, I think this is flavored ready for us to
4 move forward and I would be voting in support of it.

5 Thank you, Mr. Chairman.

6 CHAIRPERSON HILL: Thank you, Chairman Hood.

7 Mr. Smith?

8 BOARD MEMBER SMITH: I agree with both of the good
9 Chairmen. I do agree that the proposal -- the special
10 exception before us does meet the criteria as laid out in 5201,
11 where they have sufficiently mitigated any adverse impacts to
12 adjacent property owners.

13 I do believe that it meets the general special
14 exception standards, as laid out within the OP staff report. I
15 do believe that the OP staff report was concise, and I will
16 give greater weight to their determination and it also meets
17 the standards for us to approve.

18 So, with that, I would be in support and move to
19 approve.

20 CHAIRPERSON HILL: Vice Chair John?

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

22 I don't have anything to add. I agree with all of
23 the analyses so far and I will be supporting the application.

24 CHAIRPERSON HILL: All right. Great.

25 All right. Then I'm going to go ahead and make a

1 motion to approve Application Number 20362, as captioned and
2 read by the secretary, and ask for a second.

3 Ms. John?

4 VICE CHAIR JOHN: Second.

5 CHAIRPERSON HILL: The motion has been made and
6 seconded.

7 Mr. Moy, could you please take a roll call.

8 MR. MOY: Yes, thank you, Mr. Chairman.

9 When I call your name, if you would please respond
10 with a yes, no, or abstain to the motion made by Chairman Hill
11 to approve the application for the relief being requested. The
12 motion was seconded by Vice Chair John.

13 Zoning Commission Chair Anthony Hood?

14 CHAIRMAN HOOD: Yes, to approve.

15 MR. MOY: Mr. Smith?

16 MEMBER SMITH: Yes, to approve.

17 MR. MOY: Vice Chair John?

18 VICE CHAIR JOHN: Yes, to approve.

19 MR. MOY: Chairman Hill?

20 CHAIRPERSON HILL: Yes, to approve.

21 MR. MOY: We have a Board seat vacant. Staff would
22 record the vote as 4 to 0 to 1, and this is on the motion of
23 Chairman Hill to approve, seconded by Vice Chair John. Also in
24 support of the motion, Mr. Smith, and Zoning Commission Chair
25 Anthony Hood. The motion carries.

1 CHAIRPERSON HILL: Okay. Great.

2 All right, everybody, so it's, what, it's 12:50 right
3 now. Do you want to say 1:30?

4 (Affirmative nod.)

5 CHAIRPERSON HILL: Yeah?

6 VICE CHAIR JOHN: That's fine.

7 CHAIRPERSON HILL: All right. I'll see you guys at
8 1:30.

9 CHAIRMAN HOOD: All right.

10 CHAIRPERSON HILL: Thank you. Enjoy lunch.

11 (Whereupon, the above-entitled matter went off the
12 record at 12:50 p.m., and reconvened at 1:38 p.m.)

13 CHAIRPERSON HILL: All right. Mr. Moy, you can call
14 us back and call our next case, please.

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

16 With that, the hearing is back in session, has
17 returned in session after a brief lunch recess and the time is
18 at or about 1:38 p.m.

19 So, the next BZA case in the hearing session is 20387
20 of Andrea and Christopher Schierkolk, S-c-h-i-e-r-k-o-l-k,
21 captioned and advertised for a special exception under
22 Subtitle D, Section 5201. This is from the rear yard
23 requirements of Subtitle D, Section 306.2, to construct a rear
24 addition to an existing, two-story, semi-detached, principal
25 dwelling unit with cellar, in the R-2 Zone, at premises 1012

1 Taussig, T-a-u-s-s-i-g, Place, Northeast, Square 3890, Lot 110.

2 And the applicant did submit a PowerPoint to Paul
3 Young, but, of course, the Board should address whether to
4 allow that into the case record. And also there was a request
5 from the applicant for the 21-day filing deadline to respond to
6 the Office of Planning with revised plans.

7 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.

8 As far as the PowerPoint and also the revised plans,
9 I'd like to see them because the Office of Planning had a
10 request for the revised plans and the PowerPoint, it's easier
11 to kind of go through when they're with us.

12 So, unless the Board has an issue, I'll go ahead and
13 allow those into the record. If you do have an issue, please
14 raise your hand.

15 (No verbal response.)

16 CHAIRPERSON HILL: All right. Mr. Moy, if you could
17 please allow that into the record, if staff could allow that
18 into the record, then we can kind of take a look at that.

19 Ms. Rao, are you there?

20 MS. RAO: I'm here.

21 CHAIRPERSON HILL: Okay. Great.

22 Could you please introduce yourself for the record?

23 MS. RAO: Certainly. Good afternoon. My name is
24 Heather Rao. I'm an architect with Quill Architects, on behalf
25 of my clients, Chris and Andrea Schierkolk.

1 Two points, if I may, regarding Mr. Moy's references
2 to the PowerPoint. It is all material that was submitted to
3 the record previously. There is no new material in the
4 PowerPoint and the revised plans were submitted, I believe,
5 before the 21-day deadline. So, I'm not sure -- we didn't file
6 for an exception. I'm not sure where that came from, but that
7 was -- we didn't do that.

8 CHAIRPERSON HILL: Okay. Well, the PowerPoint is --

9 MS. RAO: It (audio interference.)

10 CHAIRPERSON HILL: I appreciate that. I'm glad that
11 the PowerPoint doesn't have any new information. We'd still
12 like to go ahead and admit that into the record.

13 And if the revised plans came before the 21 days,
14 then that's fine. If that's the one that's in Exhibit 27?

15 MS. RAO: Yes, I believe so.

16 CHAIRPERSON HILL: Okay. Great.

17 All right. Ms. Rao, are you going to be presenting
18 to us?

19 MS. RAO: I am prepared to do that if you'd like. If
20 Mr. Young could share the PowerPoint that we sent. This is a
21 fairly short presentation. I will go through it pretty quickly
22 for you.

23 As I said, I represent Chris and Andrea Schierkolk,
24 who live at 1012 Taussig Place, Northeast. We are here today
25 to request a special exception under Subtitle D, Section 5201,

1 from the rear yard requirements of Subtitle D, Section 306.2.

2 Next slide, please.

3 The proposed project is a one-story addition at the
4 rear of an existing two-story semi-detached home. You can see
5 it on the top block map, again, in aerial view. And at the
6 bottom, you can see that both, the subject property, which is
7 towards the front on the right, and the adjacent neighbor, have
8 existing bump-out additions on the back of their homes.

9 Next slide, please.

10 The property is on a very shallow block. It is 57
11 and a half feet deep, and the property is 48 feet wide. The
12 proposed addition will replace and extend an existing non-
13 conforming addition, which is failing structurally. The
14 existing addition of eight feet wide by five feet deep, the
15 proposed addition will be 11 and a half feet wide by 7 and a
16 half feet deep, which will bring it almost to in line with the
17 adjacent neighbor's bump-out addition.

18 Next slide, please.

19 These are the existing plans of the home. Andrea and
20 Chris live there with their two children. It does have a
21 lower level. The existing addition does not extend to this
22 level, nor will the new addition.

23 Next slide, please.

24 On the existing main level of the home, the addition
25 that is existing provides a rear entrance, as well as sort of

1 extra kitchen storage space.

2 Next slide, please.

3 The existing upper level has three bedrooms and one
4 full bath.

5 Next slide, please.

6 The proposed plans include an addition of crawl space
7 at grade, likely, with a concrete pad for outdoor storage, but
8 no new excavation at the lower level.

9 Next slide, please.

10 The extended one-story addition will still include
11 the rear entry to the home, as well as an extension of a usable
12 kitchen area. The interior of the home will also be
13 significantly opened up with the removal of a portion of the
14 existing wall.

15 Next slide, please.

16 At the upper level, the addition will not have any
17 impact on the existing windows. Since it is on the north side
18 of a two-story house, it will not cast any additional shadows
19 on any neighboring properties. Sun studies were included in
20 the record to demonstrate this, as well.

21 Next slide, please.

22 Materials for the addition are anticipated to be
23 fiber cement horizontal siding with PVC trim, clad wood
24 windows, and metal roofing. As noted in Exhibit 27, the owners
25 wish to request that Office of Planning staff be allowed to

1 approve minor changes to window placement and materials for
2 roofing materials, in particular, during the affirmative
3 approval process.

4 Next slide, please.

5 The addition will not impact the light and air
6 available to the neighboring properties. This is the side view
7 of it. It will not encroach on the existing 15-foot side yard
8 to the west, which faces directly onto the side of the house.

9 The addition will not project beyond the existing
10 addition to the east. It will also not affect the privacy of
11 either of those neighbors or of those to the north, across the
12 alley.

13 The existing addition has two north-facing windows
14 and one west-facing door. The new addition will likewise have
15 two north-facing windows and one west-facing door.

16 Next slide, please.

17 The proposed addition is not excessive, nor will it
18 unduly impact the light, air, or privacy of any neighbor. The
19 massing and design of the addition are in keeping with other
20 structures on the block.

21 This project was presented to ANC 5B and a letter of
22 support from the ANC has been added to the record.

23 The owners have also reached out to several of their
24 adjacent neighbors, with none expressing any concerns or
25 opposition to the project.

1 The Office of Planning has provided their report to
2 the record, which recommends approval of the application;
3 additionally, DDOT has reviewed the application and indicated
4 in their report that they have no objection to it.

5 The owner, Andrea Schierkolk and I are now available
6 to respond to any questions. Thank you very much.

7 CHAIRPERSON HILL: Okay. Mr. Young, before you pull
8 it off, just leave that up for one second.

9 Ms. Rao, can you show us what exactly you're looking
10 for in terms of flexibility? Like maybe point out which one of
11 the slides -- we have it now in the record. So we can look at
12 the -- that's --

13 MS. RAO: Sure. If you could go back to slide 10,
14 please. Page 10.

15 We would like some flexibility to be able to move the
16 two new windows slightly within that façade.

17 If we determine from the interior that it works better
18 to move them six inches to the east or west or a foot to the east
19 or west, we'd like the flexibility to do that.

20 We'd also like the flexibility to just change from
21 what's been called out as metal roofing on the addition to a
22 different type of roofing.

23 And I believe potentially to change the trim material
24 from PVC what's been called out to some other type of low
25 maintenance synthetic. f

1 I believe those are the flexibilities that we're
2 looking for right now.

3 CHAIRMAN HILL: So --

4 MS. RAO: Andrea, do you have anything else to add?

5 MS. SCHIERKOLK: No further comment. That covers it.

6 CHAIRMAN HILL: When you say the metal roofing on the
7 addition, are you talking about the metal roofing to that --
8 right there at the porch addition?

9 MS. RAO: No, not the porch. The new addition that is
10 where the two windows are and there's --

11 CHAIRMAN HILL: Okay. I got you. So the new metal -
12 - the new metal roof with metal gutter?

13 MS. RAO: -- (audio interference) on the left?

14 CHAIRMAN HILL: So the new metal -- the new metal roof
15 with metal gutter?

16 MS. RAO: Exactly.

17 CHAIRMAN HILL: So you'd like flexibility in what
18 regard with that?

19 MS. RAO: To change that from metal roofing to a
20 different type of roofing, a different material.

21 CHAIRMAN HILL: Okay. And then I understand the windows
22 in terms of like one foot east or west.

23 And then what was the other thing? You said some piping
24 of some kind?

25 MS. RAO: We have called out for PVC trim. If we

1 | decided to change to a slightly different material for trim, I'd
2 | like the flexibility to be able to do that.

3 | CHAIRMAN HILL: Where is the PVC trim?

4 | MS. RAO: With that trim board, it's on the sides and
5 | then around the windows.

6 | CHAIRMAN HILL: Oh, just all in that little area.

7 | MS. RAO: Yes, yes. The main house is not being changed
8 | or altered in any way. The brick wall is staying and all of the
9 | windows there stay.

10 | CHAIRMAN HILL: Okay. I understand. Oh, I see the PVC
11 | trim.

12 | And so instead of the PVC trim, you're thinking of what
13 | maybe?

14 | MS. RAO: It could be a fiber cement trim. It could
15 | be just a different synthetic material trim.

16 | CHAIRMAN HILL: Okay.

17 | MS. RAO: I'm not looking to introduce real wood here.

18 | CHAIRMAN HILL: Got it. Okay. All right.

19 | Does the Board have questions of the applicant?

20 | (Negative head shake.)

21 | CHAIRMAN HILL: Okay. I'm not seeing any. All right.

22 | Can we turn to the Office of Planning?

23 | MS. ELLIOTT: Good afternoon, Mr. Chairman and members
24 | of the Board.

25 | I'm Brandice Elliott, representing the Office of

1 Planning for BZA Case 20387.

2 The Office of Planning is recommending approval of the
3 requested rear yard relief.

4 The applicant has also gone into some detail regarding
5 the flexibility that they're requesting for materials and window
6 placement and OP is -- is okay with that because it doesn't reduce
7 the relief any further. The rear yard would remain the same.
8 So, we have no concerns with that.

9 I'm happy to answer any questions that you have.

10 CHAIRMAN HILL: Okay. Does anybody have any questions
11 for the Office of Planning?

12 Ms. Rao, do you have any questions for the Office of
13 Planning?

14 MS. RAO: No, thank you.

15 CHAIRMAN HILL: Mr. Young, is there anyone wishing to
16 speak and testify?

17 MR. YOUNG: We do not.

18 CHAIRMAN HILL: Okay. Does the Board have any final
19 questions?

20 Ms. Rao, do you have any final statement?

21 MS. RAO: Thank you for your time and consideration.

22 CHAIRMAN HILL: Okay. I'm going to go ahead and close
23 the record and the hearing and excuse everyone.

24 Okay. I can start.

25 I didn't really have any issues with the application.

1 I was a little bit curious about the flexibility because I know
2 it's not something that we normally look at or, not look at, but
3 we're not usually that inclined to allow.

4 However, since the Office of Planning doesn't have an
5 issue with it, that is helpful.

6 And then I understand, you know, they're talking about
7 one foot east and west of those windows, the metal roofing to
8 perhaps another material, just on that addition, as well as the
9 PVC trim flexibility, just on that addition. So I don't have
10 any -- I don't have any problems with the flexibility or how the
11 applicant is meeting the standard.

12 The Office of Planning's analysis, I believe, is
13 adequate as is the ANC5B's support and no objection from DDOT.

14 Ms. -- Chairman Hood, do you have anything you'd like
15 to add?

16 CHAIRMAN HOOD: (Audio interference) everything and I
17 don't want to be redundant, but I would agree with you. I think
18 the record speaks for itself.

19 Thank you, Mr. Chairman.

20 CHAIRMAN HILL: Thank you, Chairman Hood. Mr. Smith?

21 BOARD MEMBER SMITH: I don't have anything else to add.
22 I would support the application.

23 CHAIRMAN HILL: Vice Chair John.

24 VICE CHAIR JOHN: I'm in support of the application.
25 It's fairly straightforward and I agree with OP's analysis.

1 CHAIRMAN HILL: All right. Then I'm going to go ahead
2 and make a motion to approve application number 20387 as
3 captioned read by the Secretary, including the minor flexibility
4 that I mentioned and ask for a second, Ms. John.

5 VICE CHAIR JOHN: Second.

6 CHAIRMAN HILL: The motion made and seconded. Mr.
7 Moy, could you take a roll call vote?

8 MR. MOY: Thank you, sir. Staff. When I call your
9 name, if you would please respond with a yes, no or abstain to
10 the motion made by Chairman Hill to approve the application for
11 the relief requested along with the condition for minor
12 modification.

13 The motion was seconded by Vice Chair John.

14 Zoning Commission Chair, Anthony Hood.

15 CHAIRMAN HOOD: Yes, to approve.

16 MR. MOY: Mr. Smith.

17 BOARD MEMBER SMITH: Yes, to approve.

18 MR. MOY: Chairman Hill.

19 CHAIRMAN HILL: Yes, to approve.

20 MR. MOY: We have a board seat vacant. The staff would
21 record the vote as 4 to 0 to 1 --

22 VICE CHAIR JOHN: Mr. --

23 MR. MOY: -- as this is on the motion made by Chairman
24 Hill to approve along with the one condition. Seconded by Vice
25 Chair John. Also in support of the motion Mr. Smith.

1 CHAIRMAN HILL: Mr. Moy, Ms. John had a comment.

2 MR. MOY: Yes, please.

3 VICE CHAIR JOHN: I don't believe you called me, or I
4 did not hear, or I did not answer but it's yes to approve.

5 MR. MOY: Okay and thank you. I thought I had but that
6 would not be first mistake for today.

7 VICE CHAIR JOHN: And maybe I didn't hear.

8 MR. MOY: Okay. So --

9 CHAIRMAN HILL: (Audio interference).

10 MR. MOY: Before I go over -- I'm going to start the
11 vote count over again for clarity. But, before I do that, I just
12 want to add, to straighten the record, the preliminary matter
13 that I mentioned earlier, strike what I said. I was reading my
14 notes for the wrong case.

15 VICE CHAIR JOHN: Okay.

16 MR. MOY: I just want that clear for the record.

17 CHAIRMAN HOOD: And, Mr. Moy, I just want you to know,
18 you're not the only one that does that. I do that quite often.

19 MR. MOY: You're too kind, Mr. Hood.

20 CHAIRMAN HILL: I'm sorry, guys. It's just this vaccine
21 thing that's going on.

22 All right. So -- go ahead.

23 MR. MOY: Let me -- well, let me go through this again
24 for clarity, Mr. Chair.

25 So I already got the vote count and would say that the

1 staff would record the vote as 4 to 0 to 1 and this is on the
2 motion of Chairman Hill to approve with the condition as cited.
3 Seconded by Vice Chair John.

4 Also in support of the motion Zoning Commission Chair
5 Anthony Hood and Mr. Smith. Motion carries.

6 CHAIRMAN HILL: All right. Great, Mr. Moy.

7 Yeah, it was to allow the flexibility that we
8 specified.

9 MR. MOY: Yes, sir.

10 CHAIRMAN HILL: Okay. Great. All right.

11 Please feel free to call our next case when you have a
12 chance.

13 MR. MOY: Okay. So this is case application number
14 20388 of 2615 13th Street -- 13th Street, LLC. Captioned and
15 advertised for a special exception pursuant to Subtitle U,
16 Section 320.2 from the use provisions of Subtitle U, Section
17 301.4. This would construct a rear -- construct rear deck
18 additions to an existing attached three-story four-unit apartment
19 house, RF-1 Zone and premises 2615 13th Street, N.W., Square
20 2862, Lot 42.

21 CHAIRMAN HILL: All right. Mr. Sullivan, could you
22 please introduce yourself for the record?

23 MR. SULLIVAN: Yes. Thank you, Mr. Chair and Board
24 Member.

25 Marty Sullivan with Sullivan and Barros on behalf of

1 the applicant.

2 CHAIRMAN HILL: All right. Mr. Sullivan, I just -- I'm
3 -- I got your PowerPoint up. So I'm just going to let you go
4 ahead and begin. If we need to speak with anyone else who's
5 here, we can go ahead and do so.

6 And so you can begin whenever you like if Mr. Young
7 wants to bring up the PowerPoint for you.

8 (Pause.)

9 MR. SULLIVAN: Thank you.

10 So this is 2615 13th Street. As you can see, the relief
11 relates to the decks that you see on this section drawing here.

12 The building is a four-unit building. It was
13 previously converted from a single or a flat, likely before 1958.

14 And under U301.4, any structural expansion of a
15 previously converted building in the RF Zone requires relief.

16 So the lot occupancy here will only be 52 percent after
17 the decks are constructed. So it's otherwise -- the structure
18 is completely matter-of-right.

19 If it was a single or a flat, we wouldn't be here but
20 any expansion at all is prohibited without special exception
21 relief.

22 Next slide please.

23 This is some of the narrative that I just explained.
24 We're requesting relief. The relief is the same as it would be
25 if we were doing a conversion, the criteria for approval. So

1 | it's U320.2.

2 | Next slide please.

3 | We do have unanimous support of the ANClB and the Office
4 | of Planning.

5 | I mention here that there's an email from 2617 but I
6 | believe that's just something we have. I don't think that we
7 | have filed that. But 2617 is another four-unit building and I
8 | think it's also undergoing some sort of renovation and we do have
9 | support from them. But they didn't file a letter to the record.

10 | On the other side is a single family and we do have a
11 | letter of support from that, from 2613.

12 | Next slide, please.

13 | Here's a photo showing the subject property to the
14 | right.

15 | Next slide, please. Next slide, please.

16 | Here's a plat showing the area of the decks.

17 | We're -- this building is in line with the building to
18 | the north and it's several feet past the building to the south.

19 | Next slide, please.

20 | And this on the cover page.

21 | Next slide, please. And next slide.

22 | Here's the rear elevation.

23 | Next slide, please.

24 | So the general -- we meet the general requirements.

25 | There's no change in the building. It's just an addition of

1 decks and, again, it's a 52.3 percent lot occupancy; well below
2 the 60 percent.

3 Next slide, please.

4 The specific criteria relate to -- or it's the same as
5 the U320 conversion test. So we obviously meet this. The
6 building is in existence right now. There's -- the requirement
7 -- the fourth dwelling unit, the additional unit, be subject to
8 IZ. This is a currently non-conforming structure with the four
9 units and so (b) and (c) actually don't apply for that reason
10 because we're not adding any units.

11 Next slide, please.

12 And (c) is the 900-foot rule requirement which, same
13 issue. We don't meet that but because it's a currently existing,
14 it's non-conforming as to this aspect.

15 Next slide, please.

16 Legally non-conforming.

17 And that's it. If there's any questions.

18 And the architect and a representative of the property
19 owner is here as well.

20 CHAIRMAN HILL: Okay. Ms. John, I just had a quick
21 question. It wasn't necessarily even so much the relief.

22 Is there like an old fire escape that's on that
23 building? And are you taking it down?

24 MR. SULLIVAN: I think I'll ask Mr. Santos to just jump
25 him. He may know the answer to that question or Mr. Kornmeier.

1 CHAIRMAN HILL: Mr. Santos? Mr. Kornmeier?

2 MR. KORNMEIER: Yeah. I -- so, yeah. This is Mr. --
3 Peter Kornmeier, the owner.

4 So there is an existing fire escape. I do believe we
5 are taking it down but I'm actually not a hundred percent sure
6 about that.

7 CHAIRMAN HILL: Okay. Well, I'll come back to you.

8 Does the Board have any questions for the applicant?

9 Can I turn to the Office of Planning, please?

10 MS. MYERS: Hi, Crystal Myers with the Office of
11 Planning.

12 The Office of Planning is recommending the relief in
13 this case and stands on the record of the staff report.

14 CHAIRMAN HILL: Does anybody have any questions for the
15 Office of Planning?

16 All right. Mr. Sullivan, do you have any questions for
17 the Office of Planning.

18 MR. SULLIVAN: No. Thank you.

19 CHAIRMAN HILL: Mr. Young, is there anyone here wishing
20 to testify?

21 MR. YOUNG: We do not.

22 CHAIRMAN HILL: Mr. Santos, can you hear me?

23 All right. That's all right. It's not part of the
24 relief. I was just curious about that fire escape because it's
25 just so -- it's one of those old fire escapes.

1 All right. Mr. Sullivan, do you have anything you want
2 to add at the end?

3 MR. SULLIVAN: No, thank you.

4 CHAIRMAN HILL: Okay. I'm going to close the hearing
5 and the record and excuse everyone, Mr. Young, thank you.

6 (Pause.)

7 CHAIRMAN HILL: I'm going to let somebody else start
8 just because I'm talking a lot and I'm going to start with Mr.
9 Smith, if that's okay, Mr. Smith.

10 BOARD MEMBER SMITH: Sure. I didn't have any major
11 concerns with this particular project.

12 I do believe that the project is fairly
13 straightforward. They are proposing to construct some open rear
14 decks to the rear of the building.

15 I do believe that those open rear decks would not cause
16 any detrimental harm to the adjacent property owners, to the left
17 and right of the property.

18 And I again give great weight to OP's report which was
19 very succinct and thorough in explaining the reasons why we can
20 support this special exception.

21 I will also note that ANCLB had no major concerns and
22 no objections from DDOT.

23 So I'm in fully support of this special exception.

24 CHAIRMAN HILL: Okay. Great. Thank you, Mr. Smith.
25 Chairman Hood.

1 CHAIRMAN HOOD: Mr. Chairman, I don't have anything to
2 add. I think Board Member Smith covered it all.

3 I will say that this is a prime case for Vice Chair
4 Miller, who sits on the Zoning Commission. I think he loves
5 balconies and these kind of open decks.

6 So I would agree. I think all the relief requested is
7 -- warrants our approval.

8 Thank you, Mr. Chairman.

9 CHAIRMAN HILL: All right. Vice chair John.

10 VICE CHAIR JOHN: I have nothing (audio interference)
11 add DDOT also is not -- has no objection and the ANC has no issues
12 and concerns. And I can support the application.

13 CHAIRMAN HILL: Thank you, Vice Chair John.

14 I have nothing to add to what my colleagues have added.

15 I'll go ahead and make a motion to approve application
16 number 20388 and ask for a second, Ms. John.

17 VICE CHAIR JOHN: Second.

18 CHAIRMAN HILL: The motion made and seconded. Mr. Moy,
19 could you please take a roll call vote?

20 MR. MOY: When I call your name, if you would please
21 respond with a yes, no or abstain, to the motion made by Chairman
22 Hill to approve the application for the relief requested and the
23 motion was seconded by Vice Chair John.

24 Zoning Commission Chair, Anthony Hood.

25 CHAIRMAN HOOD: Yes, to the motion made.

1 MR. MOY: Mr. Smith.

2 BOARD MEMBER SMITH: Yes, to approve.

3 MR. MOY: Vice Chair John.

4 VICE CHAIR JOHN: Yes, I approve.

5 MR. MOY: Chairman Hill?

6 CHAIRMAN HILL: Yes, to approve.

7 MR. MOY: We have a board seat vacant. Staff would
8 record the vote as 4 to 0 to 1 and this is on the motion made by
9 Chairman Hill to approve, seconded by Vice Chair John.

10 Also in support of the motion, Mr. Smith and Zoning
11 Commission Chair, Anthony Hood.

12 The motion carries.

13 CHAIRMAN HILL: All right. Thank you, Mr. Moy.

14 Mr. Moy, whenever you like, you can call the next one.

15 MR. MOY: All right. This is case application number
16 20393 of Amy Dapot, D-A-P-O-T.

17 This is an application for a special exception relief
18 from the minimum parking -- from the minimum vehicle parking
19 requirements, Subtitle C, Section 701.5, to convert an existing
20 detached two-story carriage house to a principal dwelling unit
21 in an RF1 Zone.

22 It is located at premises 1608 East Capitol Street,
23 N.E. and it is in -- it's in an alley and the lot number is 1084,
24 Square 1084, Lot 46.

25 MR. YOUNG: Mr. Chair?

1 CHAIRMAN HILL: Yes.

2 MR. YOUNG: The applicant is Harry Martin, and I could
3 only unmute him.

4 CHAIRMAN HILL: All right. Great. Could you go ahead
5 and do that, please?

6 Mr. Martin, can you hear me?

7 (Pause.)

8 CHAIRMAN HILL: Mr. Martin, can you hear me?

9 (Pause.)

10 CHAIRMAN HILL: Mr. Martin, can you hear me? Can you
11 all hear me?

12 Mr. Martin, can you hear me? Mr. Martin?

13 (Pause.)

14 CHAIRMAN HILL: Mr. Martin. Mr. Young, any luck?

15 MR. YOUNG: He should be able to speak. He's not on
16 mute anymore.

17 CHAIRMAN HILL: Mr. Martin? Mr. Martin, maybe push the
18 button once and just wait and see what happens.

19 (Pause.)

20 CHAIRMAN HILL: Okay. This hasn't happened to me yet,
21 but I have question for Ms. Cain.

22 So we're in the hearing. I believe there's some people
23 wishing to speak. I guess can we hear the testimony and then
24 we'll come back at the end of the day and see if we can get the
25 audio fixed?

1 MS. CAIN: I mean, who is waiting to testify? I mean,
2 I think you need to hear from the application before you would
3 let in any additional testimony.

4 CHAIRMAN HILL: Well all right. We're having some
5 issues obviously here.

6 MS. CAIN: I think --

7 CHAIRMAN HOOD: Mr. Chairman, can we just move to the
8 next case and maybe staff can try to get in touch with him and
9 then we can come back to this one?

10 CHAIRMAN HILL: Okay. All right. All right. I'm just
11 trying to see that there's people waiting to talk. But, okay.
12 That's fine.

13 MR. YOUNG: I've reached out to staff and they're going
14 to reach out to him and maybe he'll call in by phone.

15 CHAIRMAN HILL: Okay. Why don't, Mr. Young, if you
16 hear or, Mr. Moy, if you hear that we're back on with Mr. Martin,
17 then let me know and we'll take this up as soon as they get
18 technical connection, okay?

19 All right. So I'm going to close the hearing and ask
20 Mr. Moy to go ahead and call out next case.

21 (Pause.)

22 MR. MOY: All right. So this would be case application
23 number 20390 of Potomac Venture Group, LLC. This is captioned
24 and advertised for area variance from non-conforming structure
25 requirements, Subtitle U, Section -- Subtitle C, Section 204.1.

1 This would add an additional unit to an existing
2 detached 19-unit apartment building, R1B Zone at premises 11
3 Nicholson Street, N.W., Square 3383, Lots, 2, 23 and 24.

4 And there is --

5 MS. MOLDENHAUER: Yes. I'm not getting on.

6 MR. MOY: Okay. Great. All right. Thanks a lot.

7 MS. MOLDENHAUER: No problem.

8 MR. MOY: And I believe -- well -- and I see Ms.
9 Moldenhauer. I believe there's a waive report, 21 day filing
10 deadline. It's under Exhibit 35. And there's a resume of a Ms.
11 Felder that's not submitted because of the 24-hour deadline prior
12 to the hearing.

13 CHAIRMAN HILL: Okay. Ms. Moldenhauer, could you
14 introduce yourself for the record, please?

15 MS. MOLDENHAUER: Good evening, Chairman Hill and Board
16 Members.

17 My name is Meredith Moldenhauer from the law firm of
18 Cozen O'Connor, here today on behalf of Potomac Venture Group.

19 CHAIRMAN HILL: Okay. And who's here with you, Ms.
20 Moldenhauer?

21 MS. MOLDENHAUER: I have Ms. Felder here who is a
22 project architect available to answer any questions for the
23 Board.

24 CHAIRMAN HILL: Okay. And you said -- and so there's
25 a 21-day filing for something? What was it you filed?

1 MS. MOLDENHAUER: So we did file out PowerPoint on
2 Monday, within the proper timeline. But then we also wanted to
3 file a plan set which we filed at the same time on Monday, and
4 we asked for waiver to admit that plans. That it's a site plan.
5 It's going to show where the unit is located within the cellar
6 level.

7 CHAIRMAN HILL: Okay. I don't have any issues with
8 admitting the exhibit into the record because I'd like to see it
9 unless a Board Member has an issue with that. I don't think it
10 would prejudice anybody.

11 All right. So Mr. Moy, we're going to go ahead and
12 allow that into the record.

13 Is the PowerPoint already there? Let me look. Okay.
14 That PowerPoint is there. All right.

15 So then there was also expert testimony, is that what
16 you needed also in the record?

17 MS. MOLDENHAUER: Yes. We wanted to have the resume
18 for Taneka Felder, who is an architect, if the Board needs it,
19 we entered her resume in so she could qualify as an expert if
20 necessary.

21 CHAIRMAN HILL: Okay. I guess, go ahead and allow that
22 into the record, Mr. Moy, unless the Board has an issue with it
23 and we'll just ask some questions here of Ms. Felder real quick.

24 Mr. Felder, can you tell us a little bit ab out your
25 background? You're a registered architect in the City, I assume?

1 MS. FELDER: Yes. My name is Taneka Felder. I am a
2 licensed architect with the Redlef Group Architects.

3 I am licensed in the District of Columbia as a
4 registered architect.

5 I have over 19 years experience.

6 CHAIRMAN HILL: Okay. I don't have any issue, unless
7 the Board does, allowing Ms. Felder to testify as an expert.

8 VICE CHAIR JOHN: No.

9 CHAIRMAN HILL: Okay. All right. So we'll go ahead
10 and do that, Mr. Moy.

11 And then Ms. Moldenhauer, I guess you can go ahead and
12 begin whenever you'd like. I --

13 MS. MOLDENHAUER: I'll begin in one moment. Sorry.

14 (Pause.)

15 MS. MOLDENHAUER: I apologize about that.

16 CHAIRMAN HILL: No problem.

17 MS. MOLDENHAUER: All right.

18 CHAIRMAN HILL: We all have had stuff we're dealing
19 with.

20 Okay. So if you want to go ahead and walk us through
21 the presentation and --

22 MS. MOLDENHAUER: Yes.

23 CHAIRMAN HILL: -- whenever you like.

24 MS. MOLDENHAUER: If Mr. Young could pull up the
25 PowerPoint presentation, I'll just walk you through. Fantastic.

1 So the first image that you're going to see in a moment
2 is the property. It is a -- an existing apartment building.

3 The apartment building is just the building in the
4 forefront of the image. The property line actually ends and then
5 there's another apartment building to the rear which is on a
6 separate site. I just want to make sure that's clear.

7 There's also a pedestrian walkway that's on our
8 property. It goes behind the rear of that building.

9 Next image.

10 You can see here that the property is located on an R1B
11 Zone. It is on a corner parcel, so it has frontage on both
12 Nicholson Street as well as Blair Road.

13 Next image.

14 The existing building is a 19-unit apartment building
15 that was built in the 1930s and is obviously non-conforming as
16 it's an apartment building in the R1B Zone.

17 The proposal that you have before you today is to add
18 a 20th unit to the 19 units. The unit is 498 square feet on the
19 cellar level.

20 The existing dwelling, actually prior to the
21 applicant's purchase of the building in 2001 had this -- had this
22 unit there and had been periodically used by onsite management
23 workers at the property.

24 The proposal proposes no exterior or interior
25 structural changes to the property.

1 Next slide.

2 The applicant has worked with the ANC, ANC4B. We even
3 conducted a exterior walk around the property and site visits and
4 then presented to the ANC. They supported this property --
5 project and that is in the record.

6 The Office of Planning is also in support as well as
7 DDOT.

8 Next image.

9 As you can see here, this was the image that we asked
10 the Board, and I appreciate you entering into the record. You
11 can see the U-shaped structure of the original building.

12 On the lower level, a portion of the building is
13 developed and excavated. You can see there are some areas that
14 are not part of this project.

15 The far right hand corner that is in gray is the
16 proposed 20th unit.

17 You can see there's two staircases that go down for
18 egress purposes and there's a corridor that separates this unit
19 from other potentially unexcavated or uncompleted areas to the
20 south on this image.

21 Theirs is an -- a utility room that is currently being
22 used for storage.

23 We then have, to the left of the utility room, two both
24 gas and Pepco meter structures and rooms.

25 We then have another egress stair. We then have an

1 additional storage room that's currently a, you know, onsite
2 storage and maintenance room for work to be done on the building.

3 Then we have our boiler room at the end and then a
4 large laundry room facility that's currently utilized by tenants.

5 Next image.

6 This is a more detailed image of the unit specifically
7 as it currently is laid out and as would be proposed.

8 As indicated earlier, the proposal would include no
9 changes to the existing interior of the building or exterior.

10 Next image.

11 The use variance request that we're asking for is under
12 Subtitle C, 201. -- 204.1, which indicates that you're not
13 permitted to expand an existing non-conformity, including in
14 gross floor area without the variance relief.

15 Next image.

16 The exceptional condition here is that there is an
17 existing dwelling unit on the cellar level; that there are
18 existing exterior windows that allow for light and air; that
19 there is already HVAC that services this unit as well as an
20 existing kitchen facility and that all was installed prior to the
21 applicant's ownership and that it has been used from time-to-
22 time not for public -- a public tenant but rather for interior
23 onsite maintenance.

24 Next slide.

25 The practical difficulty here is that without relief

1 498 square feet of space would be under utilized in the cellar
2 area.

3 In applying the standard, we look at the legal standard
4 articulated by *Palmer v. BZA*, which is whether or not there are
5 any other reasonable uses that could be applied or used at the
6 property that would be consistent with the Zoning Regulations.

7 As outlined extensively in our pre-hearing statement
8 as well as we'll go through those today, there are no other
9 alternative uses that would not require demolition of the
10 existing site or that would be reasonable that are consistent
11 with either by right uses or special exception uses.

12 Next slide.

13 As you've gone through, we've really articulated that,
14 you know, there's no other reasonable alternative uses. We have
15 not only analyzed other uses but also possible alternative or
16 ancillary uses for the residential apartment building.

17 We analyzed whether or not, you know, this could be
18 used for additional laundry or utility or storage. As you can
19 see from that lower-level cellar area, there already is
20 sufficient space that's currently being provided and utilized for
21 storage and laundry and utilities.

22 In addition to that, you know, we've submitted that,
23 you know, the common -- this could not be utilized for a community
24 room or a gym due to its size and other challenges, as well as
25 it cannot be combined with a first-floor unit.

1 I'm going to turn over briefly to our project
2 architect. Ms. Felder, if you can simply elaborate on, perhaps
3 from an architectural perspective, on the community room use or
4 a gym room use.

5 MS. FELDER: Sure. So as Ms. Moldenhauer mentioned,
6 there are facilities already in place in the basement. There -
7 - it's a boiler room. There's sufficient facilities for laundry.
8 There is a storage space that's utilized by the building
9 management only.

10 There are two storage spaces, but one acts more like a
11 maintenance area where the building management can come in and
12 deal with maintenance issues for the building.

13 One of those areas abuts the -- or adjoins where the
14 proposed unit is located and there is actually a masonry wall
15 that separates the two.

16 So, in terms of the community room or gym or other
17 uses, the -- because this is located in the cellar, there is no
18 elevator to go up and down from the first floor to the cellar
19 level and because most of the residents are on the first floor,
20 if we were to do something like a community room or a gym, which
21 I don't believe we have the space for, then it would be a hardship
22 where people who had physical challenges or -- would not be able
23 to access it readily.

24 So there will be no -- having this additional unit, the
25 proposed unit does not have any internal or external or does not

1 require any internal or external structural changes because it's
2 already in place. So we don't have to go through any type of
3 structure bearing walls or anything in order to leave that
4 proposed unit in place.

5 MS. MOLDENHAUER: Thank you. I thank you so much.

6 MS. FELDER: Okay.

7 MS. MOLDENHAUER: And so next slide.

8 In addition to that, there are not reasonable
9 alternative uses that are either permitted in the R1B Zone for
10 by right uses or for special exception uses or for accessory
11 uses.

12 Alternative uses are not reasonable for the following
13 reasons and, as I said, we can go through all of those if you
14 would like but they are specifically outlined in our pre-hearing
15 statement.

16 The inability due to the existing apartment use. A lot
17 of incompatibility given the fact that there are existing units
18 as well as what Ms. Felder pointed out, the ADA lack of access
19 to a lower unit as well as the fact that the property -- the
20 space is very small, only 498 square feet.

21 There is also significant opportunity for a difficult
22 operational challenge given the existing apartment use at the
23 site and no direct exterior access and no ability to provide that
24 direct exterior access. The access obviously currently is
25 through two forms of egress that are required.

1 The Office of Planning also, based on our analysis, and
2 Office of Planning's independent analysis, concluded that there
3 would be no reasonable alterative uses and that the space would
4 then remain under utilized.

5 Next slide.

6 We do not believe that this would create a detriment
7 to the public good or the zone plan given the fact that there is
8 no structural changes to the exterior of the property.

9 Additionally to that, the minimum density increase from
10 19 units to 20 units is very small as well as the fact that this
11 has been periodically used by onsite maintenance workers, that
12 change in density would be already kind of normalized throughout
13 the neighborhood and the community.

14 In addition to that, the ANC and the Office of Planning
15 are both in support of this and found no detriment to the public
16 good or the zone plan.

17 Next slide.

18 So we just -- we go back to an image of the building.
19 The unit is on the back far right of this image. As you can see
20 in the site plan, after this slide, we do have a list of all of
21 the matter-of-right and special exception uses and we can go
22 through each of those if the Board thinks that that is necessary.
23 But I'll leave that up to the Board if they would like me to
24 elaborate on those.

25 Otherwise, I have concluded our presentation and would

1 be available for questions.

2 VICE CHAIR JOHN: So since no one is speaking, I'll go
3 first.

4 Let me talk about the undue hardship again because it
5 seems to me that the hardship is because of the proposed use.
6 It's (audio interference).

7 And the second thing is -- well, why don't you go ahead
8 and talk about that first. Bear in mind that the space, as I
9 calculated, was 15 feet by 30 feet. So that's not exactly small.

10 MS. MOLDENHAUER: So the undue hardship or the undue
11 hardship relates to the fact that this is an existing apartment
12 building, and it is fully leased.

13 And so, you know, if you were, and Ms. Felder can
14 actually elaborate on this as well, if there were any changes to
15 be done, you're also talking about disturbing existing tenants.

16 We had analyzed --

17 (Pause.)

18 MS. MOLDENHAUER: So --

19 VICE CHAIR JOHN: The space is -- that space that's
20 devoted to the apartment unit right now is 15 feet by 30 feet.

21 And I'm not convinced it couldn't be used as some sort
22 of workout area and -- and because this is an old apartment, I'm
23 not sure about this and I guess Ms. Moldenhauer could address it.

24 If that should happen, would there be an exception for
25 preexisting building in terms of the ADA requirement?

1 Let's say that the only one that could change this to
2 a gym, which is an accessory use for a residential building.
3 Would there be some sort of exemption for not having an ADA
4 accepted accessible unit because, as I understand it, that
5 tenants would have to use the stairs. There's no elevator access,
6 right.

7 MS. MOLDENHAUER: Correct. So there's -- there are
8 multiple undue hardships and challenges with utilizing this for
9 a gym.

10 One, there would be the challenge of obviously
11 complying with building code and ADA, with or without a, you
12 know, the property owner obviously would not want to subject
13 themselves to challenges for not being able to provide a service
14 to somebody who is older or has physical difficulty in getting
15 up and down the stairs to be able to utilize an amenity that
16 would be provided.

17 In addition to that, there would be the undue hardship
18 associated with demolishing the existing conditions of the
19 building, such as demolishing the existing kitchen, to outfit a
20 space into that utilization.

21 In addition to that, the ceiling height is less than
22 what would be desirable for equipment and maybe if, you know,
23 from a -- you know, if you were -- I was actually just the other
24 day, I -- we workout from home, you have a smaller space and you
25 put in an elliptical and you have to stand up on the elliptical

1 and you're moving, your head goes up really high. And so the
2 short ceiling also has practical difficulty for a gym-type of
3 facility.

4 MS. FELDER: Also dealing with the occupant load for a
5 gym, building codes require a 50 square-foot gross per person,
6 per occupant, for an exercise room. And if you take the occupant
7 load of the building, that would require an exercise room or a
8 gym of about 1900 or more square feet which we don't have. That
9 -- being that the room is not -- is less than that, far less than
10 that.

11 MS. MOLDENHAUER: And, Ms. Felder, could you -- what
12 would be the practical difficulty? Could you build into the
13 current hallway that's there to expand the space? What would be
14 the challenge there with egress?

15 MS. FELDER: So you can't -- you can't build into the
16 current space as well because you have the two stairwells on
17 either side of the building. And so that corridor there is to
18 allow for egress, to be able to exit the building properly.
19 That's actually code compliant.

20 So in order to -- we cannot expand into the hallway or
21 take space from the current hallway in order to increase the
22 square footage of that space.

23 VICE CHAIR JOHN: Okay. Thank you.

24 And so my last question for now, so the test, as I
25 understand it, in terms of hardship, is not to whether or not

1 the owner can use the space for a permitted use but for the --
2 for the building itself, for the structure.

3 So, right now, the (audio interference) there are 19
4 units and then there is storage in the basement.

5 So the property owner is able to use the building for
6 the intended purpose and the -- the importance of the prohibition
7 on expanding a non-conforming use is to return the property to a
8 conforming use. It's not expanded on the (audio interference)
9 hardship in the use of the structure and I think sometimes we
10 look at these cases as if we're to evaluate a particular space
11 as to the entire structure and I don't think you want to address
12 that Ms. Moldenhauer.

13 MS. MOLDENHAUER: So the standard is that the property
14 itself has an exceptional condition. The exceptional condition
15 is the existing layout and the existing buildout of the space.

16 And so that then creates the practical difficulty. The
17 practical difficulty does not have to do with the owner itself.
18 It has to do with the physical condition of the space and the
19 property and the property's condition.

20 It also is a standard of whether or not there are no
21 alternative reasonable uses and so here a residential use is
22 consistent with a residential intent of the R Zone and, as Office
23 of Planning indicated, this would not have a detriment to the
24 public good or the zone plan.

25 But the analysis is whether or not the space, because

1 | it's in the language of the ability to expand an existing, non-
2 | conformity, so whether that non-conforming area can be utilized
3 | for some other permitted use.

4 | And so that's why you have to analyze other permitted
5 | uses, which we have done, and we have found, not that it can
6 | simply, just simply, stay unutilized but rather are -- is there
7 | another reasonable alternative.

8 | And so we have analyzed all other reasonable
9 | alternatives and found that there are no other reasonable
10 | alternatives and that -- that is why we're asking for the relief
11 | today.

12 | VICE CHAIR JOHN: Okay. I had one more as you were
13 | talking but it's gone. I might remember.

14 | Mr. Chairman, I don't have any more questions.

15 | CHAIRMAN HILL: Okay. Chairman Hood.

16 | CHAIRMAN HOOD: Yes, Mr. Chairman. I missed -- I
17 | dropped off for a moment. So I may have missed what I'm going
18 | to ask Ms. Moldenhauer.

19 | I think she's offered to go through some of those uses
20 | but -- that -- without making non-conforming is -- so if you
21 | could run through that list, not the whole list, but just give
22 | me -- you may have already done that. So forgive me. I dropped
23 | off somewhere. But anyway I'm back.

24 | So if you could just run through a few and I think
25 | that's what you and Ms. Felder were doing when I came back on, I

1 believe.

2 MS. MOLDENHAUER: Sure. So what I can do, if Paul
3 could bring up the PowerPoint again, I think it's just easier to
4 kind of walk through them because there are a lot. If we can
5 pull up the PowerPoint.

6 CHAIRMAN HOOD: Okay. Just -- just give me --

7 MS. MOLDENHAUER: (audio interference) --

8 CHAIRMAN HOOD: -- just give me a snapshot of what your
9 thought pattern was, and I think that would be very helpful.
10 Thank you.

11 MS. MOLDENHAUER: Okay. Well, so -- so on slide 14,
12 we just simply go through all the permitted by right uses and,
13 at the end of the day, you can kind of see them here.

14 The community solar facility, that's obviously an
15 exterior use. That's not going to -- you're not going to be able
16 to do that inside of a building.

17 Agricultural, well, a lot of these uses would not be
18 viable because they are not consistent with an existing building.
19 These are uses that may be viable if they are on their own or if
20 you had a building with a separate, maybe garage, structure.

21 But here, again, the space is inside the building and,
22 you know, part of where tenants go and use their laundry, all
23 these other potential matter-of-right uses are not reasonable as
24 a reasonable alternative to be able to locate those in an existing
25 apartment building.

1 Next slide.

2 The next slide goes through the final kind of list
3 again of these uses that are permitted by right in the zone.

4 And then if you go to the next slide, there were special
5 exception uses. And, again, these are uses that are either not
6 reasonable alternatives because of the smaller size of the
7 building or because of the lack of ADA accessibility or because
8 of the fact that this would not be something that you would to
9 utilize in an existing apartment building.

10 And so we have gone through all of these and identified,
11 you know, specifically kind of how they are either, you know --
12 you know, private stable is a special exception use obviously
13 would not be appropriate given that this is within an existing
14 apartment building.

15 And to outline all of the alternative uses and identify
16 why they are not reasonable, again, the standard is reasonability
17 of the alternative uses, not whether or not the space can be
18 maintained as vacant, but rather could another permitted use be
19 reasonable, and we believe that there are no other reasonable
20 uses other than allowing this space to be utilized by a potential
21 future individual in the city that needs a space that would be
22 open to the public.

23 I hope that answers your question, Chairman Hood.

24 CHAIRMAN HOOD: Yes. It answers my question but I'm -
25 - I'm looking at some of these uses. I think we could be creative

1 but I'm not the one who's arguing the case.

2 Anyway I would like to hear some more discussion and
3 see how this goes. So, thank you, Ms. Moldenhauer and Ms. Felder.
4 Thank you.

5 CHAIRMAN HILL: Mr. Smith.

6 BOARD MEMBER SMITH: Ms. Moldenhauer, I -- I think --
7 you know, I was cutting out a little bit as well.

8 I believe you ran through the special exception uses.
9 Could you run through the by rights uses again and reasons why
10 you can't reasonable conduct those uses within this space?

11 MS. MOLDENHAUER: Sure. So one is a community solar
12 facility. Obviously, it's a lower-level unit that would not
13 violate -- viably be able to be utilized for solar.

14 Another one is agricultural use. Again, internal space
15 that could not be utilized for an agricultural use.

16 Third is a car share space on an improved lot. The lot
17 is improved and it's an interior space. So that use would not
18 be viable.

19 A chancellery existing as of September 22nd, 1978, this
20 was not a previous chancellery so that would not be a reasonable
21 use.

22 A child development center or an elderly center, that
23 would not be reasonable given the smaller space, a space that in
24 fact would not be able to hold that many children as well as it's
25 also not compatible or reasonable given that you have an existing

1 apartment building and you -- that noise level from that would
2 be disruptive to individuals in the building.

3 Government and local, the property is not owned by the
4 D.C. Government or by a government agency and thus not a
5 reasonable alternative.

6 Private garage, this is, again, an interior space. So
7 that would be a by right use for potentially an exterior building
8 or a separate structure.

9 Public recreation, public education, public school,
10 again, this is not a public building for public use.

11 Temporary building for construction or a temporary use
12 for premises of affair, those are temporary uses that would not
13 be viable in an inside of an apartment building where you have
14 people walking around and this is not able to be separated out
15 and separated from the laundry room, where people are utilizing
16 that space as part of their everyday, you know, living. Again,
17 because of the egress and the corridor, where that is located,
18 and no separate exterior stair.

19 Finally, a mass transit facility. Again, not located
20 within an existing apartment building. And then if something was
21 a former public school use, but this is obviously not -- was not
22 a public, a former public school use.

23 (Audio interference), a clergy or religious group
24 residence. This would be an additional unit anyway. So even if
25 that's allowed, you still would need the relief because you would

1 | be expanding an apartment building that is not permitted to be
2 | an apartment building.

3 | And so whether or not obviously this was utilized for
4 | a clergy resident or an individual from the public, that would
5 | still need the same relief even though that is a by right use.

6 | I hope that makes sense.

7 | BOARD MEMBER SMITH: Yes, that makes sense and, Ms.
8 | John, I think, she was alluding to a public community space and
9 | she specifically was, in her example, was talking about a gym.
10 | What about other public amenity spaces such as a -- some type of
11 | business room, a game room. Does that run afoul of the building
12 | code in some way, shape or form? To have a different amenity
13 | space? That -- that's my first question and I have a second
14 | question after that.

15 | MS. MOLDENHAUER: Sure. And so I think that, you know,
16 | if this was an existing storage space that was being --
17 | potentially being proffered to be utilized for one of those -- a
18 | storage space into a unit, it would not come with the same
19 | practical difficulty or undue hardship that already exists
20 | because this is already fit out with a kitchen and a bathroom
21 | and laid out as a unit.

22 | So I think one that does create undue hardship for any
23 | other type of amenity space.

24 | But, in addition to that, you know, there are
25 | challenges in regards to the overall size for a community room.

1 Ms. Felder, if you can kind of give some of the
2 statistics on, you know, code requirements for the load occupancy
3 for a community room based on a 19-unit apartment building as
4 well as to answer Board Member Smith's question regarding, again,
5 the space requirements for a business center as well.

6 MS. FELDER: Yes. So dealing with occupant load and
7 code requirements to create a game room or a community room, any
8 type of space like that would be considered an assembly space and
9 with the occupant load of the building, when you calculate it
10 based off of what the requirements are per code, you would need
11 a minimum of about 900 square feet to meet code requirements,
12 based off the occupant load. And, of course, the space is
13 a smaller portion of that.

14 So that's where the hardship come in.

15 BOARD MEMBER SMITH: Okay. And I think my -- my last
16 question is just where using the building code to justify a
17 hardship, the current space, and I think Ms. Moldenhauer you
18 stated, the ceilings are fairly low. Does the current apartment
19 meet building code requirements for a residential space, or would
20 that have to be renovated to meet building code as well?

21 MS. FELDER: I can speak on that.

22 But the current unit does meet current codes. Ceiling
23 height in the space allotted, it does meet current building codes
24 and it will not have to be renovated in order to, you know,
25 conform to current building codes.

1 BOARD MEMBER SMITH: Okay. Thank you.

2 CHAIRMAN HILL: Okay. I guess the other question I
3 have, Ms. Moldenhauer, they're using it now or it has been used
4 now as an off and on space for a -- a maintenance person. How
5 come it can't just stay that way?

6 MS. MOLDENHAUER: Well we believe that obviously
7 there's not always a need for a maintenance person to be onsite.
8 As I said, it's only from time-to time. And that, you know,
9 given the fact that there is a need for housing in the city, the
10 ability to not have the hardship of not being able to open that
11 up to the public and to allow that unit to be on the books
12 formally for the public is obviously the relief that we're asking
13 for now.

14 And we'd want to be able to register it, you know, with
15 the Housing Authority as a unit in the building.

16 CHAIRMAN HILL: Okay.

17 MS. MOLDENHAUER: But (audio interference) --

18 CHAIRMAN HILL: And --

19 MS. MOLDENHAUER: -- but (audio interference) that, we
20 would need (audio interference) to be able to be modified which
21 is why we're asking for the relief.

22 CHAIRMAN HILL: No, I understand that part.

23 The -- right, just out of curiosity, so then what --
24 what -- it would be a pretty low rent unit, right?

25 MS. MOLDENHAUER: Yes. Obviously, it's a smaller unit.

1 So it's smaller than, you know, other units so it would be a
2 lower rent unit. Correct.

3 CHAIRMAN HILL: Okay. All right. We're going to go
4 to the Office of Planning and kind of go through this for a little
5 while. But does anybody have any more questions for the
6 applicant's part in the Office of Planning?

7 Okay.

8 CHAIRMAN HOOD: Okay, yes, Mr. Chairman.

9 CHAIRMAN HILL: Sure.

10 CHAIRMAN HOOD: Let me -- let me just -- let's walk -
11 - help me walk through this as I try to get where you are.

12 How many square feet are required for a unit?

13 MS. MOLDENHAUER: In the District of Columbia, there
14 are no limitations for specific -- you can do micro units. So
15 there's no minimum, to my understanding. I'm not a architect or
16 a code expert. But my understanding is that there's no limitation
17 for a unit, square footage.

18 MS. FELDER: Right. As long as there were certain
19 rooms or habitable spaces meet the requirements of code, then
20 they can -- you have minimum requirements like for instance, a
21 bedroom can't be less than 7 feet wide. Ceiling heights can't
22 be less than 7 feet.

23 So as long as those types of requirements are met, then
24 there is not a specific requirement for the amount of square
25 footage that needs to be dedicated for a residential unit.

1 CHAIRMAN HOOD: And so, Ms. Felder, I heard you, as
2 you were responding to Board Member Smith, I heard you mention
3 that if they wanted to do (audio interference) as we know, but
4 if they wanted to do like a lab or work lab or whatever the case
5 may be down there for the residents, then it's not enough space
6 as well from what your testimony is; is that correct?

7 MS. FELDER: That's correct. Based off of the assembly
8 load occupant requirement, according to code, then no.

9 CHAIRMAN HOOD: Okay.

10 MS. FELDER: No.

11 CHAIRMAN HOOD: All right. Thank you, Mr. Chairman.
12 Thank you both.

13 CHAIRMAN HILL: Ms. John. You're on mute, Ms. John.

14 VICE CHAIR JOHN: Oh, sorry. So that answer confuses
15 me somewhat because I've seen apartment buildings with small
16 rooms for computer access or something like that.

17 So I -- I don't understand why a 15 by 30-foot space
18 cannot be used for any reasonable purpose that's allowed as an
19 accessory use.

20 I'm still having trouble with that.

21 MS. MOLDENHAUER: Well, let me also just kind of explain
22 part of the undue hardship here as well. The zoning administrator
23 has also come to a conclusion that if a space is mostly in line
24 with trying to walk away from or not have two-unit flats, where
25 someone builds out a in-law suite and puts in a kitchen and a

1 bathroom and have that space be marketed as a two-unit building,
2 when it's not a two-unit building.

3 So, you know, if obviously one of the challenges here
4 is you can't leave an existing unit and have it be an office unit
5 or a business unit without removing the existing kitchen and
6 bathroom facilities that are there.

7 I think then to the comment about the confusion, Ms.
8 Felder was testifying to the ability to utilize the space for a
9 community room, the community room as well as a business room,
10 when you go to a community room, you have certain building code
11 requirements for size.

12 VICE CHAIR JOHN: So just to be clear, the space could
13 be configured as a (audio interference) or some other small room
14 within the structure? There is no -- other than code, that would
15 prohibit this space from being conditioned as say a small office
16 or some community room that's maybe devoted to computer research,
17 work at home, work from home, something like that, following
18 along the lines of Mr. Hood's line of questioning?

19 MS. MOLDENHAUER: So as -- from a community room
20 perspective, the space is too small for a community room -- and,
21 again, you're -- you're looking at if you have to comply with
22 the requirements for a 19-unit building.

23 If we were talking about a smaller building, you would
24 have a need potentially for a smaller space.

25 But given that this is a 19-unit building already, you

1 need to have a space that is commiserate or kind of balanced with
2 that.

3 In addition to that, you have the code challenges given
4 that there is no elevator or access other than obviously stairs
5 to get down to this lower unit. And so you would have a challenge
6 obviously for the property for providing access to anybody who
7 may have physical challenges to that potentially now community
8 room or community business center.

9 VICE CHAIR JOHN: I still don't have a clear answer.
10 And this is my last question. Now I'll save the others for the
11 Office of Planning.

12 I still don't have a clear answer why the property
13 owner doesn't have -- let me say this another way. The property
14 owner has use of the whole building and the provision of the --
15 extending a non-conforming use doesn't go to the space. It goes
16 to the building. It's still an apartment building with
17 residential use.

18 So some time in the past, we have looked at these cases
19 as resting on the particular use. So, in this case, we're saying
20 the use can't be put to a profitable -- the space can't be put
21 to a profitable use.

22 But I think the question is can the property owner
23 reasonable use of the structure without expanding the non-
24 conforming use and I don't think -- I think I'm still struggling
25 with that.

1 So if you'd like to respond in terms of (audio
2 interference) and what I don't have a clear answer from you is
3 whether we're required to look at the structure. Does the --
4 does the property owner have reasonable use of the structure as
5 opposed to reasonable use of the space?

6 And -- so I'm struggling with that.

7 MS. MOLDENHAUER: So the standard is to look at whether
8 or not the ability to utilize the space that you're looking to
9 expand into for any other reasonable matter of right uses.

10 So it does go to the existing space. It's not --
11 obviously, it's an understanding that there's already a non-
12 conforming use at the property.

13 And then the question is, can that additional square
14 footage, whether it was, you know, building out a lower level or,
15 you know, having an underutilized basement, it -- can that
16 additional space be utilized for a compliant use or can the non-
17 conforming use be expanded into it.

18 And so you really look to the specific space that you're
19 looking to expand into.

20 VICE CHAIR JOHN: And so what we're doing then is
21 increasing the intensity of the use which is also prohibited. I
22 mean, we're -- we're not just looking at an area variance. We're
23 looking at the intensity of the use, not moving this, you know,
24 not -- not in terms of where we locate the use. But this is the
25 intensity, going from 19 units to 20 units.

1 And that, you know, I think that's where we're having
2 an issue. But I can wait to hear from the Office of Planning.
3 I mean, I don't want to be the only one here asking questions.
4 So --

5 CHAIRMAN HILL: Okay.

6 MS. MOLDENHAUER: But it wouldn't --

7 CHAIRMAN HILL: I think there's plenty of questions.
8 You don't have to worry, Ms. John. Chairman Hood.

9 CHAIRMAN HOOD: As the Vice Chair doesn't want to be
10 the only one asking questions, I think, Ms. Moldenhauer, I will
11 just say you sound convincing, but I know there's a long-term
12 effect of the decision that this Board will make.

13 You mentioned, and I can't remember exactly what you
14 were alluding to, but you mentioned the zoning administrator's
15 interpretation.

16 Typically, he does a fact sheet. Is that on a fact
17 sheet that you can provide for the record?

18 MS. MOLDENHAUER: Yes. The zoning administrator has
19 posted this decision on a clarification form or a fact sheet,
20 however you want to reference it, that is on DCRA's website.

21 And so they're -- we can submit that as supplemental
22 information to the Board in the record.

23 CHAIRMAN HOOD: Thank you. I think that would be very
24 helpful.

25 I always agree with some of the fact sheets, but I

1 would like to be able to study that if you could provide that,
2 that would be a help. Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN HILL: All right. Ms. John.

5 VICE CHAIR JOHN: Ms. Moldenhauer, do you know when the
6 ZA issued that fact sheet? Was it say recently?

7 MS. MOLDENHAUER: I believe it was in the last year and
8 a half. So it was somewhat recently. I know that, you know,
9 they're now -- like I'm going into more detail than I need to
10 but they're now kind of asking for if you build out a unit that
11 has a kitchen and to potentially file a covenant against the land
12 to say that you acknowledge that it's not a two-unit building,
13 or, because obviously, that's what they're trying to protect
14 against. And so that's new. I've only been having client calls
15 on that issue again for the last maybe year, year and half.

16 But I can get the full date maybe while OP testifies.
17 I can pull it up on my computer.

18 VICE CHAIR JOHN: No, that's fine. That's fine. Thank
19 you.

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

22 MR. JESICK: Thank you, Mr. Chairman and Members of the
23 Board.

24 My name is Matt Jesick. The Office of Planning is
25 recommending approval of the requested use variance.

1 We feel that the application has demonstrated that it
2 satisfies the three-part variance test. We feel that there is
3 an exceptional situation in that there is an existing residential
4 unit in the cellar of the building that is not reflected on the
5 current certificate of occupancy.

6 And, given that situation, it would result in an undue
7 hardship if the space could not be more efficiently utilized than
8 it is presently.

9 For one thing, the unit itself would have to be
10 reconfigured and then, even if it were to be reconfigured, the
11 applicant has shown that of all the other uses permissible in the
12 R1 Zone, none would be appropriate within an existing apartment
13 building.

14 And we appreciate the applicant providing that
15 additional information into the record which we had requested.

16 In terms of substantial detriment to the public good
17 and impairment of the intent of the zoning, we feel that, in this
18 particular case, the application meets those tests. There would
19 be no external changes to the building. The building, although
20 it is in an R-1 Zone, it has existed since 1937 as part of the
21 community and the addition of one small unit in the cellar of
22 the building, which is actually restoring the space that had
23 previously been used as a residential unit, would not impair the
24 intent of the regulations which is to protect the R1 Zone from
25 higher density uses.

1 So, overall, we feel the applicant has met the variance
2 tests and we recommend approval.

3 Thank you.

4 CHAIRMAN HILL: Okay. Who wants to beat up the Office
5 of Planning first? Let's go with Chairman Hood. No?

6 CHAIRMAN HOOD: I would never beat up, Mr. Jesick. But
7 I will yield to Ms. John, Vice Chair John, if she wants to go
8 first. If not, I do have -- I only have one -- I do have a quick
9 question.

10 I think the Vice Chair may be a little more in depth
11 than I am.

12 Mr. Jesick, in your analysis and your findings of
13 approval, was it from a zoning perspective or was it from a policy
14 perspective?

15 MR. JESICK: It was from a zoning perspective, Mr.
16 Hood. We just strictly analyzed the three-part variance tests
17 and felt that they did meet the -- the test for a use variance.

18 CHAIRMAN HOOD: Out of all those uses we have, that was
19 your conclusion? And I'm actually -- I'm actually thinking and
20 talking out loud.

21 Okay. Well, that's -- that's all I really had, Mr.
22 Jesick.

23 Thank you.

24 BOARD MEMBER SMITH: And I have a follow up question.

25 CHAIRMAN HILL: All right, Mr. Smith.

1 BOARD MEMBER SMITH: Because I share the same exact
2 concerns that Vice Chair John alluded to in her -- in her earlier
3 conversation.

4 So my question to you is regarding the third prong
5 about no (audio interference) impairment to the intent purpose
6 in the zoning regulations.

7 Is it your -- and, you know, to expand on Chairman
8 Hood's point of a question about policy versus zoning, would you
9 consider an intensity, an intensification of the density of uses
10 in a R1B Zone that only allow a single family detached structures
11 as contrary to the intent of that particular zone?

12 MR. JESICK: In a general sense, yes. When you're
13 expanding the intensity of an apartment building, that would be
14 against the intent of the R1 Zone.

15 But, in this particular variance case, where the
16 applicant has demonstrated an exceptional condition, it isn't
17 found in every apartment building. It's just in this apartment
18 building where you have an existing unit that, for whatever
19 reason, was not reflected on the current certificate of
20 occupancy.

21 You're really just adding back in a unit that was there
22 at one point. So there wouldn't be a real increase in the density
23 of the neighborhood in our view even it were to -- even if you
24 were to consider it an increase in density, it's a small unit,
25 as has been testified to. There would likely be very little

1 | increase in the population of the building, one or two people at
2 | the most. So it wouldn't be a large change to the fabric of the
3 | neighborhood.

4 | BOARD MEMBER SMITH: Okay. Thank you. That's all the
5 | questions I had for now.

6 | CHAIRMAN HILL: Ms. John.

7 | VICE CHAIR JOHN: I'd like to go after you, Mr. Chairman.

8 | CHAIRMAN HILL: Okay. All right.

9 | Mr. Jesick, the only one I got (audio interference) for
10 | you, I mean, this is where we're kind of I suppose, at least what
11 | I'm hearing from my colleagues, struggling is that, you know --
12 | and I know from the -- I'm going to somewhat think out loud as I
13 | ask this question, you know, the use variance is the highest bar
14 | that we have to kind of struggle with, right?

15 | And the apartment building is already being used as an
16 | apartment building. It's successfully being used as an apartment
17 | building; 19 units, right?

18 | So we're not -- we're not necessarily taking anything
19 | from them by not allowing this to happen, right?

20 | And so I'm just trying to understand again, you know -
21 | - I mean, I -- I get the practical difficulty in that this space
22 | is not being used as a -- potentially as it could be, right?

23 | Like this space could be just a storage -- another
24 | storage room, you know. Like the -- the 19-unit apartment
25 | building will still function and has been profitable as a 19-

1 unit apartment building.

2 But the Office of Planning's report thinks that they
3 meet the standard for this additional unit because you don't see
4 it being used as anything else without, you know, what is, you
5 know, a taking by them not getting the area variance.

6 Could you -- my question to you, I guess, is do you not
7 see it possibly being used in any other way other than a
8 additional unit?

9 MR. JESICK: Well, we asked that question of the
10 applicant, you know, could it be used for storage or recreation
11 or whatever. And they responded and provided additional
12 information into the record as to why those uses would not be
13 appropriate or viable in this building.

14 So we felt that, on that basis, they had provided enough
15 information for us to recommend approval.

16 We did not, you know, get into the subject of takings.
17 You know the -- the applicant cites the *Palmer* case as
18 justification for the variance and we've had discussions with the
19 Office of the Attorney General who cite the *Palmer* case as, you
20 know, justification the other way.

21 So, you know, when we see that word property, I think
22 we took it -- a broader approach to what is considered property.
23 Is it -- is there a use of the -- the lot in question? Yes. But
24 does the property -- is the property just the lot or is the
25 property a portion of the building as well?

1 And I think when looking at it through that lens that
2 OAG helped us see, I think, you know, when we wrote our report,
3 we were looking at it as is there a reasonable use for this
4 portion of the property, that is, this unused unit in the cellar
5 that is already configured as a residential unit?

6 CHAIRMAN HILL: Okay. And, Ms. Moldenhauer, just, you
7 know, why can't it be used as just additional storage?

8 MS. MOLDENHAUER: So there would be undue hardship
9 because you would need to demolish the existing layout. So you
10 would have to demolish the existing kitchen. You would have to
11 demolish the existing bathroom and take it back down to a storage
12 unit.

13 So that does create undue hardship on the property
14 given its existing conditions.

15 And the fact that there already is two other storage
16 facilities that are much larger than this space already on --
17 located in the building. And so to have a third storage space
18 again does not -- is not a reasonable alternative.

19 If there was no other storage space in the building,
20 that may be a reasonable alternative. But given that there
21 already are two other storage spaces, that would not be a
22 reasonable alternative.

23 CHAIRMAN HILL: Okay. Ms. John, you have questions for
24 the Office of Planning?

25 VICE CHAIR JOHN: I think you got the answer that I was

1 driving at when I was speaking with Ms. Moldenhauer because, as
2 I see it, the property owner still has use of the structure and
3 not -- I'm still struggling with that. But the representation
4 is that there is no reasonable use for that space other than a
5 rental apartment.

6 So I'm not -- I don't really have any other questions.

7 CHAIRMAN HILL: Okay. Yep. Chairman Hood.

8 CHAIRMAN HOOD: I have one quick question for Mr.
9 Jesick.

10 Mr. Jesick, in your findings, did you consider one
11 condition case number 20-25? Did you look at that as well?

12 MR. JESICK: We looked at that case and, just for those
13 that are listening, 20-25 (audio interference) a case which made
14 -- I hope I'm getting my facts straight and Ms. Cain can chime
15 in if I'm incorrect but made existing part of buildings in the
16 RF1 Zone considered to be conforming uses. So, when they expand,
17 they would either do so as a matter of right or as an area
18 variance rather than a use variance.

19 We did look at that case -- go ahead.

20 CHAIRMAN HOOD: (audio interference) -- no, no. That's
21 fine. You answered my question which again I say go ahead.

22 MR. JESICK: Well, we looked at that case to see
23 actually if we could somehow incorporate the R Zones but there
24 is simply too many unknowns about how many apartment buildings
25 exist in the R Zones; what impacts that that change would have,

1 | you know, in those parts of the city.

2 | So we couldn't expand that text amendments, you know,
3 | at this time. It might be a topic that we look at in the future.

4 | CHAIRMAN HOOD: Okay. All right. Thank you.

5 | I'm not struggling but I'm just grappling with what's
6 | in front of us. So thank you, Mr. Jesick.

7 | CHAIRMAN HILL: Okay. Anyone else for anybody?

8 | All right. One second, Ms. Moldenhauer.

9 | Is there anybody here wishing to testify, Mr. Young?

10 | MR. YOUNG: We do not.

11 | CHAIRMAN HILL: Okay. All right.

12 | Ms. Moldenhauer, you had something you'd like to add
13 | inconclusion?

14 | MS. MOLDENHAUER: Oh, no. I was going to ask a question
15 | of OP.

16 | CHAIRMAN HILL: Oh, I'm sorry. Yeah. Do you have any
17 | questions of the Office of Planning?

18 | MS. MOLDENHAUER: I was just going to ask a question
19 | of the Office of Planning.

20 | In your analysis, the standard is that you applied that
21 | there were no other reasonable alternatives for this space; is
22 | that correct?

23 | MR. JESICK: Yes, that's correct.

24 | MS. MOLDENHAUER: And it's not that there's -- that the
25 | space would not be used in any way; is it?

1 MR. JESICK: Yes. And it's not that there is no other
2 possible use. It's just that there is a hardship in using the
3 space for other uses.

4 MS. MOLDENHAUER: And so the standard upon which you
5 analyzed it was reasonable alternative uses.

6 MR. JESICK: I think that's a correct way to phrase it.
7 Yes.

8 MS. MOLDENHAUER: And, in your analysis, I think you
9 already said this, but I just want to -- you -- you did not find
10 that this would be a undue impact on the public good or the zone
11 plan in regards to an intensity of use?

12 MR. JESICK: That's correct. That was my testimony.

13 MS. MOLDENHAUER: Thank you very much. No other
14 questions.

15 CHAIRMAN HILL: Okay. Given the last little flurry
16 there, does anybody have any more questions for the Office of
17 Planning or the applicant?

18 VICE CHAIR JOHN: Just -- just one question. But you
19 did not independently look at potential alternative use of this.
20 You took the representation of the applicant, right?

21 MR. JESICK: No. I don't -- I don't believe that's
22 correct.

23 We asked the applicant to provide information about
24 alternative uses. We then went through that -- that list
25 ourselves to see, does it make sense? Could this use be located

1 in this location reasonably without, you know, significant
2 building alterations, without, you know, disturbing a few
3 tenants, that sort of thing.

4 So we did do our own analysis.

5 VICE CHAIR JOHN: But you didn't analyze it from the
6 perspective of OAG that -- correct? The question is whether the
7 property owner has been deprived of the use of the structure.

8 MR. JESICK: We just in the past -- very recent (audio
9 interference) to be honest come to understand that OAG's position
10 that when they see the word property, they are referring to the
11 -- the lot itself, not a portion of space within a building.

12 VICE CHAIR JOHN: All right. Thank you.

13 CHAIRMAN HILL: Chairman Hood, you look like you might
14 have a question now.

15 CHAIRMAN HOOD: No.

16 CHAIRMAN HILL: All right.

17 CHAIRMAN HOOD: It's just running through my head, but
18 I don't have anything I want to talk about out loud right now, b
19 Because it might sound crazy.

20 CHAIRMAN HILL: Okay. Mr. Smith. Okay.

21 All right. Ms. Moldenhauer, anything you -- anything
22 you'd like to add at the end?

23 MS. MOLDENHAUER: So I would just articulate that the
24 variance here is a question of whether or not the property would
25 have an undue hardship for utilizing this space for any reasonable

1 alternatives.

2 And we do believe that we have presented expert
3 testimony from an architect as well as having the ANC support and
4 OP support, that we have analyzed all reasonable alternatives,
5 including all matter of right uses, special exception uses or
6 axillary uses and that there is evidence in the record that none
7 of those other uses could be reasonably utilized.

8 And, again, I think the standard is not that there is
9 no other use or, you know, why can't the space just stay vacant.
10 It's a question of whether or not the expansion creates a
11 reasonable -- a challenge from a reasonable alternative
12 perspective.

13 And so I think to the question of is the property itself
14 unique? Yes. The property is unique because of the existing
15 condition of a 19-unit building and this existing build out of
16 this unit in the cellar level.

17 That then obviously goes to the fact of it is the
18 building and the layout of the building that then we had to dive
19 down into the space specifically that creates the undue hardship.
20 I think we've articulated that to retrofit the space would be a
21 challenge obviously, given the existing tenants in the building,
22 and that the inability to create -- the fact that there is egress
23 there and you cannot expand the space without structural changes;
24 all contribute to why this -- why we've satisfied -- I mean, I
25 know this is a very high bar to satisfy, but, you know, this is

1 a unique condition that is not going to be seen on a lot of other
2 projects. But rather would only be related to this case in and
3 of itself.

4 And we are happy to supplement the record. We do have
5 that zoning administrator's submission that was from July 2019
6 which goes through and defines what a separate dwelling unit is,
7 and it identifies that a separate dwelling unit has to have its
8 own cooking facility -- cooking space as well as bathroom and
9 that's then deemed to be a dwelling unit and so that is also part
10 of what we indicated would be an undue hardship with actually
11 having to remove those facilities so that we did not have an
12 improper unit.

13 CHAIRMAN HILL: Okay. Okay. Thank you, Ms.
14 Moldenhauer.

15 All right. Thank you everyone. Oh, Chairman Hood.

16 CHAIRMAN HOOD: Yes. Before Ms. Moldenhauer leaves and
17 Ms. Jesick. "Reasonably utilized"; could you tell me where that
18 is in the regulations? It's probably there somewhere. Or is
19 that something that's inferred; or how do we get to reasonably
20 utilized? Either one, either Mr. Jesick or Ms. Moldenhauer, if
21 you could help me.

22 Did I go dead again?

23 CHAIRMAN HILL: No, no.

24 CHAIRMAN HOOD: Oh, okay.

25 CHAIRMAN HILL: I mean, let's -- go ahead, Mr. Jesick.

1 I'd like to hear from you first, if you have an answer.

2 MR. JESICK: Okay. Yeah. I mean, I think we looked
3 at will there be required structural changes within the unit
4 itself and then if a future use were to come into that space,
5 would there be, you know, major changes to the building, based
6 on that use, you know? A new external entrance, internal
7 reconfiguration of walls or -- of, you know, ceilings or what
8 have you. Those sorts of internal changes which in past BZA
9 cases, the Board has looked to as evidence of a hardship.

10 CHAIRMAN HOOD: And we use -- we used -- we referred
11 to the word "reasonably utilized," again. I want to know if
12 that's in the code or do we just refer to it in our analysis or
13 is this -- I guess, has the Board heard that before? Because I
14 haven't heard "reasonably utilized."

15 MR. JESICK: I don't know if that term has come up in
16 past Board cases. I don't know that it's defined in the
17 regulations.

18 CHAIRMAN HOOD: So it's not a defined term in the zoning
19 regulations for us to look at use variance. So really, it's just
20 -- it's just a sound good measure for now. I'm just trying to
21 figure out because for me -- again, like I said, Ms. Moldenhauer
22 sounds very convincing, but I know in the long term, there are
23 other unintended consequences that comes to whatever decision we
24 make at this point. So that's why I wanted to know about where
25 the word "reasonably utilized" come from?

1 MS. MOLDENHAUER: So I'd like to -- sorry. I was
2 waiting for Mr. Jesick to answer the question, and then I wanted
3 to also answer it.

4 In court cases, they have said that when you're
5 evaluating a use variance, not an area variance, that you have
6 to analyze all reasonable alternatives that are permitted in the
7 zone because obviously, a use variance, as we're all aware, is a
8 higher bar. And an area variance, you just simply have to provide
9 practical difficulty but, in a use variance, court cases have
10 determined what is undue hardship. And undue hardship is whether
11 or not there is any other reasonable alternative, and that is in
12 court cases as it compares to other matter of right uses that
13 could be utilized -- that could be applied either in an overall
14 property or here in the property in this space. So it's not
15 something that we just simply came up with, it's actually part
16 of the legal standard that the Board and the Court of Appeals
17 and Office of Planning applies when you look at a use variance
18 in regards to kind of how you compare what is being asked. So,
19 for instance, if you were asking to locate on a building, an
20 office use in a residential zoning, you would have to say well,
21 why is any of the reasonable permitted uses not reasonable to
22 satisfy that use variance for an office space? Here, we've
23 done the same thing and analyzed what are reasonable alternative
24 uses for this space to expand given the fact that it's an existing
25 apartment building. And I think that that's part of this, is that

1 | you have an existing apartment building so, you know, having the
2 | operational challenges and having undue hardship for, you know,
3 | having a reasonable alternative use in an existing apartment
4 | building is part of the analysis.

5 | CHAIRMAN HOOD: So Ms. Moldenhauer, only thing I'm
6 | going to ask you for -- and I hope -- I don't know where we are,
7 | Mr. Chairman, but I'm not in favor of moving forward voting on
8 | this day today. I would ask, if we do, you don't need to provide
9 | it but, Ms. Moldenhauer, I would ask that you provide, not the
10 | whole court case, but just one case that you're referring to.
11 | And you don't have to provide the whole decision but just the
12 | part that talks about what the court said, "reasonably utilized."
13 | That would be very helpful.

14 | CHAIRPERSON HILL: Okay.

15 | CHAIRMAN HOOD: Ms. Moldenhauer, you understand my ask?
16 | You understand what I'm asking?

17 | MS. MOLDENHAUER: I understand that you want -- you
18 | want a very executive summary of --

19 | CHAIRMAN HOOD: Executive, yes.

20 | MS. MOLDENHAUER: But we will provide references to how
21 | the Board can look at this legal standard of reasonable
22 | alternatives.

23 | CHAIRMAN HOOD: Right. What the court said what they
24 | -- basically what they back -- the court has said exactly what
25 | you're saying. I want to confirm what I'm hearing from you.

1 That's kind of where I am, so that will be all.

2 MS. MOLDENHAUER: I hear you.

3 CHAIRMAN HOOD: Thank you.

4 CHAIRPERSON HILL: All right, Ms. Cain, I'll get to you
5 in one second, because now we're just going to keep opening this
6 up it looks like.

7 So Mr. Jesick, again, and then Ms. Cain, I'm going to
8 turn to you, and I assume you've been kind of listening. There's
9 nowhere in the code or the regulation that speaks to "no
10 reasonable alternatives"; is that what you're saying, Mr. Jesick?

11 MR. JESICK: That's my understanding.

12 CHAIRPERSON HILL: Okay. And what Ms. Moldenhauer is
13 saying, right, it's the court cases, and the decisions, and the
14 Office of Planning, how there's "no reasonable alternatives" is
15 kind of coming up.

16 Ms. Cain, do you know if there's anything in the
17 regulations that speaks to "no reasonable alternatives"?

18 MS. CAIN: So the standard for a use variance comes
19 from the Zoning Act, and the only standard there is undue
20 hardship. What Ms. Moldenhauer is referring to has come out of
21 court cases and court law which has expanded on what the different
22 factors are that the Board has to consider. So the "reasonably
23 utilized" does not appear in the regulations and it does not
24 appear in the Zoning Act.

25 CHAIRPERSON HILL: And again -- and I'm just kind of

1 clarifying this one which is that, you know, "undue hardship."
2 So what you're saying is that the court has looked at saying
3 "undue hardship" has "no reasonable alternatives," meaning that
4 is something that is helpful to look at when someone is trying
5 to define undue hardship. Would that be an accurate statement?

6 MS. CAIN: Can you repeat that one more time? I just
7 want to make sure I have it?

8 CHAIRPERSON HILL: Sure. Sure. So undue hardship is
9 kind of hard to define at times, right? And so what is being
10 argued is that -- I'm not saying it's the only factor, I'm just
11 saying that one possible thing that the Board could look at when
12 it's looking at undue hardship is that there are no reasonable
13 alternatives, that's my question.

14 MS. CAIN: I think, Mr. Chair, this is verging into
15 legal advice that we would prefer to give in a closed session.
16 If the Board is willing to do that, we would be happy to elaborate
17 further, but we don't think this is appropriate for the public
18 session.

19 CHAIRPERSON HILL: That's fine. All right. So let's
20 see. I see -- where are we? So there's a couple of options on
21 the table. I thought we were going to actually maybe finish
22 earlier than I thought but apparently not. So if I might just
23 speak to my fellow colleagues into what you guys are thinking.
24 Had we -- had I -- didn't think we were going to get anything
25 new, I was going to close the hearing, take a break, and come

1 back and see where we were, right? That was the plan. But
2 Chairman Hood -- which is completely fine, I don't mind at all -
3 - Chairman Hood was asking for some further clarification about,
4 you know, this "reasonable alternatives."

5 So one thing we could do is, you know, see what else
6 we might want from the applicant, and collect that, and then have
7 a -- and then just set this for a decision. And then, at that
8 point, we would also be able to sit down and talk with OAG at
9 some point in time. Or we can take an emergency session now and
10 -- you know, take a break, take an emergency session now, hear
11 from OAG about "no reasonable alternatives," and see where we
12 get. So if that was clear enough, then I'm going to start with
13 Mr. Smith just to see if you had a thought on those two options.

14 BOARD MEMBER SMITH: I'm in favor of the first option
15 just to give some additional time to the applicant to gather the
16 pertinent information that Mr. Hood asked for.

17 CHAIRPERSON HILL: Okay. Ms. John?

18 VICE CHAIR JOHN: I would ask the applicant in writing
19 the summary for Mr. Hood to address the standard in *Palmer* which
20 says that "the standard is that compliance with the regulation
21 will preclude the use of property -- "use of the property in
22 question for any purpose for which it is reasonably adapted." So
23 it can be reasonably adapted.

24 And so what I'm hearing from the applicant is that,
25 that basement unit cannot be reasonably adapted. So, in that

1 summary, if you could address that *Palmer* standard, as well as
2 your interpretation that the standard applies to the particular
3 space and not the property, so the applicant is not being deprived
4 of the property as an apartment building for 19 units as opposed
5 to being deprived the use of the space for a more economic
6 purpose. And that's the issue that we're grappling with.

7 CHAIRPERSON HILL: Okay. Ms. Moldenhauer, do you
8 understand what Ms. John is asking of you?

9 MS. MOLDENHAUER: I do, yes.

10 CHAIRPERSON HILL: Okay. And Chairman Hood, you
11 understand what he's asking of you?

12 MS. MOLDENHAUER: Yes, I do.

13 CHAIRPERSON HILL: Okay. So when do you think you
14 might be able to give us something? Oh, I'm sorry. Chairman
15 Hood?

16 CHAIRMAN HOOD: I wanted to respond, Mr. Chairman, of
17 your two -- I think your two actions about how we want to move.
18 I actually for myself wanted to just get that so I can connect
19 the testimony I heard from Mr. Jesick, Ms. Moldenhauer, and Ms.
20 Felder and then, if I have questions after that -- because I'm
21 trying to connect everything they've said -- and then if I have
22 questions after that, Mr. Chairman, I may consult with OAG, and
23 then I'm going to consult with my Board members because I think
24 this has bigger implications of what she just presented than even
25 for this case. So that's just where I am. I want to make sure

1 that the path forward, we move correctly because, if not, it will
2 come back to haunt us. So that's just where I am. Thank you,
3 Mr. Chairman. CHAIRPERSON HILL: Okay. So, I'm just
4 checking, Ms. Moldenhauer. So then Chairman Hood, are you trying
5 to have a continued hearing?

6 CHAIRMAN HOOD: I think if they -- for me, and I don't
7 think what others think -- I think if I get the information as
8 requested by myself and the Board and Vice Chair John and yourself
9 and Board Member Smith, I think I can rationale that; I can
10 connect the dots, and then we can deliberate it on that. I don't
11 know how others feel that may have questions that we need to go
12 back to Ms. Moldenhauer and Ms. Felder to ask. But I think I
13 can connect the dots once I get all that.

14 CHAIRPERSON HILL: Okay. I mean, we can always open
15 it back up for a continued hearing. Ms. John, do you want a
16 decision or a continued hearing?

17 VICE CHAIR JOHN: I'm fine with the limited continued
18 hearing so.

19 CHAIRPERSON HILL: Okay. All right. All right. Mr.
20 Smith, is that fine with you?

21 BOARD MEMBER SMITH: Yes, I'm fine with that.

22 CHAIRPERSON HILL: All right. We're going to keep
23 doing this. Okay. All right. So all right. So we're going to
24 come back for a continued hearing based upon the information
25 that's going to get submitted by the Applicant concerning

1 everything that was just asked for. So Ms. Moldenhauer, you know
2 everything that was just asked for, correct?

3 MS. MOLDENHAUER: Yes.

4 CHAIRPERSON HILL: And Ms. Cain, can you hear me?

5 MS. CAIN: Yes.

6 CHAIRPERSON HILL: Just so I kind of remember. Again,
7 what I think some of the issues are that we're kind of going
8 through again is this "no reasonable alternatives," right, the
9 *Palmer* case that -- "no reasonable alternatives" and the *Palmer*
10 case that Ms. John and Chairman Hood have asked of the applicant.
11 And then, you know, what I'm also kind of wanting to ask you OAG
12 -- and we kind of talked about, and the applicant can speak to
13 this again -- is to what seems to be the difference in the
14 discussion between maybe what OP's saying is that, you know, it
15 is that little piece of the property and not the whole property,
16 right, that we're taking a look at, right, and so -- when we're
17 applying the standard. And so that's kind of -- I think that's
18 everything that seems to be kind of in flux. And so we can have
19 a continued hearing on that. If we do have a continued hearing
20 then, Mr. Moy, when would be able to have a continued hearing?

21 MR. MOY: All right, Mr. Chairman. I have suggestions
22 for two possible hearing dates, a continued hearing on this case.
23 One would be March 24th, the other is March 31st. My problem is
24 -- the concern is for March 24th. You already have 11 cases but,
25 if you feel you can do a limited scope continued hearing on this,

1 then, obviously, you can make that the 12th case on the 24th.
2 Otherwise, I'm looking at the following week which would be March
3 31st.

4 CHAIRPERSON HILL: I can't do the 24th, so that's that.
5 So then the 31st is then when it would be.

6 MR. MOY: Okay.

7 CHAIRPERSON HILL: And, I guess, if you got the 31st,
8 then we would want filings. We would then want to, I guess, if
9 OP has anything that they want a supplemental. So if you can
10 just please give the dates.

11 MR. MOY: Yeah. So the applicant can make their filing
12 by March the 17th, and we'll give another week for any responses
13 from the parties for March the 24th. And then we'll have the
14 continued limited scope hearing on March 31st.

15 CHAIRPERSON HILL: Okay. Ms. Moldenhauer, you
16 understand the dates?

17 MS. MOLDENHAUER: I got the dates, the 17th and the
18 31st for a continued limited hearing. And we will address those
19 questions in as concise of a manner as we can.

20 CHAIRPERSON HILL: Okay. And then OP, if you have
21 anything else to add, you can add it, right?

22 (Affirmative nod.)

23 Okay. All right. Well, thank you all very much. I'm
24 going to close the record and the hearing, except for the limited
25 scope that we spoke about. And then let's take a break, okay?

1 Let's take a 15-minute break. Is that fair?

2 (Affirmative nod.)

3 Okie-dokie. Bye.

4 (Whereupon, the above-entitled matter went off the
5 record at 3:30 p.m. and then resumed at approximately 3:45 p.m.)

6 CHAIRPERSON HILL: Mr. Martin, can you hear me?

7 MR. MARTIN: (No audible response).

8 CHAIRPERSON HILL: Mr. Martin, can you hear me? Mr.
9 Martin?

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

11 CHAIRPERSON HILL: Yes. You're a little muddled, but
12 I can hear you. Can you hear me?

13 MR. MARTIN: Yes, sir. Very well.

14 CHAIRPERSON HILL: Okay. Great. Just give me a minute,
15 Mr. Martin, and then we'll call you in, okay? Just stay there.

16 MR. MARTIN: Okay. Thank you.

17 CHAIRPERSON HILL: Don't go anywhere. Mr. Moy, could
18 you call the case, please?

19 MR. MOY: Yes, sir. Thank you, Mr. Chairman. The
20 Board is back in session after a quick break, and the time is at
21 or about 3:45 p.m. And, for the record, the Board is returning
22 to case Application No. 20393 of Amy Dapot, D-a-p-o-t. And this
23 is a request for a special exception from the minimum vehicle
24 parking requirement, Subtitle C, Section 701.5, at -- which could
25 convert an existing detached two-story carriage house to a

1 principal dwelling unit in the RF-1 Zone. The address is at
2 premises 1608 East Capitol Street, Northeast.

3 CHAIRPERSON HILL: All right. Mr. Martin, can you hear
4 me?

5 MR. MARTIN: Yes, sir.

6 CHAIRPERSON HILL: Could you please introduce yourself
7 for the record?

8 MR. MARTIN: Yes. My name is Harry Martin. I'm an
9 architect for Amy Dapot. And this carriage house was built in
10 1908 --

11 CHAIRPERSON HILL: Mr. Martin. Give me one second.
12 Give me one second, Mr. Martin. Mr. Moy, could you mute your
13 line? Thanks. And then, Mr. Martin, right, if you could tell
14 us about the project and how you believe you're meeting the
15 standard for us to grant the relief requested. And you can begin
16 whenever you like.

17 MR. MARTIN: Okay. Well, this carriage house was built
18 in 1908 for a rowhouse at 1608 East Capitol, and they were sold
19 separately in auction in 1974. And the owner then has sold this
20 in 2019 to Amy Dapot. So the -- and this has gone through the
21 building department. This is the only thing that is left that
22 has to be approved. And this came up at the very end that they
23 determined it was a change of use from -- because it was a
24 carriage house and now, we are turning it into a single-family
25 house. And then with us doing that, it required one parking

1 space.

2 This property is probably three blocks, maybe 650 yards
3 from the Armory Metro Station. And there's a bus stop there
4 going east, and then there's a bus stop going west about 600 feet
5 the other way down East Capitol Street, so it's well-served by
6 public service bus and Metro system. And, of course, there are
7 bike lanes down each side of East Capitol.

8 So we're asking relief that the one parking space be -
9 - we be exempted from having to have a parking space.

10 CHAIRPERSON HILL: Okay. Did you go to the ANC, Mr.
11 Martin?

12 MR. MARTIN: Yes, we have. And Ms. Dapot is here with
13 me.

14 CHAIRPERSON HILL: Okay. I don't hear any -- I don't
15 see anything in the record from you from the ANC.

16 MS. DAPOT: Hi. This is Amy Dapot. I'm the owner of
17 the property. I did meet with the ANC a couple different times.
18 They had requested that I reach out to -- before lending their
19 agreement to the exception, they wanted me to reach out to nine
20 neighbors, which I did. I reached out to nine neighbors, the
21 addresses that were given by the ANC. And I heard back from two
22 neighbors providing letters of support. I provided those to the
23 ANC. The ANC did vote to support the exception that we're looking
24 for. I also provided those letters to the Capitol Hill
25 Restoration Society who also wanted to see the support from the

1 neighbors for the exception.

2 CHAIRPERSON HILL: So I don't see anything -- you're
3 saying you actually did present to the ANC 6A, and they voted to
4 support?

5 MS. DAPOT: Yes. That happened -- I'll have to pull up
6 the exact date, but it was about a month ago.

7 CHAIRPERSON HILL: So why did they not submit anything
8 to the record?

9 MS. DAPOT: That I don't know. I don't -- but they
10 did vote to support.

11 CHAIRPERSON HILL: Okay. And then your letter from the
12 Capitol Hill Restoration Society, it --

13 MS. DAPOT: So the Capitol Hill Restoration Society had
14 reached out to Harry, the architect, asking for information. The
15 two things that they were -- wanted information on were the
16 letters to the neighbors, and then they also were concerned about
17 the trash. And because the property, the building structure
18 takes up the entire lot. It is surrounded on three sides by
19 public alley and then one side is the lot of 1608, the other
20 house. So they were concerned about where we were going to put
21 the trashcans, so Harry showed them on our drawings that we've
22 kind of built a vestibule within the building for the trash cans
23 and the recycling. So those were the two issues that the Capitol
24 Hill Restoration Society had. We addressed both of those to
25 their satisfaction.

1 CHAIRPERSON HILL: Okay. And the -- right. And then
2 it also looks like that the Capitol Hill Restoration Society was
3 looking for a letter of some kind from 1608 East Capitol Street?

4 MS. DAPOT: Yes. And I provided that to them. Yes.

5 CHAIRPERSON HILL: Is that in the record?

6 MS. DAPOT: So that should have been in the record
7 provided by the ANC. I don't know why you're not seeing that,
8 but that was -- it was the ANC that --

9 CHAIRPERSON HILL: And what did 1608 say?

10 MS. DAPOT: So they signed a -- I had given them a
11 template based on what the ANC had asked, so --

12 CHAIRPERSON HILL: So 1608 said they're in support?

13 MS. DAPOT: Correct. Yes.

14 CHAIRPERSON HILL: Okay. I'm just trying to clean up
15 some of this -- trying to understand. So okay. Can -- all right.
16 The -- were you -- maybe -- can I ask my fellow Board members. I
17 looked at this over the weekend, and I thought I was able to open
18 the architectural plans. Are you guys able to open the
19 architectural plans, Exhibit 3?

20 VICE CHAIR JOHN: Yes.

21 BOARD MEMBER SMITH: Yes

22 CHAIRPERSON HILL: Okay. They popped open for this
23 time. They popped open for me. Okay. Okay. All right. Let
24 me see here. All right. So you guys -- so Mr. Martin, you're
25 stating again that the property is located within .37 miles from

1 the Stadium-Armory Metro and 394 feet from the bus stop at the
2 corner of 17th Street Southeast and East Capitol Street, correct?

3 MR. MARTIN: Yes, sir.

4 CHAIRPERSON HILL: Okay. The owner again is who -- Ms.
5 Dapot. Ms. Dapot, you haven't taken the oath, I don't believe,
6 but, Mr. Martin, you have, correct?

7 MR. MARTIN: No. Today, yes.

8 CHAIRPERSON HILL: Okay.

9 MR. MARTIN: Yes, I have.

10 CHAIRPERSON HILL: You have, Mr. Martin, because you
11 signed up. Ms. Dapot, I don't think you have. Mr. Moy is going
12 to tell you -- administer the oath right now if you would please
13 listen, okay?

14 MS. DAPOT: Okay.

15 MR. MOY: Hello. Ms. Dapot?

16 MS. DAPOT: Yes. Yes.

17 MR. MOY: All right.

18 (Sworn.)

19 MS. DAPOT: Yes, I do.

20 MR. MOY: All right. Thank you.

21 CHAIRPERSON HILL: Okay, Ms. Dapot. So just to be
22 clear, everything you just said was the truth, correct?

23 MS. DAPOT: Correct. Yes.

24 CHAIRPERSON HILL: Okay. Because I'm just saying
25 you're stating that the ANC voted in support of this. I mean,

1 | you can't give it great weight, but that's what you're saying?

2 | MS. DAPOT: Yes.

3 | CHAIRPERSON HILL: Okay. So all right. Does the Board
4 | have any questions of the applicant right now?

5 | CHAIRMAN HOOD: Mr. Chairman?

6 | CHAIRPERSON HILL: Yes.

7 | CHAIRMAN HOOD: Not as of yet. But Ms. Dapot, if she
8 | could, maybe in her presentation to us at some point, respond to
9 | the letters in opposition. There are a couple of letters in
10 | opposition.

11 | CHAIRPERSON HILL: Okay.

12 | MS. DAPOT: I --

13 | CHAIRPERSON HILL: Give me one second, Ms. Dapot, and
14 | I'll let you respond to the chairman's question. And Chairman
15 | Hood, thank you. I just was remembering something. So DDOT had
16 | stated as a condition that the plans show that the door does not
17 | swing out into the public space or the alley. Are you aware of
18 | this, Mr. Martin?

19 | MR. MARTIN: Yes, sir.

20 | CHAIRPERSON HILL: Did you --

21 | MR. MARTIN: This is really a gate, but it could swing
22 | in because this is --

23 | CHAIRPERSON HILL: Did you revise --

24 | MR. MARTIN: I'm sorry.

25 | CHAIRPERSON HILL: Did you revise those plans already?

1 MR. MARTIN: That didn't come up as -- in any of the
2 reviews that I recall.

3 CHAIRPERSON HILL: Is that the gate that goes to the
4 trash area?

5 MR. MARTIN: Yes.

6 CHAIRPERSON HILL: Pardon?

7 MR. MARTIN: Yes, it is.

8 CHAIRPERSON HILL: Okay. All right. So we might need
9 something else from you at some point.

10 MR. MARTIN: Okay.

11 CHAIRPERSON HILL: All right. So Chairman Hood, Ms.
12 Dapot, had asked about the letters in opposition. Have you had
13 a chance to look at them and be able to respond?

14 MS. DAPOT: No. I haven't received any letters of
15 opposition. I didn't know there were any.

16 CHAIRPERSON HILL: You haven't seen any yet?

17 MS. DAPOT: No. I -- very early on in this process
18 during an ANC hearing, in a virtual one in the fall, there was a
19 neighbor who had some concerns who -- and it was really more
20 questions about kind of the plans and stuff. So my contractor
21 provided the plans. It was related -- the concern was related
22 to a window that would potentially be overlooking his yard, so
23 he was concerned about that. But I'm not aware of any formal
24 objections since then.

25 CHAIRPERSON HILL: Okay. Well we'll circle back around

1 to that as we kind of get through the hearing, okay?

2 MS. DAPOT: Okay.

3 CHAIRPERSON HILL: Okay. If anybody doesn't have any
4 questions of the applicant, I'm going to turn to the Office of
5 Planning at this point. Ms. Vitale.

6 MS. VITALE: Good afternoon, Mr. Chair, and members of
7 the Board. Elisa Vitale with the Office of Planning. And this
8 is in reference to BZA Case 20393. The Office of Planning is
9 recommending approval of the requested special exception relief
10 to not provide the one required parking space. I'll keep this
11 brief. I'm available to answer any questions. And this concludes
12 my presentation. Thank you.

13 CHAIRPERSON HILL: Just real quick, Ms. Vitale. Why
14 did you approve it?

15 MS. VITALE: This request was related specifically to
16 parking, and one of the criteria in evaluating the parking special
17 exception relief is proximity to transit or being well-served by
18 transit. This property is very close to the Stadium-Armory Metro
19 Station and is also well-served by Metro bus routes in close
20 proximity.

21 It also would be difficult to provide the required
22 parking, and the existing carriage house occupies the entire lot.
23 And so if the applicant was to provide the required parking space,
24 that would basically take up the entire first floor reducing the
25 remaining available space in the existing carriage house building

1 for use as a dwelling unit. It also looked like it could have
2 presented challenges with respect to turning movements within
3 that alley to try to navigate to get a vehicle into that carriage
4 house, you know, first floor space to park. So we felt there
5 were a number of factors that presented challenges to providing
6 the parking on site, and then we also felt that the presence of
7 the Metro and bus service nearby, you know, offset the need to
8 provide the one parking space.

9 CHAIRPERSON HILL: Okay. And there's been a bunch of
10 -- or a few concerns about safety. Like fire and all that, do
11 they sign off on all this, or they meet the criteria for it? I
12 forget what the alley criteria was again off the top of my head,
13 but I -- can you speak to that?

14 MS. VITALE: Certainly. Yes. I believe the letters
15 in opposition that were entered into the record did seem to be
16 more related to the use versus the parking relief request that
17 the proposed residential use on this alley lot is a matter of
18 right. The alley access requirements are met, the alley
19 centerline setback is being met, so we felt that the -- you know,
20 the residential use of this property, this alley record lot, was
21 not problematic; it's a matter of right use and meets the
22 criteria.

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

25 (Negative head shake.)

1 No. Okay. Ms. Dapot -- sorry. Mr. Martin, do you
2 have any questions for the Office of Planning?

3 MR. MARTIN: No, sir. I do not.

4 CHAIRPERSON HILL: All right. Mr. Young, if you could
5 mute Mr. Martin, Mr. Young. And then is there anyone here wishing
6 to testify?

7 MR. YOUNG: Yes. We have one person signed up.

8 CHAIRPERSON HILL: Okay. If you could bring them in,
9 please. Mr. Bryant, can you hear me? Mr. Bryant, can you hear
10 me?

11 MR. BRYANT: Yes.

12 CHAIRPERSON HILL: Oh, wonderful. Could you please
13 introduce yourself for the record?

14 MR. BRYANT: Okay. Kenneth Bryant, Number 7, 16th
15 Street Northeast.

16 CHAIRPERSON HILL: Okay. Mr. Bryant, can you see the
17 clock on the screen with three minutes?

18 MR. BRYANT: Yes.

19 CHAIRPERSON HILL: Okay. So you have three minutes to
20 testify. And you can begin whenever you like.

21 MR. BRYANT: Okay. Good afternoon, Chairman Hill and
22 the Board. I do oppose the building of the house and the alley.
23 As a lifetime resident, my family has over 65 years in this
24 neighborhood, and that comes with respect. In saying that, with
25 the gentrification of the neighborhood, none of the new neighbors

1 have over 25 years, so they haven't seen or have the knowledge
2 on why it isn't a good idea to make the space into a housing
3 unit.

4 One, it is not safe for occupants or dogs to be walking
5 on uneven small -- uneven surfaces in that small alley that isn't
6 made for a house or commuting through at any given time of the
7 day. One of the number one concerns was for fire and
8 endangerment, occupants, and the first responders, and other
9 homeowners coming through the alley. What is not being said is
10 the occupant will have to walk through the alley to get to the
11 Metro stop and to the Metro station. So when it's severe weather
12 conditions, nothing was mentioned -- it's going to be limited
13 access going into and going outwards.

14 I have been around to see how the building, the
15 structural building has been hit by vehicles because it is trash
16 trucks, not only D.C. trash trucks, but other trash companies,
17 and it's been other trucks that come through the alley that have
18 knocked into the building. So that's another concern. So I
19 understand the issues or grounds for parking but, in my belief,
20 I heard a earlier caller call in earlier say it's limited parking
21 around here, and which it is very little parking.

22 So my concern too is why can't the resident, if they're
23 trying to get into this building right here, use 1608, the house
24 that's currently occupied. They can't -- they can use that
25 address with DMV and say hey, can I get a parking -- you know,

1 go through that. And DMV look at it like that's attached to that
2 building, so how would DMV know not to give them parking
3 permission? I'm not getting this.

4 And in closing, I just want to say, would you want your
5 family members living and commuting through a small alley? Would
6 you feel safe for them? And it comes back up to the topic, I
7 know you all looking at it through a viewpoint, but you actually
8 got to get a onsite feel of how this alley is constructed. And
9 the Planning Commission, I heard what she said; I don't agree.
10 And maybe she need to take a look at it a little bit more harder
11 at it because I know what can take place in this alley, especially
12 with fires.

13 If you look where the fire hydrants are and how they
14 have to drop their lines to get to the area, it's going to be
15 real difficult, and I see it being a problem. All the older
16 neighbors that's been around in this neighborhood knows there's
17 a reason why that building was never ever to be constructed into
18 a house. That was always looked at as a storage area. And I
19 know it's all about a profit and, you know, clinging to the
20 community and getting what little land you can get, but this is
21 a detriment to the community if a housing unit is to go up. And
22 I'll just leave it at that.

23 CHAIRPERSON HILL: Okay. Thanks, Mr. Bryant. Does the
24 Board have any questions for Mr. Bryant?

25 (Negative head shake.)

1 Okay. Mr. Bryant, just to add at least some
2 clarification, if I could, the zoning allows that use, meaning
3 the zoning allows for that thing to turn into a house. What we
4 are here for is the one parking space. And they, the applicant,
5 if they can prove that they're in close proximity to the Metro
6 station or to public transportation so that it satisfies the
7 standard, we -- it's something that we take into consideration
8 when we're deliberating the case. But I'm just trying to clarify
9 that it is a permitted use.

10 Now, whether or not I'm going to live there, or whether
11 somebody else wants to live there, I mean, that's up to them,
12 it's not me. But I appreciate your testimony, and I'm just trying
13 to clarify what we're supposed to look at.

14 MR. BRYANT: Oh, I understand, sir.

15 CHAIRPERSON HILL: Okay? All right. Well, thank you,
16 Mr. Bryant. Thank you for your testimony.

17 MR. BRYANT: Thank you.

18 CHAIRPERSON HILL: All right. Let's see. So where is
19 the applicant? Oh, he's on the phone. Sorry. Okay. Mr. Martin,
20 do you have anything you'd like to add at the end?

21 MR. MARTIN: No, sir. Ms. Dapot, anything?

22 (Negative head shake.)

23 No, we're satisfied. Thank you.

24 CHAIRPERSON HILL: All right. Does the Board have any
25 final questions for the applicant?

1 (Negative head shake.)

2 All right. I'm going to close the hearing and close
3 the record. Mr. Young, if you could release the applicant,
4 please. Okay. All right.

5 Does somebody else want to start, because I just been
6 talking a lot. Mr. Smith, I'll go with you, if that's all right.
7 All right. Because see, Mr. Smith, I like giving Chairman Hood
8 a little bit of time also, you know what I mean? We only have
9 to think, and the Chairman, he's got to think all the time and
10 so, like, you know, his hearings are very intense. This is --
11 you know, ours are very --

12 BOARD MEMBER SMITH: Two nights a week.

13 CHAIRPERSON HILL: Ours are the Cub Scouts next to the
14 Boy Scouts that are, you know -- or the Girl Scouts, whatever it
15 is. You know, the Brownies, you know. So I can give you -- Mr.
16 Smith, you can go ahead and please begin so that Chairman Hood
17 can get his head around it, and then we'll go to him next.

18 BOARD MEMBER SMITH: I didn't have any significant
19 concerns. I think the only concern that I had was for the
20 applicant to address the reason why they requested the special
21 exception to not be required to have parking at the site. And I
22 believe that the applicant and also OP have sufficiently answered
23 that question. It is in close proximity to the Stadium-Armory
24 Metro Station, and there are a multitude of bus lines that run
25 down East Capitol Street in order to mitigate some of the impacts

1 of removing or reducing the parking requirement for the dwelling
2 unit that would be within the existing carriage house at the
3 site.

4 So I do believe that any adverse impact has been
5 sufficiently mitigated, so I would be in support of this special
6 exception.

7 CHAIRPERSON HILL: Chairman Hood.

8 CHAIRMAN HOOD: I, too, am in support of the special
9 exception, especially with the relief requested under C-703.2.
10 But let me just say this, Mr. Chairman. Sometime -- I'm going
11 to go back to your earlier point since I was -- I want to take a
12 personal privilege. Sometimes it's probably -- you're right.
13 You go through a lot, and you work a lot through these hearings,
14 but sometime I like to hear from the Board members because I'm
15 only here once every five weeks. And then maybe if they go first
16 -- and I appreciate you allowing me time to get myself together
17 because sometime I'm thinking about things. For example, I'm
18 wondering -- I heard all that and, in all that, I'm wondering
19 can we make a decision on about the DDOT condition, and I couldn't
20 never really understand what's going on with the ANC letter. Are
21 we waiting for that? So those are the things that I'm trying to
22 get to, so maybe we can clarify some of that as we move forward.
23 But I think, from what I have here in front of me, and I did hear
24 the oppositions of the Bryant family and others, as you have
25 already mentioned, the carriage house is a permitted use. The

1 issue is the parking space, and I think they've satisfied it
2 under the policy and under the regulations which we have in place.
3 So that's my two cents. Thank you.

4 CHAIRPERSON HILL: Okay. It's usually the order I've
5 been going in, Chairman Hood, in terms of the counts -- I'm sorry
6 -- the Commission and then whatever. But I think -- actually,
7 now that I think about it, I think you being the Chairman, we'll
8 let the wisdom go last, you know, is also, you know, a way to do
9 this. So in terms of this -- well, we'll see how -- even I don't
10 know. We'll jump around as we do the deliberation as well. But
11 in terms of this case, I do believe that -- normally, I would
12 want to wait for a design that shows that door swinging in rather
13 than out. They, the Applicant, clarified that it was that trash
14 room that was on the design and, if we put it in as a condition,
15 they'll have to make the door swing in rather than swing out. So
16 that's something that we can put in as a condition.

17 The ANC -- and I appreciate it -- it seemed as though
18 they voted a month ago in terms of their -- at their hearing
19 according to the testimony from the Applicant. So if that's why
20 we didn't get a letter from the ANC, I'm not exactly sure. I
21 mean, to me, it was just kind of more of a straightforward case
22 in terms of, you know -- I mean, the alley dwelling stuff is
23 things that you all approved anyway a long time -- or not that
24 long time ago but, you know, when you started to try to look into
25 us, the city, being able to get more housing. And so, you know,

1 I believe they satisfied this special exception for the parking
2 slot due to C-703.2(b), and so I'm going to be voting in favor
3 of this application.

4 Chairman Hood, did you have anything more to add before
5 I go to Ms. John?

6 CHAIRMAN HOOD: Well, thank you for fine-tuning those
7 points but, other than that, I would agree with Board Member
8 Smith.

9 CHAIRPERSON HILL: Okay.

10 CHAIRMAN HOOD: And also, now you're going to the
11 wisdom, you're going to Board member John.

12 CHAIRPERSON HILL: Yes. We'll leave with Vice Chair
13 John at the end. Vice Chair?

14 VICE CHAIR JOHN: Well, I agree with the analysis so
15 far, and I thought OP did a good job in explaining how the
16 application meets the criteria for parking because of the
17 transportation available in the area, the Metro bus system, and
18 the Metro. So I would be in support of the application.

19 CHAIRPERSON HILL: Okay. Then I'm going to make a
20 motion to approve Application No. 20393 as captioned and read by
21 the secretary and ask for a second. Ms. John?

22 VICE CHAIR JOHN: Second.

23 CHAIRPERSON HILL: Motion made and seconded. Mr. Moy,
24 could you please take a roll call vote.

25 MR. MOY: When I call your name, if you would please

1 respond with yes, no, or abstain to the motion --

2 CHAIRPERSON HILL: Hello. Ms. Cain, you got something
3 for me?

4 MS. CAIN: No. I just wanted to confirm that you're
5 approving this with the condition proposed by DDOT regarding the
6 door.

7 CHAIRPERSON HILL: Thank you. Thank you. I appreciate
8 that. I'll remake the motion. I apologize. I'll make a motion
9 to approve Application No. 20393 as captioned and read by the
10 secretary, including the condition that the applicant should
11 revise the plans to provide doors that do not swing out or into
12 the public space of the alley, and ask for a second. Ms. John?

13 VICE CHAIR JOHN: Second.

14 CHAIRPERSON HILL: The motion has been made and
15 seconded. Mr. Moy, if you could please take the roll call.

16 MR. MOY: Thank you, Mr. Chairman. So if you would
17 please respond with a yes, no, or abstain to the motion made by
18 Chairman Hill to approve the application for the relief being
19 requested and seconded by Vice Chair John. Zoning Commission
20 Chair Anthony Hood?

21 CHAIRMAN HOOD: Yes, to approve the motion.

22 MR. MOY: Mr. Smith?

23 BOARD MEMBER SMITH: Yes, to approve.

24 MR. MOY: Vice Chair John?

25 VICE CHAIR JOHN: Yes, to approve.

1 MR. MOY: Chairman Hill?

2 CHAIRPERSON HILL: Yes, to approve.

3 MR. MOY: The staff would record the vote as 4 to 0 to
4 1. And this is on the motion made by Chairman Hill to approve
5 with the condition as he has cited in his motion, seconded by
6 Vice Chair John. Also in support of the motion, Mr. Smith and
7 Zoning Commission Chair Anthony Hood. The motion carries, sir.

8 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. And when
9 you get yourself all settled, Mr. Moy, you can call our next
10 case.

11 CHAIRMAN HOOD: Mr. Chairman, you know what I like
12 about this is when sometime when we forget stuff as we're going
13 along, and our counsel just pops up and you know you got to hold
14 up. So that's just funny. That remind me of when Max and Ms.
15 Cain do that to me and Mr. Riggert (ph) and others. So it's very
16 convenient.

17 CHAIRPERSON HILL: Well, Chairman Hood, now that we
18 have a nice little break here, like, I -- the other day we had a
19 training, and I didn't have to say anything, and you led the
20 training. Chairman Hood, I would -- if you want to lead when
21 you come to the BZA, by the way, or if you want to lead just like
22 half the time, I am happy to -- whatever it's called -- turn it
23 over.

24 CHAIRMAN HOOD: I enjoy coming to the BZA, and I enjoy
25 not taking the lead.

1 CHAIRPERSON HILL: All right then.

2 MR. MOY: Okay. So the next case is Application No.
3 20339 of Lee Street Development, LLC. This has been captioned
4 and advertised as amending for a special exception under the
5 voluntary inclusionary development requirement, Subtitle D,
6 Section 5206.2, and pursuant to 11 DCMR, Subtitle X, Chapter 10,
7 for a variance from the use permissions of Subtitle U, Section
8 201.1(b), to construct three two-unit flats in the R-2 Zone at
9 premises 4404 Lee Street Northeast, Square 5125, Lots 868 and
10 869.

11 Mr. Chair, as a preliminary matter, the applicant filed
12 a request to postpone last night so. And I see he's here, so
13 I'll leave it at that.

14 CHAIRPERSON HILL: Okay. Great. Thanks. Mr. Bello,
15 could you introduce yourself please for the record?

16 MR. BELLO: Thank you, Mr. Chairman and Board members.
17 Olutoye Bello, representing the owner.

18 CHAIRPERSON HILL: Mr. Bello, you're still in the
19 United States, right?

20 MR. BELLO: Yes, I am, sir.

21 CHAIRPERSON HILL: Nice. Okay. Let's see. Mr. Bello,
22 why do you want a postponement? And when do you want to do --
23 or when were you hoping to get it until?

24 MR. BELLO: Well, we were hoping for a short
25 continuance. I've just been brought up on the case to represent

1 the applicant, so it's taking quite a while to understudy the
2 filings and also to supplement the records. So we needed just a
3 little bit more time to be able to submit a revised statement of
4 the burden of proof and any other additional information that you
5 want to (audio interference).

6 CHAIRPERSON HILL: Okay. Now, there's somebody here
7 that's wishing to testify. Is that correct, Mr. Young?

8 MR. YOUNG: I have a few people that are calling in on
9 the line. I have the ANC Commissioner who's calling in, and I
10 have one person who had signed up to testify is on the line.

11 CHAIRPERSON HILL: Okay. Can you put the ANC
12 Commissioner through, please?

13 MR. YOUNG: She's now unmuted.

14 COMMISSIONER DOUGLAS: Hi. This is Commissioner
15 Douglas.

16 CHAIRPERSON HILL: Commissioner Douglas, can you hear
17 me?

18 COMMISSIONER DOUGLAS: Yes, I can hear you real well.
19 You all been going on real good today.

20 CHAIRPERSON HILL: Good. Oh, gosh. Can you introduce
21 yourself for the record, Commissioner?

22 COMMISSIONER DOUGLAS: Yes, I'm Dorothy Douglas. ANC
23 7D03 with Commissioner 7D.

24 CHAIRPERSON HILL: Commissioner, I wish I could see
25 your smiling face. It looks like it would be helpful today right

1 now for me, but it's nice to hear your voice.

2 COMMISSIONER DOUGLAS: Well, it's always nice to hear
3 you, Chairman Hill. And also, it's nice to hear Chairman Hood
4 as well and his colleagues. Yeah.

5 CHAIRMAN HOOD: Commissioner Douglas, you know I was
6 going to say hello to you. So just know I was going to do that,
7 but you spoke to me first. So I hope you're doing well and
8 staying safe.

9 COMMISSIONER DOUGLAS: Oh, God is good. He's on time.
10 I got to say thank you to everyone.

11 CHAIRPERSON HILL: All right, Commissioner. So
12 Commissioner, I just wanted to say, like, I mean, we -- we're
13 not going to hear this case today because it was already quite
14 confusing, I think. And so, you know, I wanted to just give you
15 a chance to kind of, you know, talk or -- just let know that
16 we're going to postpone this.

17 COMMISSIONER DOUGLAS: Okay.

18 CHAIRPERSON HILL: And so, you know, I know that you've
19 been on the line now for a little while, and I know that there
20 are other people that are listening that have been on the line
21 but, unfortunately, until we have the full docket in front of us,
22 there's no need for us to take testimony from people because the
23 whole case could change a little bit.

24 COMMISSIONER DOUGLAS: Okay.

25 CHAIRPERSON HILL: And therefore, it's not helpful to

1 | the Board to hear testimony on something we don't know what we
2 | have in front of us, you know what I'm saying?

3 | COMMISSIONER DOUGLAS: I understand.

4 | CHAIRPERSON HILL: Okay. All right, Commissioner --

5 | COMMISSIONER DOUGLAS: Well, can I say this. For
6 | the record, that we had already voted on this. Can I share that
7 | at this point?

8 | CHAIRPERSON HILL: Sure. Sure. Go ahead.

9 | COMMISSIONER DOUGLAS: Well, I just wanted to say on
10 | December the 8th, the ANC 7D had a public meeting at that time,
11 | and we voted in support of Mr. Johnson -- I call him Mr. Johnson,
12 | but his name is Joe Johnson, J double D -- double J. But I just
13 | want to say we're very much in support of that. And also that I
14 | think Mary Barry (ph) also is in opposition, from what I
15 | understand. But we voted in support, and we said -- and I said
16 | that we want homes there, and this is what we agreed on having
17 | there, not apartments. So and anything else that was said beyond
18 | that. We gave everybody the opportunity to speak, the community
19 | and all, and we all support it.

20 | We had four in support -- I mean, yeah, four that
21 | support it and one that was not. So the Commissioner is fully
22 | in support of whatever that's needed. We want homes. The mayor
23 | just already got \$33 million from HUD, and it's definitely, we
24 | need more homes for our residents to stay here, and Mr. Johnson
25 | is proving that. And sometimes it takes a little bit longer than

1 others, and I hope you support him in doing so. And I appreciate
2 it. Thank you.

3 CHAIRPERSON HILL: Okay, Commissioner. Thank you. So
4 Mr. Bello, you know that the Office of Planning is currently in
5 denial of this application, correct?

6 MR. BELLO: Yes, I'm aware.

7 CHAIRPERSON HILL: Okay. So how much time do you think
8 you need to figure this out?

9 MR. BELLO: I can have all the additional dimensions
10 in by Friday, this Friday, so I'm hoping that the Board can
11 accommodate us before the end of March, if possible. But I think
12 I leave on travel on the 22nd, 23rd.

13 CHAIRPERSON HILL: Right. You're leaving the country,
14 right, on the 22nd? And when do you get back?

15 MR. BELLO: On the 20th of April.

16 CHAIRPERSON HILL: Right. So I don't think we're going
17 to get you back here before then, you know. Ms. Fothergill, are
18 you here?

19 MS. FOTHERGILL: Yes, I'm here.

20 CHAIRPERSON HILL: If you could unmute yourself for the
21 record, please.

22 MS. FOTHERGILL: Sure. Hi. I'm Anne Fothergill with
23 the Office of Planning.

24 CHAIRPERSON HILL: So Ms. Fothergill, I mean, you
25 haven't seen the additional filings obviously, from Mr. Bello,

1 right?

2 MS. FOTHERGILL: No. We haven't seen anything since
3 the initial hearing date when it was postponed to add additional
4 information for the record, but nothing has been added.

5 CHAIRPERSON HILL: Okay. So Mr. Bello, I guess, have
6 you been watching all day?

7 MR. BELLO: Yes, Mr. Chairman. Yes.

8 CHAIRPERSON HILL: We had a case -- we had a case
9 earlier that was a use variance, right, and it took a long time
10 to get through, and then we went back and forth on it. So you
11 understand that a use variance is the highest part that we've got
12 to try to overcome, right?

13 MR. BELLO: Absolutely. Yes.

14 CHAIRPERSON HILL: And you think you have a case is
15 what you're trying to tell me?

16 MR. BELLO: We think we have a compelling case. We'll
17 leave that judgment to the Board when we get there, but we do
18 believe that we have a compelling case.

19 CHAIRPERSON HILL: Okay. Because I don't want to rush
20 you because I don't want to have to come back and forth and back
21 and forth on stuff. So I think we're going to do this when you
22 get back so that you have enough time to get your case together
23 because even if -- you're leaving on the 22nd. We're not going
24 to get back here by the 17th, I don't think. And Mr. Moy, when
25 do you have -- what do we have on the 17th? We already have how

1 many cases?

2 MR. MOY: Yeah, I'm sorry, sir. What was the date when
3 Mr. Bello said he was going to be returning?

4 CHAIRPERSON HILL: First, I'm asking how many cases we
5 have on March 17th?

6 MR. MOY: March 17th?

7 CHAIRPERSON HILL: Yep.

8 MR. MOY: We have -- we have -- we have nine cases on
9 March 17th.

10 CHAIRPERSON HILL: Okay. All right. And then
11 otherwise, Mr. Bello, you get back on the 19th of April, correct?

12 MR. BELLO: That's correct, sir.

13 CHAIRPERSON HILL: And so really, you'd have to get
14 over your jet lag and all that stuff, so the 28th of April would
15 be the best one probably that you're (audio interference), right?

16 MR. BELLO: Yeah, that's correct. I have all the cases
17 that same day, yeah. Yes.

18 CHAIRPERSON HILL: On the 28th of April?

19 MR. BELLO: Yes.

20 CHAIRPERSON HILL: All right. I mean, I'd rather you
21 have the time to work with the Office of Planning. I don't think
22 you're going to be able to do it in two weeks and, if you have
23 to go back to the ANC, I don't know. So don't you think the 28th
24 of April would work better for you and your client?

25 MR. BELLO: That's fine, Mr. Chairman.

1 CHAIRPERSON HILL: Okay. So Mr. Moy, let's put it back
2 on the 28th of April.

3 MR. MOY: Did you say the 28th of April?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: Okay. Okay. So April 28th, this would be
6 the 11th case, just to let you know.

7 CHAIRPERSON HILL: You got 11 cases already on the 28th
8 of April?

9 MR. MOY: Yeah. We added some. Well, actually, it
10 could be more like nine because two cases are on the same -- are
11 by the same agent, same owner, different properties.

12 CHAIRPERSON HILL: Is there any appeals? No appeals?
13 There's no appeals?

14 MR. MOY: No. Not on that day.

15 CHAIRPERSON HILL: What about the 21st of April?

16 MR. MOY: On the 21st of April, we have four cases and
17 one appeal.

18 CHAIRPERSON HILL: I saw Ms. John shake her head. I
19 don't know whether it's 21st or wait. So where's the -- by a
20 show of hands, the Board, you want -- just Mr. Smith and Ms. --
21 you want one more on the appeal, or you want one more on the
22 28th? One more on the 28th? One more on the 28th, all right.
23 Okay. We'll put you on the 28th then, and we're going to 11
24 then. Okay. And then for you, Mr. Bello, it sounds like
25 you have a very kind Commissioner on the phone trying to help

1 | you out. So if you need to go back to the ANC, obviously, you
2 | know that that's better for you if things change, correct?

3 | MR. BELLO: Yes, sir.

4 | CHAIRPERSON HILL: Okay. All right. Commissioner, can
5 | you hear us?

6 | COMMISSIONER DOUGLAS: He's prepared. You say April
7 | the 29th. With all those folks on there, I don't know how long
8 | we have to wait. But what does May look like? I'm just making
9 | a suggestion, would you all look for May, because I want him to
10 | be straight with all this, so we won't have to keep going back
11 | and forth as you mentioned.

12 | CHAIRPERSON HILL: I think the 28th he should be able
13 | to pull it together.

14 | COMMISSIONER DOUGLAS: Okay. Well, the reason why I
15 | was saying because right now I'll -- but we were talking about
16 | March and we're filled up now, so I don't know what we're going
17 | to have on April. So if he got to come back to us for anything,
18 | we need to make sure that everything is in order when he come
19 | back so we can present to you if any changes need to be made.
20 | This is why I was suggesting May.

21 | CHAIRPERSON HILL: I understand.

22 | COMMISSIONER DOUGLAS: Because we're already on --
23 | well, our next meeting is Tuesday, so it won't be time enough
24 | for him to come and be prepared for us for Tuesday. So and this
25 | is March already, so we don't know how many will be on April, so

1 that's what I was just saying too and make sure everything is in
2 order because they have to come to have -- those changes have to
3 be corrected.

4 CHAIRPERSON HILL: No, I agree. I agree. Well, I
5 guess, Mr. Bello, I'll ask you, right. I mean, you're not going
6 to be able to get in front of them for March, obviously. I don't
7 know what you're trying to do. Do you want to go into May, or
8 just see whether you're going to go back to the ANC? And then
9 if you need to let us know that you have to push it again because
10 go to the ANC. What do you want to do?

11 MR. BELLO: I think I'd like to keep the 28th. The
12 owners have had this project in line for many years. There's no
13 self-centered change to the design or the layout of the project
14 that the ANC saw. All we're doing is supplementing our burden
15 of proof payment -- statement to respond to what will give the
16 OP the opportunity to make a more definitive recommendation.

17 CHAIRPERSON HILL: Okay. Commissioner, can you --

18 COMMISONER DOUGLAS: Yeah, I get what he's saying, but
19 he don't hear what we are saying. We meet Tuesday. Plus, March
20 is already here. So for you to say on April, I have to go back
21 to find out who are the other presenters that we already put on
22 the docket for April. So for you to be prepared for us, we need
23 to make sure that there's space for you to come in April and that
24 everything is already prepared for us to make changes.

25 I hear what you're saying, but we hadn't heard those

1 changes, if there is any to be made. I just want to give you
2 time to give us time because you have to come back to us at the
3 executive meeting to talk to us about those changes.

4 CHAIRPERSON HILL: Got it. Commissioner, I think the
5 applicant is saying that they're not (audio interference) going
6 to make any substantial changes to where they think they would
7 have to come back to you again. The design, they're going to
8 keep the same.

9 COMMISSIONER DOUGLAS: You're going to have to come -
10 -yes. You have to come back to us again to talk about those
11 changes at our executive planning meeting so we can know what
12 those changes is to prepare for what it is in April and then see
13 how many people will be on the agenda. We trying to be straight
14 too. We trying to keep things in order. We're happy to have
15 you, but we just need to know.

16 CHAIRPERSON HILL: Okay.

17 COMMISSIONER DOUGLAS: You said 28th is good. Okay.
18 Well, they say the 28th is good, so I'm going to leave it alone.

19 CHAIRPERSON HILL: No, that's all right, Commissioner.
20 We're just talking. I can't see your face. Vice Chair John,
21 you had a thought?

22 COMMISSIONER DOUGLAS: You said March the 28th will be
23 fine? I mean, it's what I'm getting, so that's only -- it should
24 be good. I know good -- I don't know, so I'm just saying. But
25 can we just put it there for a tentative? And then if not, then

1 | how will we make those changes? Can we write back in or they
2 | can write back in?

3 | CHAIRPERSON HILL: Yeah. Commissioner, we'll talk it
4 | all through right now with you. Just give me one second. Vice
5 | Chair John, you had a question?

6 | VICE CHAIR JOHN: Mr. Chairman, I believe what Mr.
7 | Bello said was that he was not planning to change the design,
8 | just his burden of proof. And so maybe the Commissioner does
9 | not need to be concerned that he will be back before the ANC.

10 | COMMISSIONER DOUGLAS: Oh, okay. Okay. Okay.

11 | VICE CHAIR JOHN: Because he's not changing the design
12 | that he submitted to the Board. Now, whether or not that's wise,
13 | considering what OP said, is up to the applicant to decide.

14 | COMMISSIONER DOUGLAS: Well, I appreciate what you
15 | saying too, but don't he also have to communicate with OP to make
16 | sure everything is in order too?

17 | CHAIRPERSON HILL: Yes. Commissioner, what Ms. John
18 | is clarifying is that they're not going to make any changes --
19 | they don't think they're going to make any changes at this --

20 | COMMISSIONER DOUGLAS: Okay. Okay. Okay. That's
21 | fine.

 CHAIRPERSON HILL: However, you will see
22 | everything as being part of the ANC. And the ANC always is a
23 | party, so you can come here on the 28th and, if there's any
24 | problems you have with anything, you can let us know.

25 | COMMISSIONER DOUGLAS: Okay. I will. Thank you so

1 much. I appreciate you all so much.

2 CHAIRPERSON HILL: Commissioner, I appreciate you.
3 You've made my day.

4 COMMISSIONER DOUGLAS: Okay.

5 CHAIRPERSON HILL: All right. All right, let's see.
6 So all right. So Commissioner, we're going to stick -- we're
7 going to keep them on April 28th --

8 COMMISSIONER DOUGLAS: Okay.

9 CHAIRPERSON HILL: And anyone who's listening here, you
10 can come testify on April 28th. And we're going to get -- Mr.
11 Moy is going to set the date. So Mr. Moy, when do you need
12 information from the applicant and the subsequent information
13 from the Office of Planning?

14 MR. MOY: Okay. If the date for the continued hearing
15 is April 28th and, if Mr. Bello is going to be out of the country,
16 then I'm supposing then that Mr. Bello would want to make his
17 filings before he leaves the country, so it should be whatever
18 that date would be. If you could help me with that, Mr. Bello.

19 MR. BELLO: Absolutely, Mr. Moy. Thank you.

20

21 COMMISSIONER DOUGLAS: And thank you too, Mr. Bello.
22 Don't think I'm trying to, you know, jump on you, I'm just trying
23 to work with everybody and make sure we meet -- because we
24 definitely need homes here, and that's what it's all about.

25 MR. BELLO: I appreciate that, Commissioner.

1 COMMISSIONER DOUGLAS: You welcome.

2 MR. MOY: Are you looking at your calendar, Mr. Bello?

3 MR. BELLO: I will be making submissions before I leave
4 probably, in another week. I don't think I need more than one
5 week to supplement the record.

6 MR. MOY: Okay. Well, today is the 3rd, so let's give
7 you until Friday, March the 12th.

8 MR. BELLO: That's fine.

9 MR. MOY: Okay. And then for any responses from all
10 the other parties, including the ANC, if they wish to reply to
11 your filing, I believe you have until -- well, since he's not
12 back until April 28th, let's say Friday, April the 2nd.

13 CHAIRPERSON HILL: Commissioner Douglas, did you hear
14 that?

15 COMMISSIONER DOUGLAS: Yeah. He said if there's
16 anything to be filed, but he said there wasn't going to be any
17 changes so, if nothing to be filed, then I'm just going to come
18 back and testify. That's all I'm -- just put me on the record
19 that I will be coming back to testify.

20 MR. MOY: You'll testify? But I'm just saying if
21 there's nothing -- if they want -- they don't have to file --

22 COMMISSIONER DOUGLAS: I understand.

23 MR. MOY: -- they don't have to respond if they don't
24 want to.

25 CHAIRPERSON HILL: Mr. Moy, tell the date again that

1 Mr. Bello is submitting?

2 MR. MOY: Mr. Bello is submitting his filing materials
3 by March the 12th, which is a Friday.

4 CHAIRPERSON HILL: So Commissioner Douglas, Mr. Bello
5 is going to file something by March the 12th.

6 COMMISSIONER DOUGLAS: Okay.

7 CHAIRPERSON HILL: And then if you, the ANC, has
8 anything you want to file, you have until when again, Mr. Moy?

9 MR. MOY: April the 2nd.

10 CHAIRPERSON HILL: April the 2nd.

11 CHAIRMAN DOUGLAS: Okay.

12 MR. MOY: If there's anything at all.

13 CHAIRPERSON HILL: Okay?

14 CHAIRMAN DOUGLAS: All right.

15 CHAIRPERSON HILL: You don't have to. If you want to,
16 you have until April the 2nd.

17 CHAIRPERSON HILL: Okay.

18 CHAIRPERSON HILL: And then the Office of Planning's
19 report will come out when, Mr. Moy?

20 MR. MOY: Okay, Office of Planning. Office of Planning
21 let's say Monday, April the 19th.

22 CHAIRPERSON HILL: Okay.

23 CHAIRMAN DOUGLAS: Of March?

24 CHAIRPERSON HILL: Yeah, March -- no, April 28th is the
25 hearing date.

1 COMMISSIONER DOUGLAS: I got that. And then that's the
2 hearing date. But you was saying something about the Planning,
3 Office of Planning.

4 CHAIRPERSON HILL: Oh, Office of Planning's report is
5 due when, Mr. Moy?

6 MR. MOY: Monday, April the 19th.

7 COMMISSIONER DOUGLAS: Oh, okay. Monday.

8 CHAIRPERSON HILL: April the 19th.

9 COMMISSIONER DOUGLAS: Okay. Thank you.

10 CHAIRPERSON HILL: And I'm sorry. Right, it's April
11 28th. I keep saying March. I'm sorry.

12 COMMISSIONER DOUGLAS: That's okay.

13 CHAIRPERSON HILL: All right. Okay. Is that it? Does
14 everybody understand?

15 COMMISSIONER DOUGLAS: Yes.

16 CHAIRPERSON HILL: Commissioner Douglas, you come back
17 any time you want.

18 COMMISSIONER DOUGLAS: Well, thank you so much.

19 CHAIRPERSON HILL: Okay.

20 COMMISSIONER DOUGLAS: Okay.

21 CHAIRPERSON HILL: All right.

22 COMMISSIONER DOUGLAS: I'll be glad when we can get in
23 person again.

24 CHAIRPERSON HILL: Okay. Yeah, me too.

25 COMMISSIONER DOUGLAS: All right. Thank you,

1 everybody. And God bless.

2 CHAIRPERSON HILL: Bye-bye. All right. I'm closing
3 the hearing and the record. We're going to do supplemental,
4 whatever, continued hearing on 4/28. Thank you. All right.
5 Okay. Give me one second, you all, all right? Okay. All right.
6 Well, that was that.

7 And then Mr. Moy, you can call our last one when you
8 want. You're on mute, Mr. Moy.

9 MR. MOY: Okay. Well, that's the last time I'm going
10 to do that for today. Okay.

11 So for the last case application for the day is No.
12 20351 of William H. Cowdrick, Trustee, as amended for special
13 exceptions under Subtitle C, Section 703.2, from the minimum
14 parking requirements of Subtitle C, Section 701.5, and under
15 Subtitle D, Section 5201, from the side yard requirements, alley
16 centerline setback requirements, and the minimum pervious surface
17 requirements, Subtitle D, Section 5100.1, and pursuant to
18 Subtitle X, Chapter 10, for area variance from the alley lot
19 height requirement, Subtitle D, Section 5100.1, to construct a
20 new semi-detached principal dwelling unit on a vacant lot in the
21 R-17 Zone at premises bounded by 25th Street, Northwest; K Street,
22 Northwest; 24th Street, Northwest; and Snows Court, Northwest,
23 Square 28, Lot 149.

24 And I have in parentheses "known for assessment and
25 taxation purposes" as Lot 905. And I think there was one other

1 thing. Yeah, a disciplinary matter in terms of the 21-day waiver
2 for additional submissions by the applicant.

3 CHAIRPERSON HILL: Okay. Mr. Gallo, can you hear me?

4 MR. GALLO: Yes, I hear. Good afternoon.

5 CHAIRPERSON HILL: Good afternoon. Do you have a
6 camera, Mr. Gallo?

7 MR. GALLO: Yes, I do.

8 CHAIRPERSON HILL: Great.

9 MR. GALLO: Nice to meet you all.

10 CHAIRPERSON HILL: Nice to meet you as well. All right.
11 Mr. Gallo, so there are -- there's a bunch of stuff you're asking
12 for. The first one which, though, you had a 21-day waiver from
13 the filings. Mr. Moy, if you want to mute your line, I'm sorry.
14 A 21-day waiver from the filings for drawings that were to clarify
15 the number of stories and the floor plans; is that correct?

16 MR. GALLO: We submitted one supplemental on Monday in
17 response to a request from Ms. Cain.

18 CHAIRPERSON HILL: Right.

19 MR. GALLO: But everything else has been in the docket
20 for many months.

21 CHAIRPERSON HILL: Yes, I understand. But you need a
22 21-day waiver -- you need a 21-day waiver for that filing. And
23 you are requesting that, correct?

24 MR GALLO: Yes.

25 CHAIRPERSON HILL: Okay. So unless the Board has any

1 | issues, it's something that we had wanted to see, so I don't have
2 | any problem granting the waiver. So I'm going to go ahead and
3 | allow that in the record, unless the Board raises their hands.
4 | They're not. All right. Mr. Gallo, you can go ahead and begin
5 | your presentation whenever you like.

6 | MR GALLO: Sure. I'll just make a brief opening
7 | statement to provide some context on the case.

8 | My name is Alex Gallo, and I'm the contingent contract
9 | purchaser of the lot in question. My goal is to construct a
10 | primary residence down the block from where I currently live in
11 | Foggy Bottom. The lot is an unapproved alley lot of record, 602
12 | square feet in size only, which has existed as a lot of record
13 | since 1925 or earlier. It's within the Foggy Bottom Historic
14 | District and sits next to a row of seven identical homes
15 | constructed in 1890. I call it "O" Snows Court, but there is
16 | yet no assigned street address.

17 | So after going under contract in November of 2019, I
18 | spent a few months working with the architect and drafted what
19 | we believe to be the only concept faithful to both historic
20 | preservation principles and practical functionality, which is a
21 | three-story home with entry at grade. I appeared before HPRB in
22 | June 2020 and received unanimous approval for this concept with
23 | final approval of plans delegated to the Historic office then.
24 | HPRB verbally approved the compatibility of the three-story
25 | concept and the entry door being on the west side.

1 After receiving this approval, I then submitted the
2 zoning relief application based on a few revisions that HPRB
3 requested. The house is still conceptual, and it is thus worth
4 noting that the facades and the structural materials remain
5 tentative and subject to adjustment by the Historic office,
6 staff, or HPRB. But what is fixed for consideration today is
7 the general style and the dimensions.

8 The pervious surface cannot yet be estimated with
9 precision since the calculation depends on such structural
10 elements like the foundation footers which might have to extend,
11 and we won't know this until the final building permit phase
12 whereupon the calculation might dip slightly below the 10 percent
13 zoning rule.

14 Lastly, the ANC was fully briefed on the aspects of
15 this zoning case, including the parking exception, and they again
16 provided the unanimous support that they had previously provided
17 at the HPRB phase. So should the requested relief be granted, I
18 will proceed to final design exploration and review with the
19 Historic staff and submission of permits. Should the relief be
20 denied, I am personally unsure of what other concept would be
21 viable for this lot for the reasons I stated in the most recent
22 applicant statement.

23 I submitted a PowerPoint with additional pictures and
24 context for each of the relief items, and I am requesting in any
25 approval order that the order permit final plans to reflect any

1 adjustments that are subsequently required by the Historic office
2 staff which do not meaningfully affect the structure's
3 dimensions.

4 With that, I'll turn it over to the Board for any
5 questions as we proceed through each item.

6 CHAIRPERSON HILL: Mr. Gallo, do you have this
7 PowerPoint? You submitted a PowerPoint?

8 MR. GALLO: Yes. That was provided to Mr. Young.

9 CHAIRPERSON HILL: Right. Do you want to walk us
10 through it?

11 MR. GALLO: Sure. Yeah, one sec. Let me pop it open.

12 CHAIRPERSON HILL: Yeah, he can bring it up.

13 MR. GALLO: Oh, sure. Okay.

14 CHAIRPERSON HILL: Can you all give me one minute again?
15 I'm sorry. There's just stuff going on with this vaccine. Give
16 me one second, okay?

17 (Pause.)

18 CHAIRPERSON HILL: Okay, I'm back. Sorry about that.
19 Okay, Mr. Gallo. Go right ahead.

20 MR. GALLO: Sure. So let's proceed through the first
21 few slides. They're just pictures of the site concept and some
22 examples of how far we've come to date on exploring what could
23 go here. So those are just some previous renderings of what we
24 submitted to Historic. The top left being my favorite, the top
25 right being Historic's favorite. And we will, at some point,

1 | come to a meeting of the minds on the ratio of glass to brick
2 | and all that. So next slide, please.

3 | This is just a recap of what the HPRB determined in
4 | this case back in June, if anybody wanted to see the actual order
5 | from them, but that's already public record. Next slide, please.

6 | So this is a photo of the lot today. You'll see the
7 | houses on the right are those original rows I described. The
8 | lot in question is where the car is parked, and the parking area
9 | on the left there is actually the extension of three street facing
10 | lots on (audio indiscernible). Next slide.

11 | These are just more site photos so the Board can
12 | appreciate the context of surrounding properties, including the
13 | nine-story building which towers over all these lots. Next slide.

14 | And these are just some more pictures of the alley in
15 | context, and I believe one more slide is photos. Yes. So that
16 | is the entry to Snows Court from 25th Street. So this is the
17 | only way in or out of the alley. And that is the view of the
18 | lot as a pedestrian would see it. Next slide.

19 | This is the survey from 1987 showing the lot of record,
20 | and it's useful because you can see the little 5-foot-wide strip
21 | of public land to the left which is used as the entry for this
22 | concept. Next slide.

23 | And this is just to show that these houses and the lot
24 | have appeared to exist since at least 1892. So this is a well-
25 | developed area. Lots of alley homes around here. We're not

1 proposing anything really new or out of context. Next slide.

2 And this is just a summary of the five aspects of this
3 case which, if you want, I can go through one by one. I think
4 the materials speak for themselves, but I can walk you through
5 it, if you'd like.

6 CHAIRPERSON HILL: That's okay, Mr. Gallo. Just keep
7 walking through your presentation. Thank you.

8 MR. GALLO: Sure. Okay. Next slide, please.

9 So the first requested relief item is an exception to
10 the one required parking space for a single-family residence. I
11 believe this lot satisfies three of the statutory criteria. The
12 corner is well-served by mass transit. The land use minimizes
13 the need for parking. You can walk to anything you want,
14 restaurants. We got two grocery stores. And parking cannot fit
15 in the house anyway due to site constraints. DDOT has signed
16 off on it. The Office of Planning supports the exception, and
17 the ANC supports the exception. Next slide.

18 The second aspect is a centerline setback relief
19 request, and the original application had this as requiring the
20 relief from the Snows Court alley where that red arrow is.
21 However, the rules were changed on alleys. We no longer need it
22 there; we only need it for the public alley 5-foot-wide strip
23 because without relief there's a 7.5-foot setback rule, the whole
24 house would have to indent 5 feet along there. So the relief is
25 no longer required for the part of the alley where the cars go

1 by, it's only the 5-foot line pedestrian entryway. Next slide.

2 Pervious surface is something that I am unsure
3 whether we will need it. The way I went out there with my
4 measuring tape, I measured that we are currently at 10.2; however,
5 that's only one-and-a-half square feet of buffer between the
6 zoning rule and where we are. And DCRA will do their own
7 measurements. And if we have to have footers coming out, or if
8 the foundation comes out one or two inches, I'm now below the 10
9 percent rule. So I discussed with Planning the context here, and
10 they agreed to -- I think, at first, they wanted 9.4; they put
11 into the record 9. We will clearly be above either of those two
12 in terms of whatever the final pervious surface is on this. Next
13 slide.

14 There is also a request for a side yard relief, and
15 this is for the rule that states you need 5 feet for any abutting
16 non-alley lot. So the structure here will run along the public
17 alley, and then for approximately 5 feet, we run along the very
18 back yard of what is lot, I believe, 162, which is in the little
19 drawing on the bottom left there. So without the required relief,
20 the house would have to basically have a square cutout of 5-feet
21 deep for that portion of the house which is basically the living
22 room. Next slide.

23 And this is just a slide that shows in the alleyways
24 both in Snows Court and two views across the street. Historical
25 practice has been to not have any side yards abutting the non-

1 alley lots, and these are just some examples of around the area,
2 there are no such indentations that are throw off the houses,
3 they all run along the lot lines nice and smooth. Next slide.

4
5 The final request in this case is a variance. It used
6 to be a special exception. It was raised to the variance
7 standard, I believe, last summer on the height and stories. So
8 the general rule is 20 feet, two stories. The adjacent houses
9 that HPRB told me I must align to on the cornice line on both
10 the west and the south, they're 27 feet, and they have chimneys
11 that go up to probably 31 or 32. So we're requesting the height,
12 27 feet, to match. And then on the story count, you'll see we
13 submitted updated documentation in January about what would
14 happen if you had a 27-foot-high house that was not permitted to
15 have three stories, coupling that with 12 feet of width internally
16 and 30 feet of depth.

17 So those are the aspects of this case. They all come
18 together, and they're all pretty critical to building what, I
19 think, is a useful house. So on that note, that concludes the
20 relief aspects, and I'm sure you all have questions.

21 CHAIRPERSON HILL: Okay. Great. Thank you. Mr. Gallo,
22 are you an attorney?

23 MR. GALLO: No. No, I'm just somebody seeking to build
24 a house so, if I am making any minor mistakes on statutes or
25 language, please let me know.

1 CHAIRPERSON HILL: No. I didn't think you were an
2 attorney. I'm saying you did a better PowerPoint than some land-
3 use attorneys that we get so.

4 MR. GALLO: Well, that's why I'm doing it myself. I
5 enjoy learning, and it's a pretty complex case also.

6 CHAIRPERSON HILL: Okay. Does the Board have some
7 questions for the applicant? Okay. I don't see any yet. All
8 right. I'm going to turn to the Office of Planning.

9 MR. JESICK: Thank you, Mr. Chairman and members of the
10 Board. My name is Matt Jesick, and I'll be presenting the Office
11 of Planning's testimony in Case 20351.

12 I can largely rest on the record, we previously
13 recommended approval of most of the areas of relief, and we
14 appreciated that the applicant continued to work with us and
15 provided additional information about one final area of relief,
16 that being the number of stories. And in our supplemental report,
17 we were more able to recommend approval of that area of relief
18 as well. So we are now recommending approval of the entire
19 application. I will rest on the record. I'd be happy to take
20 any questions. Thank you.

21 CHAIRPERSON HILL: What about the whole -- the
22 condition about the 9 percent pervious surface?

23 MR. JESICK: Yes. As the applicant was stating, it's
24 unclear at this point exactly how much pervious surface they will
25 have on the property. We hadn't measured that area at the front

1 of the house to be approximately 9 percent of the lot area; the
2 requirement is 10 percent. They could probably receive
3 additional pervious surface at the back of the house on top of
4 the extended cellar or even on the roof of the house with a green
5 roof. So either way, we're confident they can, you know, achieve
6 at least 9 percent on the property.

7 CHAIRPERSON HILL: So you're still recommending that
8 as a condition?

9 MR. JESICK: That's correct.

10 CHAIRPERSON HILL: And Mr. Gallo, you're in agreement
11 of that condition, correct?

12 MR. GALLO: Yes. Yes. I'm fully supportive of the
13 spirit of the pervious surface rule. We can definitely do more
14 than 9 percent.

15 CHAIRPERSON HILL: Okay. Okay, great. And you'd do -
16 - I can see you presented to the ANC. All right. All right,
17 does anybody have any questions for the Office of Planning?

18 (Negative head shake.)

19 Does the applicant have any questions for the Office
20 of Planning?

21 BOARD MEMBER SMITH: I have a question for the Office
22 of Planning.

23 CHAIRPERSON HILL: Okay. Great.

24 CHAIRMAN HOOD: Mr. Jesick, just as a clarification
25 from me, in, you know, coming -- arriving to the decision that

1 | you made in your supplemental report regarding the heights of the
2 | buildings, which exhibit did you use to ascertain the height of
3 | the building to confirm that it's 27 -- feet and height is
4 | measured from the base -- from the building height measuring
5 | point?

6 | MR. JESICK: Let me find that exhibit number for you.
7 | I have it here.

8 | BOARD MEMBERS SMITH: Because I see Exhibit 53, but it
9 | looks like it's taken from existing grade, not from the BHMP.

10 | MR. JESICK: I'm not finding the exhibit off the top
11 | of my head, but I think various exhibits show the height as 27
12 | feet. I believe the measuring point would be at the -- basically,
13 | at the front of the house at the alley elevation. So I don't
14 | know if that answers your question or you're still unclear.

15 | BOARD MEMBER SMITH: I think that pretty much answers
16 | my question. Can you -- could you confirm because based on what
17 | I'm looking, the front is flat so the measuring point would
18 | probably be the same across the entire frontage of the lot. So
19 | am I correct in that assumption?

20 | MR. JESICK: Yes, that's correct. The building height
21 | measuring point for an alley is at the grade of the alley. And
22 | the front of the building, in this case, is at the same elevation.

23 | BOARD MEMBER SMITH: Got you.

24 | MR. GALLO: This is Alex. If I could jump in on this
25 | the grade issue, briefly. The alley loses about one or two feet

1 of height or -- it is a sloped alley. If you look at all the
2 houses as you go up the street, they have fewer and fewer bricks
3 as you go east on the alley. So I'm not 100 percent sure what
4 the essential measuring point will be, but the next-door house,
5 the building permit from 1890 says 27 feet. So that's where --
6 that's where I got that figure.

7 BOARD MEMBER SMITH: Okay. Thank you.

8 CHAIRMAN HOOD: Mr. Chairman?

9 CHAIRPERSON HILL: Yes.

10 CHAIRMAN HOOD: Mr. Gallo, let me just ask. Has the
11 opposition -- I saw one or two letters of opposition -- has that
12 went away?

13 MR. GALLO: It has not gone away in the record, for
14 sure. I did reach out to both of them. It was St. Paul's Church,
15 and a guy named Steve. I spoke with the church. Most of their
16 concerns were about the construction phase so things like noise,
17 would construction workers be blocking their parking lot? And I
18 basically assured them that whoever I hire, I will put a contract
19 clause in to provide the church recourse if there is any
20 trespassing or noise that occurs outside of their satisfaction.

21 The other opposition letter, I think made a bunch of
22 points that were not germane to the case. So I did reach out to
23 them. You'll see they filed an updated opposition, so I addressed
24 some of their concerns. I'm not sure how to address them all.

25 CHAIRMAN HOOD: Okay. Thank you, Mr. Gallo. I know

1 | some of that was not necessarily germane in our proceeding, but
2 | it's always good to be a good neighbor, and it sounds like you
3 | have the spirit to do that, so thank you. Thank you, Mr. Chair.

4 | CHAIRPERSON HILL: Thank you, Chairman Hood. All
5 | right. Let's see. Any more questions for the Office of Planning?

6 | (Negative head shake.)

7 | Is there anyone here wishing to testify, Mr. Young?

8 | MR. YOUNG: We do not.

9 | CHAIRPERSON HILL: Okay. All right. So just back to
10 | the Board on this one. I get -- this is what I kind of get a
11 | little bit of struggle with the whole like, you know, who's
12 | approving the design, HPRB or us and, so I don't know what you
13 | all think. I guess I'm -- you know, I've kind of gone back and
14 | forth on this one a little bit. I mean, I guess as long as the
15 | developmental standards don't change, I guess, you know, HPRB is
16 | who is going to help determine the facade, basically. And, you
17 | know, I guess I'm comfortable with that if we end up agreeing
18 | with the argument that the applicant is giving.

19 | Does the Board have any thoughts on that, or are they
20 | comfortable with what I just said?

21 | VICE CHAIR JOHN: Yes.

22 | CHAIRPERSON HILL: Okay. All right. Okay. All right.
23 | All right, Mr. Gallo. Do you have anything you like to add at
24 | the end?

25 | MR. GALLO: Nothing to add. It's been a long time

1 getting to this point. I think I've addressed -- went before
2 the ANC twice. I've met a lot of neighbors who did not submit
3 letters but were nonetheless, supportive. So my goal is, over
4 the next six months, to produce a really high-quality house and
5 enhance this alleyway by putting it there. So that's really all
6 I have to say.

7 CHAIRPERSON HILL: Which concept did you say you liked
8 again? I forget.

9 MR. GALLO: It was the top left one with a little bit
10 more glass than the top right one which had all the arched
11 windows.

12 CHAIRPERSON HILL: Got it. Got it.

13 MR. GALLO: But one of the challenges with the Historic
14 staff is they don't offer ideas, and they don't design the house
15 for you, so you have to produce a design, submit it to them, and
16 then they comment on it. So it tends to be a very long expensive
17 process, and that's why we're here before zoning to confirm that
18 we can build this structure at all, and then we'll go back and
19 figure out do we have glass here, brick here, chimney, that kind
20 of stuff.

21 CHAIRPERSON HILL: Got it. Okay. All right, Mr. Gallo.
22 Thank you very much. I'm going to close the record, and the
23 hearing, and excuse Mr. Gallo. Okay. I can start. I thought
24 it's a really unique property. I think it meets all -- you know,
25 I mean, I'm going to agree with everything that was said. I

1 mean, it's such a crazy little thing, you know. I think that,
2 you know, the -- I know -- I kind of even know where that is,
3 and I think that, you know, the argument that the applicant has
4 made in terms of how they're meeting all of the criteria for the
5 relief that's being requested, I think they have made that case.

6 I would agree with also the analysis that the Office
7 of Planning had had. There was some back and forth, I guess,
8 with the Office of Planning and how they were meeting the
9 standard. I would agree with as the applicant is fine with the
10 9 percent pervious surface either in open space or in the front
11 of the green roof on the third floor or extend the cellar, I'd
12 be fine with that condition as well; as well as flexibility to
13 allow the design to change as long as the zoning requirements
14 don't change, or the relief requested doesn't change in working
15 with the HPRB.

16 So I'm in support. I'm going to start with you, Mr. Smith, if I
17 might.

18 BOARD MEMBER SMITH: I agree with everything that you
19 said, Mr. Chairman. I do believe that it does meet the standards.
20 As outlined within the OP staff report, it meets the standards
21 for us to grant this variance. I think my question is to your
22 last point, do we have to put that in the order, or do we have
23 to condition it in some way, shape, or form? I think that the
24 last item that you stated was in relation to the HR -- to the
25 Historic Preservation Board. Do we have to put that into the

1 order in some way, shape, or form?

2 CHAIRPERSON HILL: I was going to put it in as -- it'll
3 be written in the order somewhere.

4 BOARD MEMBER SMITH: Okay. Otherwise, I'm in support
5 of it.

6 CHAIRPERSON HILL: Okay. Mr. -- Chairman Hood.

7 CHAIRMAN HOOD: I would agree with both Chairman Hill
8 and Board Member Smith. I think that this warrants our approval.
9 I don't know if I will repeat anything, but I also would implore
10 us, as you've already stated, to put the HPRB issue, the pervious
11 surface and all that, into the order as a condition. With any
12 other conditions, I think -- I'm not sure. I forgot who had
13 another condition. But whatever their conditions were, I would
14 make sure that we put them into the order.

15 And I don't believe Exhibit 53 was to scale. I'm not
16 a architect but, either way, I think it showed it. I'm not sure
17 if it was to scale, but anyway. If it was, then forgive me. But
18 other than that, I think this warrants our approval. Thank you,
19 Mr. Chairman.

20 CHAIRPERSON HILL: Thank you, Chairman Hood. Vice
21 Chair John.

22 VICE CHAIR JOHN: So, for me, the variance test was the
23 most difficult part. I thought that this is a very -- this is a
24 very narrow lot and so there's an exceptional condition. And I
25 agree with OP's analysis in terms of the hardship and meeting the

1 criteria. I think it would -- I agree that the house needs to
2 match the adjacent -- the height of the house needs to match the
3 adjacent house. And I also appreciate the analysis that OP on
4 why the stairs -- there would be a problem with the stairs if it
5 were a shorter building. And so I have no concerns about the
6 other types of relief that were requested and how they meet the
7 criteria. And so I'm in for it.

8 CHAIRPERSON HILL: Thank you, Vice Chair John. Ms.
9 Cain, you had a comment?

10 MS. CAIN: I just wanted to respond to Chairman Hood's
11 comment. We had suggested a condition regarding the height
12 basically just saying that the approval will be conditional on
13 the height of the building matching the adjacent buildings. So
14 maintaining that cornice line at 27 feet and then also maintaining
15 the line of windows along that row along Snows Court. So I think
16 that was the other condition that you were referencing, Chairman
17 Hood.

18 CHAIRMAN HOOD: Thank you, Ms. Cain. I knew I had
19 referenced something so, again, that just validates the fact, Mr.
20 Chairman, I have to go last so I can get my thoughts together.
21 So thank you, Ms. Cain.

22 CHAIRPERSON HILL: All right. Let's see. So okay.
23 I'm going to make a motion to approve Application No. 20351 as
24 captioned and read by the secretary, including the condition that
25 the applicant must achieve at least 9 percent pervious surface

1 either using open space at the front, or a green roof, or the
2 third floor, or extend the cellar. Also -- and I will look to
3 the Office of Planning to help craft the condition -- but that
4 the building height is the same as the next door building height,
5 and that the windows align as the same as the next door windows.
6 Is that clear enough, Ms. Cain?

7 MS. CAIN: Yes, that's clear. And we (audio
8 interference) OZ as well.

9 CHAIRPERSON HILL: Thank you. Thank you. And then
10 also that there's flexibility allowed to changing the facade
11 according to working with Historic Preservation as long as the
12 zoning or relief requested does not change and ask for a second.
13 Ms. John?

14 VICE CHAIR JOHN: Second.

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

17 MR. MOY: Thank you, Mr. Chairman. So when I call your
18 name, if you'll please respond with a yes, no, or abstain to the
19 motion made by Chairman Hill to approve the application for the
20 relief requested along with the conditions as the Chairman has
21 already cited in his motion and seconded by Vice Chair John.
22 Zoning Commission Chair Anthony Hood?

23 CHAIRMAN HOOD: Yes.

24 MR. MOY: Mr. Smith?

25 BOARD MEMBER SMITH: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 CHAIRPERSON HILL: Yes, to approve.

5 MR. MOY: Staff would record the vote as 4 to 0 to 1.

6 And this is on the motion made by Chairman Hill to approve with
7 conditions, seconded by Vice Chair John. Also in support of the
8 motion is Mr. Smith and Zoning Commission Chair Anthony Hood.
9 And, of course, we have a seat vacant. Motion carries 4 to 0 to
10 1.

11 CHAIRPERSON HILL: Okay. Mr. Moy, is there anything
12 else in front of the Board today?

13 MR. MOY: No, sir. Nothing from the staff.

14 CHAIRPERSON HILL: Okay. Well, you all, it's been a
15 pleasure today. Does anybody have any final words of wisdom?

16 (Negative head shake.)

17 Okay. We stand adjourned. Bye-bye.

18 (Whereupon, the above-entitled matter went off the
19 record at 6:07 p.m.)

20

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: 03-03-21

Place: Teleconference

was duly recorded and accurately transcribed under my
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