

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 6, 2022

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 11:11 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- FREDERICK L. HILL, Chairperson
- LORNA JOHN, Vice Chairperson
- CARL BLAKE, Board Member
- CHRISHAUN SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

- JOE IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

- BRANDICE ELIOTT
- ANNE FOTHERGILL
- MAXINE BROWN-ROBERTS
- ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on April 6, 2022.

C-O-N-T-E-N-T-S

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

2 11:11 a.m.

3 MR. MOY: The Board has returned to its public
4 hearing session with its first case in the hearing session.
5 And the time is at or about 11:11 a.m. So as you've just
6 said, Mr. Chairman, we readjusted the lineup a bit.

7 So the next application before the Board is
8 Application No. 20662 of Michelle Browne. That's B-R-O-W-N-
9 E. This is the applicant's request for -- oh, just a second.
10 This is the applicant's self-certified application for
11 special exception from the matter-of-right uses of Subtitle
12 U, Section 201 pursuant to Subtitle U, Section 203.1(a) and
13 Subtitle X, Section 901.2; from the accessory apartment
14 minimum gross floor area requirements of Subtitle U, Section
15 253.7(a), pursuant to Subtitle U, Section 203.1(a) and
16 Subtitle X, Section 901.2; and finally, from the accessory
17 apartment entrance requirements, Subtitle U, Section
18 253.7(c), pursuant to Subtitle U, Section 203.1(a) and
19 Subtitle X, Section 901.2.

20 This would prevent an accessory apartment in an
21 attached, two-story with basement, principal dwelling unit
22 in the R-1-B Zone, the property located at 3617 18th Street,
23 Northeast, Square 4202, Lot 198. And I think that's all I
24 have. Thank you, sir.

25 CHAIR HILL: All right. Mr. Cohen, can you

1 introduce yourself for the record? No, I can't hear you, Mr.
2 Cohen.

3 MR. COHEN: Can you hear me now?

4 CHAIR HILL: No, you're kind of broken up. Try
5 to say something again.

6 MR. COHEN: Can you hear me now?

7 CHAIR HILL: Not really. You're kind of muddled.

8 MR. COHEN: I'm sorry.

9 CHAIR HILL: That's all right. Believe me. If
10 it didn't work, I wouldn't know how to make it work.

11 MR. COHEN: Are we okay now, or --

12 CHAIR HILL: Oh, yeah. That's great. Could you
13 introduce yourself for the record?

14 MR. COHEN: How about now?

15 CHAIR HILL: No, no. You were better the time
16 before.

17 MR. COHEN: This better?

18 CHAIR HILL: Yes.

19 MR. COHEN: The problem is I can't hear you. So
20 give me a second. Okay. Maybe now?

21 CHAIR HILL: Yes. Can you hear us now?

22 MR. COHEN: Yes. I'm so sorry about that. All
23 right. Thank you for your patience there, Mr. Chair and the
24 Board. Good morning. Christopher Cohen with Holland and
25 Knight representing the applicant in this case.

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1 CHAIR HILL: Okay. Mr. Cohen, I know that there
2 was some scheduling issues and we're trying to do everything
3 we can for people. If you would just go ahead and walk us
4 through your application, I see that the homeowner is here.
5 If we have any questions, we can go ahead and ask that.

6 But why don't we go ahead and just let you roll
7 through your PowerPoint which I did see was in the record.
8 And then we'll see if we have any additional questions of
9 you. I'm going to put 15 minutes on the clock so I know
10 where we are. If you could again, tell us why you believe
11 your client has met the standards for us to grant the relief
12 requested and you can begin whenever you like.

13 MR. COHEN: Sure. Thank you so much, and thank
14 you for rearranging the schedule. Good morning, again,
15 Christopher Cohen with Holland and Knight. Mr. Young, if you
16 could pull up our presentation, Exhibit 35 in the case
17 record.

18 So with me today is the application, Ms. Michelle
19 Browne. We are here today requesting special exception
20 relief to permit an accessory apartment unit for the property
21 located at 3617 18th Street, Northeast. Next slide, please.

22 We can first walk through just an overview of
23 where the site is and the zoning. As you can see on the
24 right, the property is zoned R-1-B. It's located in the
25 Brooklyn neighborhood of the District.

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1 It's a rectangular shaped lot located mid-block
2 on the east side of 18th Street. So you can see here from
3 the aerial on the left, primarily residential in character
4 with some family friendly and neighborhood serving uses in
5 the surrounding area. Next slide, please.

6 Here's a closer look at the existing principal
7 dwelling and the existing conditions. As you can see, it's
8 a fairly typical rowhome. The proposed location of the
9 accessory apartment unit would go into cellar space.

10 And you can kind of see it here. It would go
11 below the porch that's extending at the first level. There's
12 some plans in the later slides that will give greater detail
13 as to where exactly the location of the unit will go.

14 So for the Board's reference, here's the existing
15 condition. Go to the next slide, please. So again, we are
16 requesting special exception approval for the accessory
17 apartment unit.

18 There are two waivers in this case that kick in
19 or trigger the special exception, one being that the proposed
20 -- excuse me, the gross floor area of the dwelling does not
21 satisfy the minimum requirement. And we'll walk through that
22 in a little bit more detail in a couple of slides. So we are
23 requesting a waiver for that.

24 And then secondly as you might hopefully saw on
25 the last slide, the entrance to this accessory apartment unit

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1 would be facing 18th Street. So we would request or we need
2 a waiver from that condition as well. Importantly, the
3 application meets all the other conditions in Subtitle U,
4 Section 253.7 which is why we would be permitted to convert
5 the cellar space by special exception for the accessory
6 apartment unit.

7 Just an overview of the support in this case, OP
8 and DDOT are in support and didn't state any objections or
9 recommended conditions. We're pleased to have the support
10 of the ANC. The applicant was presented to ANC 5B at its
11 January 2022 public meeting.

12 And then we're also pleased to share that we have
13 five letters of support. And notably, the letters of support
14 from the abutting neighbors on either side of the property.
15 Can we go to the next slide? So here are the plans. As you
16 can see here --

17 CHAIR HILL: Hey, Mr. Cohen?

18 MR. COHEN: Yeah.

19 CHAIR HILL: Why don't you go ahead and skip to
20 slide 7.

21 MR. COHEN: Okay. No problem. I'm sorry. I'm
22 not sure. Would that be this one, or --

23 CHAIR HILL: Standard of review is the one I see
24 is 7.

25 MR. COHEN: Okay. That's fine, yeah. No, we can

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1 walk through. Just wanted to walk through the cellar floor
2 plan real quick, but that's fine.

3 Here's the general criteria that I'm sure the
4 Board is familiar with under Subtitle X 901.2. Again, if the
5 applicant meets its burden, generally the Board must grant
6 the application for special exception. Next slide, please.

7 And here are the conditions. And I think this is
8 probably the key slide here. So we're not going to walk
9 through all of these in detail. But the two that matter the
10 most are the ones that we need a waiver from, the gross floor
11 area requirement.

12 So I'd like to plug up that because it's a cellar
13 space that doesn't contribute to or it's not calculated
14 within gross floor area, although accessory apartment unit
15 would have an adequate living area of about -- it's just
16 about 600 square feet. And the intent of that provision, the
17 minimum GFA provision, is to ensure that an accessory unit
18 has adequate living space. So that's important to note here,
19 really the deviation from the 2,000 square feet minimum is
20 it's only about 2,000 square feet at the end of the day, so
21 fairly nominal.

22 And then the other waiver again as we mentioned
23 earlier, the fact that the front entrance would be facing
24 18th Street. But importantly, it's not really visible from
25 grade. It's below. It's partially below grade and it's

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1 below the front porch, so below and underneath.

2 And it's flush against the house such that the
3 primary entrance of the primary dwelling would still be the
4 prominent feature, thus maintaining the residential character
5 of the block. Happy to answer any questions about these
6 other questions. But as you can see, it's just the two that
7 we would need the waivers from.

8 If we can go to the next slide, I'll quickly walk
9 through 253.10. This kind of frames how the Board can grant
10 the waivers for the special exception. We meet all the
11 criteria here. The dwelling would remain to be owner
12 occupied.

13 This is not the R-19 or R-20 zone. And again, the
14 accessory apartment unit would maintain or not detract from
15 the residential character of the block. And the last slide,
16 I believe this is a review or an overview of how the
17 application satisfies the criteria of 901.2.

18 Obviously, are hopefully at harmony with the RO-1-
19 B zone, given that we're adding a new accessory apartment
20 unit. Again, we discussed just now the adequate livable area
21 of the cellar space and the fact that the entrance would not
22 really be visible from the streets, so no adverse impacts
23 there. And again, just blending in with the residential
24 character of not only the house but the entire block on 18th
25 Street.

1 I'm going to leave it at that. That's really the
2 meat and bone of our slides. And I will open it up for any
3 questions. Thank you, guys, for your time.

4 CHAIR HILL: All right. Thanks. Mr. Young, could
5 you drop that slide deck? Yeah, Mr. Cohen, I'm just trying
6 to get through some issues that I had with the day today.
7 Does the Board have any questions for the applicant? Sure,
8 Dr. Imamura.

9 COMMISSIONER IMAMURA: Good morning, Mr. Cohen and
10 Ms. Browne. Just a real quick question I wanted to ask. I
11 saw the floor plans. It looked like those were the proposed
12 floor plans. Didn't see the existing or demolition plans.
13 The reason why I'm asking about that, is there already an
14 existing door underneath the porch?

15 MR. COHEN: I'm going to defer to Ms. Browne on
16 that. Thank you for your question. I'm going to defer to
17 Ms. Browne on that question.

18 COMMISSIONER IMAMURA: Okay. And is there also --
19 just by the photographs, it also appears that there's a door
20 on the back side of the residence as well, the cellar level?

21 MS. BROWNE: Yes.

22 COMMISSIONER IMAMURA: Okay. All right. All
23 right, great. Those are my questions. All right. I have
24 nothing further, Mr. Chairman.

25 CHAIR HILL: Okay. Thanks, Dr. Imamura. Anyone

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1 else? I'll turn to the Office of Planning.

2 MS. ELLIOTT: Good morning, members of the Board.
3 I'm Brandice Elliott representing the Office of Planning for
4 BZA Case 20662. The Office of Planning is recommending
5 approval of the special exception relief that's been
6 requested for the accessory apartment and the principal
7 dwelling.

8 We are also supportive of the waivers that have
9 been requested for the size of the dwelling as well as the
10 front entrance on the dwelling. I think that the applicant
11 provided a lot of information as to how we got to our
12 analysis. But in summary, an accessory apartment is
13 permitted as a matter of right as long as all of the
14 requirements and the zoning regulations are met.

15 And in this case there are two that are not. And
16 so that is why they are going through this process. In terms
17 of the 2,000 square feet gross floor area requirement. As
18 discussed in our report, a cellar does not count towards
19 gross floor area.

20 So it actually appears to be smaller than it is.
21 The regulations do not prohibit cellars from being converted
22 into living spaces. It's not uncommon for cellars to provide
23 living space.

24 Really, the intent of that provision is to ensure
25 that the principal dwelling as well as the accessory dwelling

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1 are providing sufficient area. And in this case, we find
2 that they are. The cellar dwelling would be about 600 square
3 feet, and I think the principal dwelling would be about
4 eleven, twelve hundred square feet.

5 So we find that to be sufficient living space.
6 And then in terms of the front entrance, it's really just a
7 matter of maintaining the character of the neighborhood. And
8 in this case, we do have an entrance that is already there,
9 although it is not too terribly visible due to some of the
10 changes in the grade.

11 And then it's also located under the patio. So
12 we still think that the entrance to the principal dwelling
13 will continue to be more prominent than that of the accessory
14 apartment. So I believe that concludes our presentation, but
15 I'm happy to answer any questions you have.

16 CHAIR HILL: Okay. Thanks, Ms. Elliott. Does
17 anybody have any questions for the Office of Planning? Sure,
18 Dr. Imamura.

19 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
20 Ms. Elliott, thank you for your report. Just a quick
21 question, and it's about the entry to the accessory unit.
22 Because there's already a door there, does the applicant
23 really need relief from U 253.7, paragraph C? It's just
24 repurposing the door, right? So --

25 MS. ELLIOTT: Yeah, that is a good question. It

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1 is a self certified application. So the applicant did
2 request that relief. We would certainly defer to the Zoning
3 Administrator to weigh in on this particular instance.

4 I think most of the time what we see is new
5 entrances being created. This is a little different because
6 it's there. But because the applicant went ahead and
7 requested that relief, we just evaluated it.

8 COMMISSIONER IMAMURA: Okay, great. Thank you.
9 I appreciate it. Thank you, Ms. Elliott. Mr. Chairman, I
10 have no other questions.

11 CHAIR HILL: Okay. Thank you. Anyone else for
12 the Office of Planning? Mr. Young, is there anyone here
13 wishing to speak?

14 (No audible response.)

15 CHAIR HILL: Okay. Mr. Cohen, do you have
16 anything at the end?

17 MR. COHEN: No, sir. Thank you all for your time.
18 Appreciate it.

19 CHAIR HILL: All right. Ms. Browne, how are you?
20 Do want to say hello? Do you want to introduce yourself for
21 the record, Ms. Browne?

22 MS. BROWNE: Sure, yes. My name is Michelle
23 Browne. I've been a resident here in D.C. for -- August will
24 be 20 years. So thank you for your time and your
25 consideration.

1 CHAIR HILL: Okay, great, Ms. Browne. Twenty
2 years is a good clip. I beat you, but still. Twenty years
3 is a good time. Okay. Actually, a couple of people on this
4 call beat you.

5 All right. Okay. I'm going to close the hearing
6 and the record. Thank you all very much. Okay. I thought
7 this looked pretty straightforward to me. I didn't really
8 have any issues with it. I think they're meeting the
9 criteria to grant the relief requested.

10 I'm going to agree with the analysis the Office
11 of Planning has given concerning the relief and the waivers
12 and also the analysis the ANC has provided as well as DDOT
13 having no objection. And so I'm going to be voting in favor
14 of the application. Is there anything you would like to add,
15 Mr. Smith?

16 MEMBER SMITH: I will support the application.

17 CHAIR HILL: Mr. Blake?

18 MEMBER BLAKE: I support the application as well
19 and I agree with your analysis, noting Office of Planning's
20 support give it great weight, great weight with the ANC
21 report, and also acknowledge the letters of support from the
22 adjacent and abutting neighbors.

23 CHAIR HILL: Thank you. Commissioner Imamura?

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
25 I agree with your analysis as well as my fellow Board members

1 and prepared to vote in favor.

2 CHAIR HILL: Vice Chair John?

3 VICE CHAIR JOHN: Thank you, Mr. Chairman. I
4 support the application and I agree with all of the comments
5 so far.

6 CHAIR HILL: Great. Thank you. I'll make a
7 motion to approve Application No. 20662 as captioned and read
8 by the Secretary and ask for a second, Ms. John?

9 VICE CHAIR JOHN: Second.

10 CHAIR HILL: Motion made and second, Mr. Moy. Go
11 ahead and take a roll call.

12 MR. MOY: When I call each of your names if you
13 would please respond with a yes, no, or abstain to the motion
14 made by Chairman Hill to approve the application for the
15 relief that's been requested. A motion was second my Vice
16 Chair John. Mr. Smith?

17 MEMBER SMITH: Yes.

18 MR. MOY: Mr. Blake?

19 MEMBER BLAKE: Yes.

20 MR. MOY: Vice Chair John?

21 VICE CHAIR JOHN: Yes.

22 MR. MOY: Chairman Hill?

23 CHAIR HILL: Yes.

24 MR. MOY: Zoning Commissioner Dr. Imamura?

25 COMMISSIONER IMAMURA: Yes.

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1 MR. MOY: Staff would record the vote as 5 to 0
2 to 0. And this is on the motion made by Chairman Hill to
3 approve. The motion to approve was second by Vice Chair
4 John, also in support of the motion to approve is Mr. Blake,
5 Mr. Smith, and Dr. Imamura. Motion carries on a vote of 5
6 to 0 to 0.

7 CHAIR HILL: Thanks, Mr. Moy. You can call our
8 next one when you can in terms of I think it's a request for
9 postponement.

10 MR. MOY: Yes, so this would be Case Application
11 No. 20645 of Equity Trust Company, Custodian fbo Richard
12 Leavy, L-E-A-V-Y, IRA. This is a self-certified application
13 for special exceptions from the side yard requirements,
14 Subtitle D, Section 206.3, pursuant to Subtitle D, Section
15 5201 and Subtitle X, Section 901.2, and from the lot
16 occupancy requirements, Subtitle D, Section 304.1, pursuant
17 to Subtitle D, Section 5201 and Subtitle X, Section 901.2.
18 This is to construct a new, three-story, semi-detached
19 principal dwelling unit, R-2 zone. Property at 12 -- or
20 rather 212 57th Street, Northeast, Square 5248, Lot 23. And
21 as you mentioned, Mr. Chairman, last Thursday, March 31st
22 under Exhibit 24, the applicant filed to request to postpone.

23 CHAIR HILL: Okay. Thanks, Mr. Moy. Mr.
24 Sullivan, could you introduce yourself for the record,
25 please?

1 MR. SULLIVAN: Sure, members of the Board. Marty
2 Sullivan with Sullivan and Barros on behalf of the applicant.

3 CHAIR HILL: Great. Mr. Sullivan, when do you
4 think you might be able to come back before us?

5 MR. SULLIVAN: I put that in the request. Give
6 me one second. I'll find that date for you. We were hoping
7 to not have too much of a delay because we don't have any
8 changes to the plans. It was just that the ANC didn't put
9 us on the agenda. And when we finally got their attention,
10 they've agreed to put us at their next meeting. And so I
11 will pull that up and find out.

12 CHAIR HILL: Yeah, the next meeting you said is
13 the 14th.

14 MR. SULLIVAN: Yeah, then we've already been to
15 the Deanwood Citizen's Association which -- and I've talked
16 to Commissioner Holmes and he's aware of this and agreed to
17 put us on for that. And it will get a vote on that day. So
18 one second. So April 20th or the next available date
19 thereafter is the request.

20 CHAIR HILL: Okay. I don't -- so Mr. Moy, what's
21 the 20th or the 27th or the 4th looking like?

22 MR. MOY: Based on what I just heard, Mr.
23 Chairman, I think if the prospect is to return sooner rather
24 than later, I would subject April 27th because on April 20th
25 you have ten cases plus the continued hearing of the appeal

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1 of Sheriff Road. That's on April the 20th. So on April
2 27th, we have ten cases and three expedited cases. So that
3 could be the earliest. And --

4 CHAIR HILL: What's the 7th look like -- or I'm
5 sorry, the 4th?

6 MR. MOY: The 4th?

7 CHAIR HILL: Yeah, in May.

8 MR. MOY: Oh, 4th of May, we have 11 cases and one
9 expedited. Yeah, so -- and yeah --

10 CHAIR HILL: Okay.

11 MR. MOY: -- next day, it's about the same, 11
12 cases, so --

13 CHAIR HILL: Okay. Mr. Sullivan, what is your
14 client's -- well, I shouldn't say this. How clean do you
15 think this might be the next time you come before us? It's
16 dependent on the ANC, correct, and you don't know?

17 MR. SULLIVAN: Yes, but this ANC, if I may speak
18 for the ANC, they depend a lot on the Deanwood Citizen's
19 Association. And so we don't expect any issues.

20 CHAIR HILL: Let's put them, Mr. Moy, on the 27th.

21 MR. MOY: April 27th, correct?

22 CHAIR HILL: Yeah, yeah. Because you said the
23 20th we can't do it.

24 MR. MOY: I would suggest not. But of course --

25 (Simultaneous speaking.)

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1 CHAIR HILL: It's okay. The 20th, we can't do it.
2 I'm going to be sick on the 20th anyway. And so the 27th --
3 Ms. John just looked up. And the 27th, you already told me
4 we got, like, 11, right? Right.

5 So we're going to do it on the 27th. We've got
6 a lot on the 27th. So let's do 4-27-22. And Mr. Sullivan,
7 let your clients know that we're doing our best. Okay?

8 MR. SULLIVAN: No, I really appreciate that,
9 Chairman. Thank you.

10 CHAIR HILL: Okay. All right. Okay. All right.
11 Closing the hearing on the record. Letting everybody go.
12 See you later, Mr. Sullivan. See you on the 27th. Okay.
13 All right. Let's continue on, Mr. Moy. Let's get to 20649,
14 I believe.

15 MR. MOY: Yes, sir. So if we can have all parties
16 to the table. And this is to -- I should say virtual table.

17 CHAIR HILL: I haven't heard you say that in
18 years. That's fun. All right. Go ahead.

19 MR. MOY: Yeah, well, I'm trying to prepare when
20 we go back, right?

21 CHAIR HILL: Yeah, in two years.

22 MR. MOY: This would be Case Application No. 20649
23 of Tim Geishecker -- I'm sorry I'm mispronouncing it, G-E-I-
24 S-H-E-C-K-E-R -- and Andres Consuegra. This is an
25 application for special exception from the lot occupancy

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1 requirements, Subtitle F, Section 304.1, pursuant to Subtitle
2 F, Section 5201 and Subtitle X, Section 901.2, and from the
3 rear yard requirements, Subtitle F, Section 305.1, pursuant
4 to Subtitle F, Section 5201 and Subtitle X, Section 901.2.
5 This would construct a rear, three-story deck and cellar
6 level addition to an existing, attached, three-store with
7 cellar, principal residential building in the RA-2 zone.
8 Property located at 2316 20th Street, Northwest, Square 2540,
9 Lot 284.

10 CHAIR HILL: Great. Mr. Enloe, can you introduce
11 yourself for the record, please?

12 MR. ENLOE: Yes, I'm James Enloe. I'm the
13 architect for the clients.

14 CHAIR HILL: Okay, great. And Mr. Enloe, are you
15 going to be presenting?

16 MR. ENLOE: Yes.

17 CHAIR HILL: Okay. Mr. Enloe, if you want to tell
18 the Board why you believe your clients are meeting the
19 criteria for us to grant the relief requested. I'm going to
20 put 15 minutes on the clock so I know where we are, and you
21 can begin whenever you like.

22 MR. ENLOE: Okay. If you would go to slide 1 and
23 you can interrupt at anytime you wish. Slide 2, please. The
24 existing project doesn't meet the criteria for rear yard or
25 for lot coverage. Basically, they're trying to replace an

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1 existing three-story -- three-level deck, privacy fence, and
2 a garage roof.

3 CHAIR HILL: Mr. Enloe, can I interrupt you for
4 one second? I pulled up the slide deck and my fellow board
5 members want to do that as well. I'm going to let Mr. Enloe
6 kind of go through this slide deck. He has 22 slides in his
7 slide deck which, Mr. Enloe, it's okay. I know we don't see
8 you a lot. And so --

9 MR. ENLOE: No, that's fine.

10 CHAIR HILL: -- I'm going to let you go through
11 this. And as I'm going through your slide deck, I might
12 interrupt you. But go ahead and continue on.

13 MR. ENLOE: I would appreciate that. If you go
14 to slide 4, these are the existing conditions. And part of
15 the problem is that there's no rear yard.

16 The existing conditions don't meet the rear yard
17 requirement because at some point in time, a previous
18 construction took eight foot out of the rear yard for an
19 addition. So that's why the yard doesn't -- rear yard
20 doesn't meet the criteria. The same is that causes it to
21 exceed the existing lost coverage. Next slide, please.

22 The proposed construction is two levels of
23 existing deck. And we're not changing the rear yard at all.
24 Next slide, please. Where actually the proposed construction
25 since all of the decks are greater than 4 foot above the

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1 existing rear yard, they have to be included in the lot
2 coverage.

3 And the proposed design reduces the lot coverage
4 by about 30 to 40 feet. Next slide, please. This shows the
5 existing conditions. The alley is about 6 or 8 feet -- 6
6 feet below the existing grade. And --

7 (Simultaneous speaking.)

8 CHAIR HILL: Hey, Mr. Enloe?

9 MR. ENLOE: -- one deck is above it. And --

10 CHAIR HILL: Mr. Enloe?

11 MR. ENLOE: Yes?

12 CHAIR HILL: Mr. Enloe? I have a time constraint.

13 I --

14 MR. ENLOE: Yes.

15 CHAIR HILL: -- need to get the Board kind of
16 moving on. And so --

17 (Simultaneous speaking.)

18 CHAIR HILL: -- what I'm going to do real quick
19 is I'm going to ask -- because I flipped through your slide
20 deck and I've looked through the record. And I know that the
21 last slide, your slide 22 -- Mr. Young, if you can slip to
22 the last slide. No, the very last. Thanks.

23 MR. ENLOE: There you go.

24 CHAIR HILL: So what happened with the ANC?

25 MR. ENLOE: I contacted the ANC and gave them

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1 copies of the slides of the presentation. They would be the
2 slides 1 through 8. I'm sorry, yes, which are slides 7 to
3 14 that we presented before. And we did not go before the
4 Board. But the ANC Commissioner said that it was -- she
5 appreciated us going through the process and good luck with
6 the project.

7 CHAIR HILL: Right. So you didn't actually
8 present to the full ANC. And that Commissioner is the SMD?

9 MR. ENLOE: No, we did not.

10 CHAIR HILL: You didn't present to the full ANC.
11 I'm asking you if that Commissioner is the SMD for your
12 project.

13 MR. ENLOE: Not to my knowledge.

14 CHAIR HILL: Okay. You don't know or --
15 (Simultaneous speaking.)

16 CHAIR HILL: -- do you know what SMD is?

17 MR. ENLOE: I contacted the Commissioner, Celeste
18 Carano, and she sent me back an email that I mentioned. But
19 we've heard nothing else from the ANC.

20 CHAIR HILL: Okay, okay. All right. Does the
21 Board have any questions of the applicant?

22 (No audible response.)

23 CHAIR HILL: Okay. Mr. Young, could you drop the
24 slide deck? Could I turn to the Office of Planning?

25 MS. FOTHERGILL: Good morning, Chairman Hill and

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1 members of the Board. I'm Anne Fothergill for the Office of
2 Planning for BZA Case 20649. And the Office of Planning
3 recommends approval of this application and finds that it
4 meets the criteria of Subtitle F, Section 5201 and the
5 general special exception standards of Subtitle X, Chapter
6 9. And I will rest on the record, and I'm happy to take any
7 questions.

8 CHAIR HILL: Okay. Does anybody have any
9 questions for the Office of Planning?

10 (No audible response.)

11 CHAIR HILL: Mr. Young, is there anyone here
12 wishing to speak?

13 MR. YOUNG: We do not.

14 CHAIR HILL: Okay. All right. Mr. Enloe, do you
15 have anything you'd like to add at the end?

16 MR. ENLOE: I'm sorry?

17 CHAIR HILL: I asked if you have anything you'd
18 like to add at the end.

19 MR. ENLOE: No, just that the neighbors agreed and
20 on either side had no problems with the project. And we've
21 heard of no complaints or negative comments to the Board.

22 CHAIR HILL: Okay, great. All right. Thanks, Mr.
23 Enloe. I'm going to close the hearing on the record. Mr.
24 Young, if you could excuse everyone, please.

25 Okay. I, again as the last case, didn't have a

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1 whole lot of issues with this. I think that it's pretty
2 straightforward. I think that they meet the criteria for us
3 to grant the relief requested.

4 I would agree with the analysis the Office of
5 Planning has provided. I was asked about the ANC because I
6 was unclear as to their outreach. I can see that they have
7 the support of the adjacent property owners which is helpful
8 to know and that also the ANC has been contacted.

9 But I assume since this is a pretty simple deck,
10 I believe, that they just didn't not submit anything. But
11 they have been notified. So I'm going to vote in favor of
12 this application as well DDOT had no objection. Mr. Smith,
13 do you have anything to add?

14 MEMBER SMITH: On this particular case, I share
15 your same concern with the ANC not commenting. But I'm
16 fairly comfortable with supporting the application because
17 we do have two letters from the adjacent property owners who
18 will be most directly affected. So I will support the
19 application.

20 CHAIR HILL: Thank you. Mr. Blake?

21 MEMBER BLAKE: I'll be voting in favor of the
22 application. I think the applicant has met the specific and
23 general criteria for both items, a relief pursuant to F 5201
24 and X 901.2. I thought the -- reviewing the applicant's
25 presentation and going through the Office of Planning

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1 analysis with which I agree, I thought the overall deck space
2 would be slightly smaller, a little bit more functional, and
3 probably more attractive and should not affect adversely the
4 light and air and privacy of neighboring property.

5 I also found that the elevations presented in the
6 updated architectural plans in Exhibit 385 along with the
7 photos from the previous angles were very helpful and better
8 understand the alley concept. I'd also note that the project
9 is also subject to HPRB to which further addresses the
10 consistency with the scale and pattern of properties along
11 the alley.

12 Obviously, I give great weight with the Office of
13 Planning's recommendation. DDOT had no objections. And
14 again, I would acknowledge the applicant's community outreach
15 and the letter of support from the adjacent property owner.
16 Again, I'll be voting in favor of the application.

17 CHAIR HILL: Thank you. Commissioner Imamura?

18 COMMISSIONER IMAMURA: Chairman, I agree with you
19 that this is pretty straightforward. I also agree with Board
20 Members Black and Smith, Board Member Blake's summary there.
21 Even though this is a small deck project, it's a nice
22 solution. So I have nothing further to add. I think that
23 they meet the special exception requirements and I'm prepared
24 to vote.

25 CHAIR HILL: Thank you. Vice Chair John?

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1 VICE CHAIR JOHN: Thank you, Mr. Chairman. This
2 is a fairly straightforward application, and I agree with all
3 of the comments so far. And I'm in support of the
4 application.

5 CHAIR HILL: Thank you. All right. I'm going to
6 make a motion to approve Application No. 20649 as captioned
7 and read by the Secretary and ask for a second, Ms. John.

8 VICE CHAIR JOHN: Second.

9 CHAIR HILL: The motion has been made and second,
10 Mr. Moy. If you can take a roll call.

11 MR. MOY: Each of your names, 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 that's request. The motion to approve was second by Vice
15 Chair John. Mr. Smith?

16 MEMBER SMITH: Yes.

17 MR. MOY: Mr. Blake?

18 MEMBER BLAKE: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIR HILL: Yes.

23 MR. MOY: Zoning Commissioner Dr. Imamura?

24 COMMISSIONER IMAMURA: Yes.

25 MR. MOY: Staff would record the vote as 5 to 0

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1 to 0. And this is on the motion made by Chairman Hill to
2 approve, second by Vice Chair John to approve. Also in
3 support of the motion to approve, Dr. Imamura, Mr. Smith, Mr.
4 Blake, and of course Vice Chair John and Chairman Hill.
5 Motion carries 5 to 0 to 0.

6 CHAIR HILL: Thanks, Mr. Moy. When you get a
7 chance, you can call our next one.

8 MR. MOY: All right. This is Case Application No.
9 20660 of 1238 Harvard Street, LLC. This is the titled
10 application as advertised. This is the applicant's self-
11 certified application for special exceptions from the
12 building height requirements of Subtitle E, Section 303.1,
13 pursuant to Subtitle E, Section 5203 and Subtitle X, Section
14 901.2, and from the matter-of-right uses of Subtitle U,
15 Section 301, pursuant to Subtitle U, Section 320.2 and
16 Subtitle X, Section 901.2. This would construct a third-
17 story addition and convert to a 3-unit apartment house, a
18 semi-detached three-story with cellar, principal dwelling
19 unit in the RF-1 zone. Let me see. The address property is
20 located at, I believe, 2829 13th Street, Northwest, Square
21 2856, Lot 137. And that's all I have, Mr. Chairman.

22 CHAIR HILL: Thank you. Mr. Sullivan, could you
23 introduce yourself for the record, please?

24 MR. SULLIVAN: Chairman and members of the Board,
25 Marty Sullivan with Sullivan and Barros on behalf of the

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1 applicant.

2 CHAIR HILL: Great. Thank you. Mr. Sullivan, if
3 you want to just walk us through your application, why you
4 believe your client is meeting the relief -- I'm sorry, the
5 standards with which we should grant the relief requested.
6 I'm going to put 15 minutes on the clock. I have kind of --
7 there is some time constraints with the Board a little bit
8 later.

9 And so I'm trying to be somewhat expeditious. I
10 think the project is really interesting, and we've all
11 reviewed the record quite thoroughly. However, I do see your
12 slide deck. So I'm going to go ahead and let you walk
13 through that. And if I need to interrupt you, I will. And
14 I will also allow the Board time to ask questions. But you
15 can begin whenever you like.

16 MR. SULLIVAN: Thank you, Mr. Chairman. And we
17 will move expeditiously as possible. But feel free to move
18 us along if we're giving you too much information.

19 The relief request -- first of all, an explanation
20 why the address confusion. This was 1238 Harvard when we
21 filed the application. There was a subdivision done right
22 before the application was filed. An address wasn't issued
23 yet, and then it was issued after the application. So that's
24 why it's 2829 13th Street, Northwest.

25 And this is relief -- next slide, please -- for

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1 a 3-unit conversion in the RF-1 zone as well as height relief
2 to extend the existing height of 36.3 feet I believe it is.
3 So it's 1.3 feet of special exception relief for the height.
4 We do enjoy the support of the ANC as well as the Office of
5 Planning. Next slide, please. And I'll turn it over to Mr.
6 Warren to show you the plans. Thank you.

7 MR. WARREN: Good morning, Chairman Hill and
8 members of the Board. I'm Charles Warren, Teass Warren
9 Architects. I'm here on behalf of the applicant, and I'll
10 run through this slide very quickly. I know we're trying to
11 keep things moving. Next slide, please. We can skip this
12 one. Next slide, please.

13 So a quick look at the zoning map here. It's
14 clearly in the RF-1 zone. This is 13th Street, north-south,
15 Harvard Street, east-west. Our property sits at the
16 southeast corner of that intersection.

17 And it's pretty typical RF-1 texture here in terms
18 of mostly rowhouses. There are some larger lots nearby. The
19 large lot 812 that you see is a charter school that shares
20 the same block. Directly across the street is an apartment
21 building, Lot 67 and Lot 83. To the southwest is a child
22 development center. So there is other uses nearby besides
23 the RF-1 -- what you typically see in an RF-1 zone. Next
24 slide, please.

25 Zoning summary, sorry, it's a little bit hard to

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1 read. But just the conclusion here is that we are -- what
2 I want to note is that we are adhering to the development
3 standards for RF-1 with the exception of the third unit that
4 we're asking for and the height relief which Mr. Sullivan
5 mentioned. And I'll illustrate where that is in the plans,
6 a little bit further in the slide deck. Next slide, please.

7 Aerial photos just to give you a sense of the
8 texture of the neighborhood. So the red dot that you see
9 there is our property, the property in question. The large
10 parking lot in the industrial -- or the institutional
11 buildings that you see to the right, that's the public
12 charter school.

13 Directly across the street, you see the apartment
14 building and the large rectangular building with the solar
15 panels to the southwest is the child development center, the
16 Easter Seals childhood development center. So you see it's
17 sort of a mix of textures. There's a mix of these
18 traditional Victoria rowhouses with some other uses at a
19 larger scale. Next slide, please. Again, this is just to
20 give you some aerial imagery of sort of the mixes of uses --

21 MR. SULLIVAN: Charles, I think we can move
22 through these a little quicker, these context slides.

23 MR. WARREN: Sure. Next slide.

24 MR. SULLIVAN: Maybe focus on the height.

25 MR. WARREN: Yeah, so this is just some existing

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1 photos of the condition of the current building. Next slide,
2 please. We really maintaining the existing footprint of the
3 building. So the lot area is about 3,277 square feet. Lot
4 occupancy is about 42 percent, and that's an existing
5 percentage. A previous service requirement, 20 percent,
6 which --

7 (Simultaneous speaking.)

8 CHAIR HILL: Mr. Sullivan? I'm sorry. I'm sorry,
9 Mr. Warren. I'm going to jump you, Mr. Sullivan, down to
10 slide 21. And I'm going to let the Board have any questions.
11 I mean, again, I think it's a very interesting project and
12 I think the architectural drawings are very efficient when
13 speaking to the standards in the regulations. So I will let
14 my Board answer questions after you kind of just hit the
15 summary, Mr. Sullivan.

16 MR. SULLIVAN: Thank you, Mr. Chairman. So the
17 general criteria, the conversions are common in the RF-1 zone
18 and they're permitted by special exception. And we meet all
19 other development standards, so we believe we meet the
20 general special exception criteria. As far as -- next slide,
21 please.

22 As far as the specific requirements, there's only
23 three specific requirements for a conversion. The building
24 is in existence. There is no fourth dwelling unit, so IZ
25 doesn't apply. And we do meet the 900 square foot rule

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1 safely.

2 As to specific requirements for the height, it
3 refers to light and air and character, scale, and pattern
4 which we believe safely meets as well. It's not -- the
5 addition itself is not considerable. And it's only 1.3 feet
6 of additional height as well. And so that's all we have, if
7 the Board has any questions. Thank you.

8 CHAIR HILL: Okay. Mr. Young, thank you. All
9 right. Does the Board have any questions of the applicant?

10 (No audible response.)

11 CHAIR HILL: All right. Turning to the Office of
12 Planning.

13 MS. BROWN-ROBERTS: Good morning, Mr. Chairman and
14 members of the Commission. Maxine Brown-Roberts representing
15 the Office of Planning on Case No. 20660 to convert a single
16 family dwelling to a 3-unit apartment building in the RF zone
17 and to have a height of 36.3 feet on a small addition to
18 match the height of the existing building. As detailed in
19 our report, the application meets the requirement of Subtitle
20 U, 320.2 for the conversion, Subtitle E, 5203.1 for the extra
21 height, and also Subtitle X, 901.2.

22 The Office of Planning therefore recommends
23 approval. We stand on the record and recommends approval of
24 the requested special exception, and I'm available for
25 questions. Thank you.

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1 CHAIR HILL: Thank you, Ms. Brown-Roberts. Does
2 the Board have any questions for the Office of Planning?

3 (No audible response.)

4 CHAIR HILL: Does the applicant have any questions
5 for the Office of Planning?

6 MR. SULLIVAN: No, thank you.

7 CHAIR HILL: Mr. Young, is there anyone here
8 wishing to speak?

9 MR. YOUNG: We do not.

10 CHAIR HILL: Okay. Mr. Sullivan, do you have
11 anything to add at the end?

12 MR. SULLIVAN: No, thank you.

13 CHAIR HILL: Okay. I'm going to close the hearing
14 on the record. Mr. Young, if you could excuse everyone.
15 Okay. I've hit that part of the day where I've been talking
16 a lot. Mr. Smith, would you mind going?

17 MEMBER SMITH: I think to meet this fairly
18 straightforward application, I do believe that the applicant
19 has met the burden of proof for us to be able to grant the
20 special exception from the three -- the multiple special
21 exceptions that they're requesting from Subtitle U, 320.2 and
22 from Subtitle E, 5203 for them to be able to construct the
23 three-story addition to the existing three-story residential
24 building to convert the property to a 3-unit apartment house.
25 I believe the addition is in keeping with the character along

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1 the block.

2 So I believe that the addition would be in harmony
3 with the general purpose and intent of the zoning regulations
4 and the zoning map and would not tend to adversely use the
5 neighboring properties in accordance with the zoning
6 regulations. The request before us is to keep the additions
7 -- to have the additions' height be in character with the
8 existing building which is already complying to the by right
9 height within that zone. So I believe the addition or the
10 request here is modest and would keep the development or the
11 design of the building in character with what currently
12 exists within that neighborhood.

13 I will note that the ANC does support the
14 application and doesn't have any issues or concerns with the
15 proposal as presented to them. And DDOT didn't have any
16 objection to this request. So with that, I give full and
17 great weight to OP's staff report and will support the
18 application.

19 CHAIR HILL: I agree. Thank you, Mr. Smith. Mr.
20 Blake?

21 MEMBER BLAKE: Yes, I agree with Mr. Smith's
22 analysis. I think the -- I plan to vote in favor of the
23 application, and I do believe that the applicant has met the
24 burden of proof to be granted relief. It's met both
25 standards. The 900 foot rule is in place, and the applicant

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1 has certainly met the general standards with regard to the
2 height addition as well as the standards 5203.1. So I would
3 be prepared to support.

4 CHAIR HILL: Thank you. Commissioner Imamura?

5 COMMISSIONER IMAMURA: I'm in agreement with Board
6 Members Blake and Smith to vote in favor.

7 CHAIR HILL: Vice Chair John?

8 VICE CHAIR JOHN: Thank you, Mr. Chairman. I
9 support the application. It's fairly straightforward in
10 terms of how the application meets the criteria for relief.
11 Thank you.

12 CHAIR HILL: Thank you. All right. I have
13 nothing to add. I'm going to agree with my colleagues and
14 make a motion to agree with Application No. 20660 as
15 captioned and read by the Secretary and ask for a second.
16 Ms. John?

17 VICE CHAIR JOHN: Second.

18 CHAIR HILL: The motion was made and second. Mr.
19 Moy, could you take a roll call?

20 MR. MOY: When I call each of your names if you
21 would please respond with a yes, no, or abstain to the motion
22 made by Chairman Hill to approve the application for the
23 relief requested. A motion was second my Vice Chair John.
24 Zoning Commissioner Dr. Imamura?

25 COMMISSIONER IMAMURA: Yes.

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1 MR. MOY: Mr. Smith?

2 MEMBER SMITH: Yes.

3 MR. MOY: Mr. Blake?

4 MEMBER BLAKE: Yes.

5 MR. MOY: Vice Chair John?

6 VICE CHAIR JOHN: Yes.

7 MR. MOY: Chairman Hill?

8 CHAIR HILL: Yes.

9 MR. MOY: Staff would record the vote as 5 to 0
10 to 0. And this is on the motion made by Chairman Hill to
11 approve. The motion to approve was second by Vice Chair
12 John. The motion to approve was also -- also in support of
13 the motion to approve is Dr. Imamura, Mr. Smith, Mr. Blake,
14 and of course Vice Chair John and Chairman Hill. Motion
15 carries in a vote of 5 to 0 to 0.

16 CHAIR HILL: Okay, thanks. All right. This is
17 up to you guys. I think the next one is going to take a
18 little bit of time. I don't know whether it'll take a
19 terrible amount of time. Do you want to take a quick break
20 and then we'll come back, or you just want to go straight
21 through?

22 VICE CHAIR JOHN: Quick break.

23 CHAIR HILL: Okay, great. Got a quick break, and
24 then see you all in about five to ten minutes. Okay? Thank
25 you.

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1 (Whereupon, the above-entitled matter went off the
2 record at 12:01 p.m. and resumed at 12:14 p.m.)

3 CHAIR HILL: All right, Mr. Moy. Do you want to
4 call our next case?

5 MR. MOY: Yes. Thank you, Mr. Chairman. The
6 Board has returned to its public hearing session after a very
7 brief recess. And the time is at or about 12:15 p.m.

8 The next and last case before the Board is Case
9 Application No. 20661 of Valerie and Nicholas Alten, A-L-T-E-
10 N. And this is captured and advertised as an application for
11 special exception relief from the accessory building area
12 requirements, Subtitle D, Section 5003.1, pursuant to
13 Subtitle D, Section 5201 and Subtitle X, Section 901.2. This
14 would construct a rear, detached, two-story garage with
15 accessory dwelling unit to an existing, detached, two-story
16 with basement, principal dwelling unit in the R-1-B zone.
17 The property is located at 4511 Chesapeake Street, Northwest,
18 Square 1570, Lot 30.

19 A couple of preliminary matters, Mr. Chairman.
20 First is there is a letter in opposition that was filed in
21 the past 24 hours. So that's not in the record for you to
22 make a decision on. And also as a reminder, there are two
23 requests for party status: one from Barr and Horsey under
24 Exhibit 24 and then Ali and Lani Alichí under Exhibit 46.
25 And that's it from me, Mr. Chairman.

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1 CHAIR HILL: Okay, great. Thanks, Mr. Moy. I'm
2 sorry, Mr. Moy. I know about the party status stuff. What
3 was the thing that you said again came in within 24 hours?

4 MR. MOY: Oh, there's a letter in opposition. I
5 don't know if it's the next door neighbor or not. I did not
6 check.

7 CHAIR HILL: Got it. Well, go ahead and allow
8 whatever the opposition is into the record because I'd like
9 to see it.

10 MR. MOY: Okay. Will do. Thank you, sir.

11 CHAIR HILL: My text message was on. And
12 suddenly, like, it's texting people. Okay. Let's see. Ms.
13 Brown, can you hear me?

14 MS. BROWN: Yes, sir. I can hear you.

15 CHAIR HILL: Could you introduce yourself for the
16 record, please?

17 MS. BROWN: Yes, for the record, I'm Carolyn Brown
18 with Brown Law Firm. I'm here on behalf of the applicants,
19 Nicholas and Valerie Alten. And Mr. Alten is here as the
20 sole witness for our case.

21 CHAIR HILL: Got it. And I know that there -- can
22 you quickly give me what you understand going on with the
23 party status? I thought there was one party status that then
24 you've addressed some of their issues. Or I'm not terribly
25 sure with Mr. or Mrs. Alich. Can you explain to me where

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1 you think the party status stands for both applicants?

2 MS. BROWN: I believe there is still the party
3 status request for the neighbor to the north abutting across
4 the alley, Mr. Barr and Ms. Horsey. So I think that needs
5 to be addressed for Mr. and Mrs. Alichí. I don't know -- it
6 probably needs to be addressed. I think that they wanted to
7 remain as parties. But they're in support now is my
8 understanding based on the subsequent letter that they
9 submitted to the record.

10 CHAIR HILL: Okay. Let me see. So Mr. Alichí,
11 can you hear me?

12 Okay. So you still want party status. Is that
13 correct?

14 MR. ALICHI: Yes, Mr. Chairman. We're the only
15 adjacent neighbor to the property. And we are thinking of
16 the further relief requests down the road or further changes
17 as a result of this meeting or after this meeting. We still
18 want to have a voice. So in that sense, we kindly request
19 to be involved in a way that the Board sees appropriate.

20 CHAIR HILL: Got it. Okay. And did you go, Mr.
21 Alichí, to the ANC meeting?

22 MR. ALICHI: Yes.

23 CHAIR HILL: Okay. All right. Let me see. Is
24 it Mr. Barr and Ms. Horsey? I see Ms. Horsey, I think. Ms.
25 Horsey, can you hear me?

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1 MR. MOY: Mr. Chairman, I believe they're
2 represented by Mr. David Brown who's the attorney.

3 CHAIR HILL: Okay. Mr. Brown, can you hear me?
4 Mr. Brown? Mr. Brown, can you hear me?

5 (Simultaneous speaking.)

6 CHAIR HILL: Oh, great, perfect.

7 MR. BROWN: Here I am. Thank you.

8 CHAIR HILL: That's all right. Okay, Mr. Brown.
9 I guess your clients are Mr. Barr and Ms. Horsey. Is that
10 correct?

11 MR. BROWN: Yes, I think they're on the line.

12 CHAIR HILL: Yeah, I see them there now. Well,
13 let me do this first. Ms. Horsey, can you hear me? You're
14 on mute, Ms. Horsey. Now you're still on mute. Now you're
15 off mute, but now we can't hear you.

16 I don't know what's wrong. Hold on one second.
17 Don't do anything yet. Let's see. Maybe if you move around
18 on your screen there, there might be at the bottom of the
19 screen it says mute. No, still muted.

20 MR. YOUNG: It looks like she's unmuting herself.
21 But she may need to go to her audio settings and check her
22 microphone settings.

23 CHAIR HILL: Okay. How do you do that, Mr. Young?

24 MR. YOUNG: There's a tab at the top of the screen
25 that says audio and video.

1 CHAIR HILL: Oh, gotcha. There's a tab at the top
2 of the screen. It says audio or video. And then you click
3 that.

4 MR. YOUNG: And then you can click on speaker and
5 microphone settings.

6 CHAIR HILL: Uh-huh. And that'll turn it on?

7 MR. YOUNG: And if you go to microphone, there's,
8 like, a drop down menu. And you might just need to change
9 which one is selected.

10 CHAIR HILL: Ms. Horsey, you can kind of hear me,
11 right? You're trying? Yeah, that's good. So I mean, I'm
12 scared to click the speaker and microphone setting myself
13 because I don't know what's going to happen to me. But I
14 guess I'll click it and see what happens. Oh, wow. Okay.
15 And then you get all this stuff.

16 MR. YOUNG: If she's still having trouble, I would
17 suggest that she call the hotline number.

18 CHAIR HILL: Got it.

19 MR. YOUNG: And then she can call in.

20 CHAIR HILL: Yeah, Ms. Horsey. Why don't you call
21 with your cell phone the 202-727-5471. I can tell you again
22 if you -- if you look at me, I can tell it to you again
23 whenever you're ready, 202-727-5471, 202-727-5471. Okay,
24 great. While you're trying to go through there, Mr. Brown,
25 can you hear me?

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1 MR. BROWN: I can hear you fine.

2 CHAIR HILL: Okay. I got to let you know, Mr.
3 Brown. I have my doubts about party status for your client.
4 But I can go ahead and let you explain why you think they're
5 meeting the criteria for us to grant party status.

6 MR. BROWN: The criteria require -- principally
7 require us to articulate why we are more directly affected
8 than the general population. And as an abutting homeowner
9 across the alley, my client is more or less presumptively
10 entitled to participate as someone clearly within the 200-
11 foot range. She also has concerns about this application
12 that she wants to directly address to the Board.

13 CHAIR HILL: Okay. Yeah, and as you know, Mr.
14 Brown, I mean, the Board has to decide whether or not it
15 believes that people are meeting the criteria for party
16 status. And just because you in 200 feet doesn't mean that
17 you meet the criteria for party status. And the issue -- and
18 I'm going to let my Board members kind of talk this through
19 as well is that your client is not the only person that's
20 kind of right around that area.

21 Like, I mean, the adjacent neighbors, I have no
22 problem with and now I'm looking to my Board members. The
23 adjacent neighbors I have no problems with in terms of party
24 status because I think they are uniquely affected. As I was
25 looking at the map -- or I'm sorry, the squares, the Horseys,

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1 they're across the alley but kind of set far back, I think,
2 from where this is actually going to be potentially built.

3 And then also they are -- the applicant is on the
4 corner. So there's other homes across the street. So then
5 I think -- in other words, I don't necessarily think that
6 they are more uniquely affected just because they're across
7 the alley. But that's kind of my opinion, and I'll let my
8 fellow Board members give me their opinion. And I'm going
9 to start with, I guess -- I don't know. Vice Chair John, do
10 you have an opinion?

11 VICE CHAIR JOHN: On the party status analysis?
12 Because just looking at the location and map provided by the
13 Office of Planning, I think they're not uniquely affected as
14 compared to the neighbors on 45th Street or the other
15 neighbors on Davenport. So I would not grant party status
16 in this case, I mean, for them.

17 But they would, of course, be allowed to speak and
18 raise their objections. And I think there's a presumption
19 as to the abutting property neighbor to the west which would
20 be the Alichis. So I would agree with your analysis. Thank
21 you.

22 CHAIR HILL: Okay. Mr. Smith, do you have a
23 thought?

24 MEMBER SMITH: No, I agree with Ms. John. And I
25 too looked at that map. I don't think they're anymore

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1 uniquely affected than the other property owners along
2 Davenport or Chesapeake Street. But of course, they do have
3 the opportunity to present their case regardless. But I
4 would not be inclined to grant party status.

5 CHAIR HILL: Okay. Mr. Blake?

6 MEMBER BLAKE: I agree with what we've said so far
7 in that I don't think it's a unique situation. They are
8 across the alley. To the extent that we did grant them party
9 status, I would hope we limit it to the issues that revolve
10 around the relief because there are a lot of issues beyond
11 the scope of that in this.

12 CHAIR HILL: Yeah, Mr. Blake. They'll have an
13 opportunity to speak. I'm just trying to see do you --
14 currently, I have Mr. Smith and Ms. John siding with me, that
15 they don't think that they are uniquely affected for the
16 party status. Are you agreeing with us is what I'm trying
17 to clarify?

18 MEMBER BLAKE: Yes, I am.

19 CHAIR HILL: Okay. Commissioner Imamura?

20 COMMISSIONER IMAMURA: It seems like the Board is
21 unanimous on this issue.

22 CHAIR HILL: Okay. All right. Then I'm going to
23 make a motion to deny party status for the Horseys, Mr. Barr
24 and Ms. Horsey, as the Board has given their opinion to this
25 and ask for a second, Ms. John.

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1 VICE CHAIR JOHN: Second.

2 CHAIR HILL: The motion has been made and second,
3 Mr. Moy. If you take a roll call, and then I'm going to come
4 back to you, Mr. Brown, and explain what I'm going to do with
5 your client.

6 MR. MOY: Mr. Chairman, when I call each of the
7 Board member's name, if you would please respond with a yes,
8 no, or abstain to the motion made by Chairman Hill to deny
9 party status to Barr and Horsey. This motion to deny is
10 second by Vice Chair John. Zoning Commissioner Dr. Imamura?

11 COMMISSIONER IMAMURA: Yes to deny.

12 MR. MOY: Mr. Smith?

13 MEMBER SMITH: (No audible response.).

14 MR. MOY: Mr. Blake?

15 MEMBER BLAKE: Yes to deny.

16 MR. MOY: Vice Chair John?

17 VICE CHAIR JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIR HILL: (No audible response.).

20 MR. MOY: Staff would record the vote as 5 to 0
21 to 0. This is on the motion made by Chairman Hill to deny.
22 The motion to deny was second by Vice Chair John. Also in
23 support of the motion is Dr. Imamura, Mr. Blake, Mr. Smith,
24 and of course Vice Chair John and Chairman Hill. Motion
25 carries, sir.

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1 CHAIR HILL: Okay, great. Mr. Brown, can you hear
2 me?

3 MR. BROWN: Just fine.

4 CHAIR HILL: So what I was going to do, do you
5 know if your client went to the ANC meeting?

6 MR. BROWN: She did.

7 CHAIR HILL: Okay. And they had an opportunity
8 to speak at that meeting?

9 MR. BROWN: She did.

10 CHAIR HILL: Okay. So what I'm going to do, Mr.
11 Brown, is when you -- and you might want to call your client.
12 I don't know -- I'm going to do this when we're in the public
13 testimony portion of the hearing. And technically, the
14 public is allowed three minutes to give their testimony.

15 But I'm not going to like -- I mean, I want to
16 hear whatever your client has to say. So we're just going
17 to kind of see where we get in terms of listening to what
18 issues your client may have. I know we already have in the
19 record what they're kind of speaking to. But you'll have an
20 opportunity to clarify those issues of the Board during that
21 portion of the hearing.

22 MR. BROWN: She'll be prepared to testify. And
23 I will have some supporting legal arguments as well. I do
24 not expect either her participation or my participation to
25 take more than something like ten minutes.

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1 CHAIR HILL: Okay. All right. So we'll see how
2 it goes. I mean, I don't really -- anyway, we'll see how it
3 goes. Just go ahead and I'll -- we'll go ahead and see how
4 much time we have for your testimony.

5 I'm going to actually ask -- actually, I'll just
6 ask legal right now. Legal, I always get -- Ms. Nagelhout,
7 I sometimes get unclear as to my ability to change the time
8 parameters for the public. If we, the Board, just wanted to
9 hear what a member of the public might have to say, we can
10 extend the time to what the Board feels appropriate, correct?

11 MS. NAGELHOUT: Presiding officer decides time
12 limits, and you can adjust them accordingly so long as the
13 over allocation is fair.

14 CHAIR HILL: Okay. Mr. Brown, then we'll go ahead
15 and try to give you ten minutes also. Okay?

16 MR. BROWN: Thank you.

17 CHAIR HILL: So we'll come back to you. Mr.
18 Young, if you could please excuse Mr. Brown and his client,
19 Mr. Barr and Ms. Horsey? Okay. All right. As to the party
20 status for Mr. Alichí, Mr. Alichí, do you know what -- so
21 what has been your primary issues with the applicant. And
22 have been somewhat addressed? I've lost him --

23 (Simultaneous speaking.)

24 MR. ALICHI: Yes, no, sorry, Mr. Chairman. Yes,
25 so we initially had issues with the initial plan. But the

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1 applicant has been really, really helpful and sensitive to
2 our concerns. They have reflected them in the revised plan.
3 We fully support the revised plan.

4 So the request for party status is not to object
5 the revised plan. Our worry is that as a result of this
6 meeting or as a result of future requests of relief for this
7 project, we might need to have a voice. Otherwise the
8 current plan, we fully support it and we ask the Board to
9 consider it.

10 CHAIR HILL: Okay. Ms. Nagelhout, can you hear
11 me?

12 MS. NAGELHOUT: Yes, I can.

13 CHAIR HILL: I know you're going to love this
14 question. So the -- if there are members -- if I have a
15 party status in support, is it still -- do I not have the
16 ability to consider a summary versus a full order?

17 MS. NAGELHOUT: You have the ability. A full
18 order is required when a decision would be adverse to any
19 party.

20 CHAIR HILL: Okay, okay. So that's helpful. All
21 right. Then I'm going to go ahead and make a motion to
22 approve the party status of the adjoining neighbor, Mr.
23 Alich, based on what I believe they're meeting the criteria
24 as being uniquely affected and ask for a second, Ms. John.

25 VICE CHAIR JOHN: Mr. Chairman, and so to be

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1 clear, they would be granted party status in support?

2 CHAIR HILL: Yes.

3 VICE CHAIR JOHN: Okay. So I will second the
4 motion.

5 CHAIR HILL: Mr. Moy, if you can take the roll
6 call, please.

7 MR. MOY: When I call your names, if you would
8 please respond with a yes, no, or abstain to the motion made
9 by Chairman Hill to grant party status in support. This is
10 to the Alichy party. The motion to grant is second by Vice
11 Chair John. Dr. Imamura?

12 COMMISSIONER IMAMURA: Yes.

13 MR. MOY: Mr. Blake?

14 MEMBER BLAKE: Yes.

15 MR. MOY: Mr. Smith?

16 MEMBER SMITH: Yes.

17 MR. MOY: Vice Chair John?

18 VICE CHAIR JOHN: Yes.

19 MR. MOY: Chairman Hill?

20 CHAIR HILL: Yes.

21 MR. MOY: The motion carries on a vote of 5 to 0
22 to 0. And this is on the motion made by Chairman Hill to
23 grant. And the motion to grant was second by Vice Chair
24 John. Also in support of the motion is Dr. Imamura, Mr.
25 Blake, Mr. Smith, and of course Vice Chair John and Chairman

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1 Hill. Motion carries, sir.

2 CHAIR HILL: Okay. Thanks, Mr. Moy. Okay. All
3 right. So what is going to happen, Mr. Alich, is that now
4 you've been granted party status in support. You have been
5 given party status. You'll be notified of everything that's
6 going on. And also now you'll have an opportunity to give
7 your testimony during this hearing.

8 So what I'm going to do, Ms. Brown, is ask you to
9 walk through your client's presentation or application I
10 should say and explain to us why or how you believe they're
11 meeting the criteria and standard for us to grant the relief
12 requested. I'm going to put 15 minutes on the client just
13 so I know where we are. And you can begin whenever you like.

14 MS. BROWN: Barking dog for a moment, so bear with
15 me potentially. And I do have one housekeeping item. We had
16 submitted the revised plans into the record after the 21 days
17 submission deadline. And I just want to confirm that those
18 have been accepted to the record.

19 CHAIR HILL: You mean after the 24-hour deadline?

20 MS. BROWN: We were to have a pre-hearing
21 statement in 21 days in --

22 CHAIR HILL: Oh, I'm sorry.

23 MS. BROWN: -- advance of the hearing.

24 CHAIR HILL: Yeah, yeah. Go ahead and put that
25 into the record, Mr. Moy, unless I hear someone speak up from

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1 the Board because I want to see everything in the record.

2 MS. BROWN: I believe it was entered into the
3 record. But we had to have a motion to accept it late.

4 CHAIR HILL: Do you know which exhibit that it is,
5 Ms. Brown.

6 MS. BROWN: Oh, I can find that for you. It's the
7 revised scheme.

8 CHAIR HILL: Gotcha. In 63?

9 MS. BROWN: Yes.

10 CHAIR HILL: Okay. All right. Okay. So go ahead
11 and give us your presentation, please.

12 MS. BROWN: You bet. For the record again,
13 Carolyn Brown on behalf of the applicant, Valerie and Nick
14 Alten. I'm joined today by Mr. Alten who as I mentioned will
15 be our sole witness today. We are requesting special
16 exception relief from the 450 square foot building area limit
17 for an accessory structure in the R-1-A district under
18 Subtitle D, Section 5003.1.

19 The first floor of a garage will have 600 square
20 feet which is 150 square feet more than what is permitted.
21 And the second floor will have a building area of 480 square
22 feet which is 30 square feet more than is permitted. We're
23 pleased to have the support of ANC 3E, the Office of
24 Planning. And DDOT has not voiced any objection to the
25 proposal.

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1 We're also very happy now to have the support of
2 the abutting neighbors to the west, the Alichis after working
3 very hard to address their concerns. The building has been
4 redesigned and reduced in size as a result of those
5 discussions. While there are still neighbors opposed to the
6 project, there are also many neighbors who are in support and
7 those letters are in the record.

8 As set forth in our pre-hearing statement, we'll
9 review with you again at the end with specific slides the
10 application meets the special exception criteria. I'll
11 summarize that for you now, but we'll conclude with those
12 slides as well. First, the additional 150 square feet of
13 building area on the first floor and 30 feet on the second
14 floor which we're referring to as the extended building area
15 does not unduly affect the light and air to neighboring
16 properties.

17 The shadow study submitted to the record from the
18 original scheme demonstrate this and the conditions only
19 improve with the revised plans. Second, the privacy of use
20 and enjoyment of neighboring properties will not be unduly
21 affected. The extended building area only protrudes into the
22 applicants own yard and the accessory structure will be amply
23 screened with vegetation and plantings to protect adjoining
24 properties.

25 Third, the Alten residence and the new accessory

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1 structure is viewed from the street and alley will not
2 substantially visually intrude upon the character, scale, and
3 pattern of houses along the subject street frontage. The
4 extended building area is only modestly visible from the
5 street. The exterior cladding is similar to the numerous
6 additions found throughout the neighborhood and is consistent
7 with the pattern of two-story garages in this particular
8 square and elsewhere in the neighborhood.

9 And again, we'll show you the slides at the end
10 of the presentation. With that, I'd like to turn to Mr. Nick
11 Alten as our first witness. And if we could bring up the
12 slides and go to Slide No. 2.

13 MR. ALTEN: Good afternoon, Board members. My
14 name is Nicholas Alten, and I'm speaking on behalf of my
15 wife. This might be the only time that ever can happen. But
16 we live at 4511 Chesapeake Street, Northwest.

17 We moved into here in 2006. I am a builder,
18 licensed since 2003, and I got a home occupancy permit
19 license for this house in 2007. The garage concept started
20 about six years ago or so when we thought about having an ADU
21 for parents and things like that. We're in that sandwich
22 generation where my folks are and in-laws are in their mid-
23 80s and my children are in college and soon to be out.

24 So if you look at the zoning map on the left, the
25 yellow, mine obviously is the highlighted square. We have

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1 one adjacent number attached to us. Everywhere else, we're
2 bordered by alley.

3 The slide to the right is the proposed site map
4 of our current residence and the new ADU. It's about 55 feet
5 behind the house. Next slide, please. The picture to the
6 left is taken standing at the foot of the alley that
7 intersections with Chesapeake Street, and there's the front
8 of our house.

9 The picture to the right is the alley that runs
10 north-south on the east side of our property. And we've got
11 a fence and those are -- I believe they're used. But they're
12 evergreen trees that are about 12 to 15 feet tall along the
13 east side there. Next slide, please.

14 The left slide is sort of the tail end of our
15 yard. And you can just see the beginning of the garage
16 there. The slide to the right is our existing garage. We
17 call it the favela because I have two guys from Brazil who
18 work with me, and it's as such. It's sort of this old 1940s
19 tin shack with some -- and it's in pretty dilapidated
20 condition. If you go to the next slide, please.

21 These are renderings which are in the record as
22 well as a floor plan for both floors. These are renderings
23 that I worked with Ali and Lani Alichy next to us to develop
24 and sort of meet their concerns as well as I knew the other
25 concerns of the other neighbors. And most of it was trying

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1 to screen the building.

2 But the top left is the view looking at the north
3 face of the building, the garage door. There you see the
4 upper level windows for the ADU. It's four and a half feet
5 setback from my property line as required, and the alley is
6 15 feet wide.

7 So it's about 19 and a half feet from the back of
8 the north neighbor, Sarah Horsey and Al Barr. The image to
9 the right is looking sort of southwest if you will at the
10 intersection of the two alleys. My work vehicle is a
11 sprinter van and it's ten feet tall.

12 And so the pergola to the left is designed to
13 basically as a plant base for lack of a better description.
14 Along the lower level, I was going to plant some creeping
15 vines to help screen the lower side of the building. And
16 then the upper portion of the pergola is we were going to do
17 some plantings.

18 And just we figured this was an easier way to
19 accelerate the green coverage by having two 8-foot tall
20 plants versus one 20-foot tall plant. So that was designed
21 to help soften the views of our east -- the eastern neighbors
22 to there. The lower left picture is if you were peeking over
23 the fence standing on the north-south alley, that's sort of
24 what we would see or the east face neighbors would see that
25 are further to the south of us, again, the parking spot.

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1 This doesn't have the existing trees which will
2 not be touched. But this was more just to show the rendering
3 of the building. And then the last picture on the lower
4 right is again if you were standing in our adjacent
5 neighbor's yard, there's a new fence and new plantings along
6 there.

7 Again, there are some plantings in the lighter
8 green portion of that that exist. But some of that has to
9 be sort of redesigned. And that's part of the continuing
10 conversation with the Alichis just to make sure that we
11 coordinate. They're going to do some landscaping. We're
12 going to do some landscaping. So we don't want to cross each
13 other on that borderline. Next slide, please.

14 So this is the first floor revision that's in the
15 record. The genesis of this whole thing was I'd like to put
16 two vehicles in the garage and have about ten feet of space.
17 I have some things that are just large and cumbersome that
18 I need to store.

19 And probably the most cumbersome is a sediment
20 control barrel that we need if we do any kind of excavation.
21 And it's basically a three-foot diameter pipe, 12 feet long.
22 It's unwieldy, and I need to have it on the job site if we're
23 doing excavation. But if we're not doing excavation, I have
24 to store it somewhere.

25 So the whole sort of sense of is, okay, can I park

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1 a car -- two cars in there and get a little space in the
2 front to store tools, equipment that we need periodically,
3 et cetera? So part of the ANC discussion is I agree to leave
4 the western edge, the ten feet as fallow and plantings. And
5 then everywhere that there will be any kind of hard surface
6 would be pervious, so both the apron of the garage as well
7 as the parking spot.

8 And then again, it's just a typical, empty garage
9 door, a door to the parking area, double door just in case
10 we have bulky items to move out, and then a door facing our
11 yard. Next slide, please. This is the redesigned upper
12 level. And probably the two biggest things are, one, we
13 moved in an additional 4 feet to 14 feet off the property
14 line or our adjacent neighbors.

15 And to shrink the building a little bit, I moved
16 the stairs so we'd have a wrought iron staircase on the
17 western side just so it wouldn't be a heavy presence. And
18 that would be the access to the ADU from the alley which is
19 15 feet all around the property. Again, just a simple one
20 bedroom ADU.

21 Where we can, I've tried to -- the pergola you see
22 on the right side of the screen is where the plantings are
23 just to help screen the eastern neighbors. And then in
24 discussion with Ali and Lani, we also -- the front portion
25 because there's a four-foot area where the bottom flow is

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1 wider than the top floor, we're going to do again a perimeter
2 of plantings there as well, just again help soften the vista
3 of the building. Additionally, on the north side, there's
4 about a foot, 18 inches or so.

5 We're also going to put a planter on the north
6 side again just to screen the building as much as we can to
7 soften it for the neighbors. And again, with these second
8 floor plantings, we need a shorter tree basically that'll be
9 quicker to grow. And then there's a little access area for
10 the ADU. Next slide, please.

11 This is what Ms. Brown called the extended
12 building area. So the highlighted portion are the -- is what
13 we're asking relief for. On the first floor, it's the last
14 basically ten feet of the garage and the first floor is the
15 last three feet roughly of the garage is the extra which is
16 in essence centered in our yard. Our lot is 45 feet. So
17 it's almost centered. And then the non-shaded is the by
18 right -- matter of right, 450. Next slide, please.

19 This is again the renderings of the trees are
20 approximate. So it's sort of the best we can do with this.
21 But this gives you each elevation of the ADU. The east and
22 the west show sort of the run of the property.

23 Basically, all the stuff where the ADU is, is
24 going to be new plantings. Everything that is from the ADU
25 to the house already exists. On the western edge, the tree

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1 is a little bit sparser -- if you could go back, please,
2 thank you -- is a little bit sparser. And that's again the
3 TBD with our neighbor.

4 And then you see the south and the north. The
5 south is what faces our house, and then the north elevation
6 is where the garage access will be. And most of our
7 neighbors around us have pretty big trees.

8 And so we hope that this will add to that canopy
9 and all of that. And finally, I will say with the
10 discussions with our neighbors, Ali and Lani, it actually was
11 quite nice because this has been going on so long. I will
12 say -- I will admit that I probably had tunnel vision on this
13 is what I want.

14 And hearing other voices, it actually is a much
15 better design and a little bit more interesting as a
16 building. And so I'm greatly appreciative of their input as
17 well as this Sunday. I did meet with Mr. Barr, Linda Hughes
18 who is broadside to us on the east elevation.

19 Her view is basically the side of the garage. And
20 as well as Sarah Horsey's brother, Outerbridge Horsey, who's
21 a Georgetown architect. And we had a very pleasant
22 conversation about screening and options and things of that
23 nature. And they did provide us with some additional
24 designs.

25 But I will say the ship's kind of already sailed.

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1 And this is actually more of our style. It was more of a
2 style question than a footprint question. But anyway, much
3 appreciative of their input and I'm happy to answer any
4 questions that anybody has. But thank you for your time.

5 MS. BROWN: Mr. Chairman, if we could go to the
6 next slide. Again, this is going to through the special
7 exception standard. First, the light and air to neighboring
8 properties shall not be unduly affected.

9 And as in the record, we have shadow studies
10 demonstrating that it has minimal effect. And it's only
11 improved again with a smaller extended building area. Next
12 slide. Here are some examples of the shadow studies, and we
13 picked some general times, the fully range of hours beginning
14 at 5:00 a.m. up until 7:00 p.m. are in the record. But this
15 is during the summer solstice. We see that there's very
16 little effect. Next slide.

17 And in the winter, obviously there's shadows. But
18 the shadows are being cast more from the trees and the homes
19 as opposed to the proposed garage. And again, obviously, the
20 shadows got to be much deeper in the mornings than the
21 evenings, both in the summer and winter solstice. Next
22 slide.

23 The second test under this special exception
24 relief is that the privacy and use of enjoyment of
25 neighboring properties will not be unduly affected. Here the

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1 extended building area only protrudes since the applicant's
2 own yard are a lot of new shrubs and vegetation that would
3 be planted along the accessory structure to screen adjacent
4 properties. A new fence is going to be installed to enhanced
5 the visual appearance of a site and planting boxes allowing
6 the perimeter of the pergola will accelerate screening for
7 the second store. Next slide.

8 Under the third prong, the addition together with
9 the original building is viewed from the street, alley, or
10 other public way shall not substantially visually intrude
11 upon the character, scale, and pattern of houses along the
12 subject street frontage. And again, the extended building
13 area is only modestly visible from the street due to ample
14 vegetation. HardiePlank cap cladding is used throughout the
15 neighborhood.

16 And there are other two-story accessory buildings
17 in this square and throughout a park. Next slide. And we
18 have a sampling here of some of the other two story accessory
19 structures in this block. And those are on the right-hand
20 side of the screen.

21 And those on the left are nearby squares. And
22 some of these are 450 square feet or less. Some of these are
23 larger than the 450 square feet. So this is the character
24 of some of them in the immediate area. Next slide.

25 So in demonstrating compliance with the subsection

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1 for relief under the 450 square foot limitation, the
2 applicant shall use graphic representations. And those are
3 in the record. It's the exhibits listed here on the screen.

4 And then the Board may require other special
5 treatment in way of design screening exterior or interior
6 lighting materials or other features to protect adjacent and
7 nearby properties. The design, we believe, incorporates
8 ample screening and compatible materials. And it responds
9 directly to the request from the abutting neighbor to the
10 west. Next slide.

11 And under Subtitle 901.2 -- Subtitle X, 901.2, we
12 have to demonstrate that the extended building area will be
13 in harmony with the general purpose and intent of the zoning
14 regs. The favorable conditions created for the community
15 throughout a complementary design, extensive plantings, and
16 a new fence and passive energy features meet the standard and
17 the accessory dwelling unit helps contribute to the goals of
18 increasing housing stock, enabling homeowners to age in place
19 through supplemental income. And the proposal will not tend
20 to adversely affect the use of neighboring properties.

21 As we've presented thorough the evidence today and
22 in the record, it will not interfere with the light, air,
23 privacy, or enjoyment of use of neighboring property. Next
24 slide. That concludes our direct presentation. We are happy
25 to answer any questions you may have.

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1 CHAIR HILL: Okay. Mr. Young, thanks. All right.
2 Does the Board have any questions of the applicant? Sure,
3 Mr. Imamura -- Dr. Imamura?

4 COMMISSIONER IMAMURA: Chairman, as you know,
5 projects like these, I always seem to have a couple
6 questions. Just the architecture, the nature kind of piques
7 my interest. So a couple questions, Mr. Alten.

8 I think you had already addressed one of the
9 questions I had in terms of why this needed to be a two-car
10 garage. So it sounds like there are three vehicles, two
11 vehicles plus your work --

12 MR. ALTEN: Full disclosure, we actually have
13 four, much to the chagrin of my -- we have a beater that the
14 children drive till it dies. I have my personal vehicle.
15 My wife has a car, and my work van. So we would put three
16 of those vehicles off the street, one, my truck. One is my
17 personal vehicle, and one is the children's vehicle because
18 they're in university right now.

19 COMMISSIONER IMAMURA: Okay. So I certainly have
20 a position on this case and understand the neighbor's
21 hesitation for reservation. I think in general some of the
22 examples that you all had provided I would say your design
23 solution is probably the simplest and I think doesn't
24 overreach. I think some of the other examples try to be
25 contemporary and do things that probably for a small little

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1 structure like this, I think your solution seems appropriate.

2 My question is I think the issue here really is
3 about scale and mass. So the perspectives, while helpful,
4 I think the elevations I think are probably even more
5 important to look at because it's really the total width.
6 I think it's what the neighbors are looking at.

7 It's really about the width between the pergola
8 on the east side and steps on the west side. And your
9 elevation just highlights sort of the structure itself. So
10 it doesn't really show the full width of it.

11 But here's what I'm getting at. Your west
12 elevation -- well, first of all, let me back up. A, I'm
13 really glad that you engaged others, sought input because
14 architecture is not done in a vacuum. So it does make the
15 design solution better and I think this is evidence here.

16 I do like your pergola solution there. This is
17 what I'm getting at. The south elevation is what I think a
18 lot of people may be -- I'm guessing here -- may be of some
19 concern because you actually have some -- you've recessed the
20 building or the structure on certain elevations here, except
21 for the south elevation -- or rather the north elevation.
22 The south elevation is in the yard.

23 This is the north elevation here. This shows the
24 fully 18 foot 6. So my question to you, was there -- there's
25 two questions here. One, did you give any considerations to

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1 recessing that back of it where then you would wrap around
2 or could potentially wrap around some that planting that
3 you've -- from the pergola around there.

4 It sort of a shield or conceal that second floor
5 a bit more. And the second question I have is did you
6 consider using the pergola, while a nice and elegant sort of
7 feature there, has sort of a deck instead of the other side
8 and sort of that deck feature to the second floor. I guess
9 what I'm getting at is I'm trying to help figure out is there
10 a way to narrow that footprint.

11 MR. ALTEN: To your first question, it's sort of
12 all about the layout. So to recess it on the first floor
13 from a design element standpoint, I guess one could argue
14 that it should be or shouldn't be. I didn't do it because
15 I felt that vista I guess is -- I don't want to say
16 industrial. But that's where the door is going to be on that
17 side.

18 And when we redesign the first floor layout. I put
19 the sleeping quarters towards our yard. And that's the
20 living space on the alley. And when I say living space, it's
21 really just the kitchenette area.

22 And I just felt that when you're in a 480 square
23 foot building, less wall thickness, that extra six inches,
24 a foot matters. So I didn't. I mean, there will be some
25 architectural features.

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1 We'll have a couple of lights on either side of
2 the garage door. So there will be some elements there that
3 aren't reflected here because this thing just got put to bed
4 four days ago on that. So that's where that sort of ended
5 up in the logic train.

6 As far as the pergola versus the western deck,
7 sort of two things. I do have a sprinter work truck. And
8 it is 9 foot 6 inches tall or what have you. And so the
9 pergola elevation is 10 feet off the ground which is about
10 2 feet higher than the floor, give or -- 11 foot at the top
11 of the pergola. The floor is 9 foot, give or take, off the
12 elevation.

13 And so it's also both ends of the alley. And so
14 we can sort of hide it in the back area on the west side.
15 Plus I just thought that if it's a nice summer night and you
16 want to go -- we're talking 40 square feet roughly, 35 square
17 feet. A little table and two chairs for whoever lives there
18 to have a drink or whatever.

19 They're already on the alley anyway where people
20 with their trash cans. So it's not like it's the most
21 beautiful view. And I just thought that the elevation that
22 I need for the pergola made the deck really tall, and I
23 didn't want that for my eastern neighbors.

24 And this little nook on the northwestern corner
25 is in the far back reaches of the yard. And the neighbor on

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1 the other side -- our adjacent neighbor also have an ADU.
2 And they have a little portico with two chairs, about 25, 30
3 square feet also, that faces the rear of the yard. So it's
4 as far away as I could conceivably do it. And so that was
5 sort of the logic train on those two issues.

6 COMMISSIONER IMAMURA: Great. I appreciate the
7 explanation. That makes a lot of sense to me about the
8 pergola and the location of the deck. I would just encourage
9 you to think about how you break up that facade on the north
10 elevation in terms materiality. But otherwise, I don't have
11 any further questions, Chairman Hill.

12 CHAIR HILL: Sure. Mr. Blake?

13 MEMBER BLAKE: Questions coming out of this
14 exhibit you have up there right now. I believe there's a
15 portrait decks on the -- on one side of the upper unit. I
16 just want to make sure that was something. It may or may not
17 need additional relief for that. But I wanted to kind of get
18 your sense on that. That's obviously not the exact issue
19 with the redesign, I did notice that additional part there.
20 The other thing I wanted to ask about was the fact that you
21 have -- you said you were going to devote about ten feet to
22 the equipment that you're going to have. And I just wanted
23 to kind of make sure that dovetailed with the home occupancy
24 requirement for -- because at 10 times that's 300 square
25 feet, just back of my head relative to the requirement for

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1 home occupancy.

2 MS. BROWN: If I could jump in and answer the
3 question. As to the deck area on the west side, we haven't
4 had a chance to run that by the zoning administrator. And
5 we recognize that there may be some interpretation that says
6 either, A, we would need additional relief, or yes, it's
7 permitted.

8 Or if it's not permitted, it might turn into a
9 green roof. So we're going to address that issue a little
10 bit latter once we can get a hold of the zoning administrator
11 on that matter. So that's our response on that first issue.

12 With respect to the second on the storage and the
13 home occupation, we did -- that issue was raised previously.
14 And we did get confirmation from Mr. LeGrant that storage for
15 home occupation is permitted on the site. So that additional
16 10 feet in the accessory structure is permitted by virtue of
17 the home occupation license for the dwelling on the property.

18 MEMBER BLAKE: Okay. But that was roughly what
19 you described in square feet. I understand. Would you
20 please submit that to the record from the zoning
21 administrator?

22 MS. BROWN: You bet. This email confirmation.

23 MR. ALTEN: And Mr. Blake, sort of the genesis of
24 that 10 feet was a parking spot is basically 9 feet by 18
25 feet, sort of the criteria for a parking spot. So depending

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1 on the length of the car and what have you, like I said, that
2 sediment control barrel is literally 3 foot in diameter, 12
3 feet long and I do have lumber. When I have time, I do have
4 exotic hardwoods that we turn into furniture.

5 So above that would be a drying rack. And that
6 takes out sort of 4 feet roughly with it. So I'm really left
7 with a walkway in front of the cars. Maybe I'll have a desk.
8 And then I have some scaffolding which will go against the
9 western face.

10 So it sounds like a lot of room. But when you put
11 the things that I need to store in there, it's really a
12 pathway in front of the car and out the door. That was the
13 reasons.

14 MEMBER BLAKE: Okay. Thank you. I appreciate
15 that.

16 CHAIR HILL: Okay. Anyone else? That -- Ms.
17 Brown, the stuff from the zoning administrator, do you have
18 that now?

19 MS. BROWN: Yes, I can read it to you if that
20 would be helpful. It's a --

21 CHAIR HILL: I just want to see if there's any way
22 I can get it in to the record.

23 MS. BROWN: Oh, I can email it. I can try to
24 upload it now.

25 CHAIR HILL: Try to upload it now if you could --

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1 MS. BROWN: Okay.

2 CHAIR HILL: -- so Mr. Blake can see it. Okay.
3 Let's see anyone else? All right. I'm going to turn to the
4 Office of Planning. And I'm going to come to you, Mr.
5 Alich, in a minute. Go ahead, Ms. Vitale.

6 MS. VITALE: Thank you, Chair and members of the
7 Board. Elisa Vitale with the D.C. Office of Planning. The
8 Office of Planning is recommending approval of the requested
9 special exception relief from Subtitle E, Section 5003.1.

10 This is for an accessory building, the area of
11 which would exceed the maximum permitted square footage of
12 450 square feet or 30 percent of the required rear yard,
13 whichever is greater. In this instance, the 450 square feet
14 would be larger. And the applicant had initially requested
15 an OP reviewed a 660 square foot accessory building.

16 The Office of Planning found that it met the
17 special exception criteria in E 5201.2. I'm happy to go
18 through that now. The first criteria has to do with light
19 and air available to neighboring properties and the fact that
20 should not be unduly affected.

21 The applicant has an existing accessory building
22 that they're proposing to demolish and construct the new
23 larger two-story accessory building. OP found that while it
24 was larger than the maximum permitted area, it should not
25 result in significant light and air impacts to neighboring

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1 properties. The building would not exceed the maximum
2 permitted building height for an accessory building.

3 The applicant is setting the proposed accessory
4 building back from the alley centerline. It meets that
5 setback requirement. They're also providing a side yard
6 setback on both sides.

7 Furthermore, the -- as has been stated, the
8 property abuts an alley on two sides on the east and on the
9 north. So that provides kind of additional separation from
10 adjoining properties. And finally, the applicant is
11 proposing new privacy fencing that would further screen the
12 proposed accessory building from the alley and from adjoining
13 properties.

14 And you've heard today that there would be
15 additional plantings to provide further screening. That
16 really gets to Item No. 2, that the privacy of use and
17 enjoyment of neighboring properties shall not be unduly
18 compromised. As previously stated, the accessory building
19 would not encroach on the required rear yard.

20 So there would be sufficient separation from the
21 principal buildings on the adjoining lot and obviously from
22 the principal building on the subject property. The
23 applicant has through the latest elevations and plans made
24 some changes that do include outdoor space or this porch on
25 the west facade. Certainly, they haven't asked for relief

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1 from that.

2 OP did not evaluate that as part of its initial
3 review. But if there are further questions about that today,
4 we can certainly speak to that on the record. But we did not
5 believe that the privacy of use and enjoyment of neighboring
6 properties should be unduly compromised.

7 And then with respect to the kind of appearance
8 of the accessory building, it would be visible from the alley
9 and it would be visible from the alley to the north and to
10 the east. We did note that there are a variety of accessory
11 buildings in the square and in the area and that certainly
12 a two-story accessory building was not inconsistent or out
13 of character with surrounding properties. We felt that the
14 hardy plan HardiePlank siding for exterior cladding would
15 again be consistent with the surrounding properties in the
16 neighborhood and that the proposed design should not
17 substantially visually intrude on the character, scale, and
18 pattern of building along the alley frontage.

19 The applicant did provide plans and elevations as
20 well as rendered views and photographs. OP is not
21 recommending any special treatment. And the final kind of
22 criteria speaks to permission, that granting the relief would
23 not permit the introduction or expansion of a nonconforming
24 use or lot occupancy.

25 The property as a whole would continue to be

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1 within the maximum permitted lot occupancy within the zone.
2 And certainly the construction of an accessory building with
3 an accessory apartment is contemplated by the zoning
4 regulations and consistent with the purpose and intent of
5 this zone. Finally, with respect to the general special
6 exception criteria, again, the proposed use conforms to the
7 zoning regulations.

8 The proposal would not result in an accessory
9 building that's inconsistent with the intent of the zone.
10 And finally, as previously stated, we did not believe that
11 the accessory building with vehicular parking and storage on
12 the first floor and the accessory apartment on the second
13 floor that it would adversely affect the use of neighboring
14 properties. I believe that concludes my report. I'm
15 certainly happy to answer any questions that the Board might
16 have at this time. Thank you.

17 CHAIR HILL: Thanks, Ms. Vitale. Does the Board
18 have any questions for Ms. Vitale?

19 (No audible response.)

20 CHAIR HILL: No? Okay. Ms. Brown, do you got any
21 questions for the Office of Planning?

22 MS. BROWN: No, sir.

23 CHAIR HILL: Okay. Mr. Alichì, can you hear me?
24 Do you want to go ahead and give us your testimony, Mr.
25 Alichì?

1 MR. ALICHI: Yes. So thank you, Mr. Chairman.
2 I just want to say that we are new neighbors in the block.
3 We purchased our home a few months ago, and we understand
4 this issue has been going on after we bought the house. But
5 for a few months, we were unaware.

6 But as soon as we got to know about the case, we
7 got in and we tried to hear both sides. Other neighbors were
8 against and also the Altens and also of course our own
9 interests were at stake. We try to discuss with Mr. Alten
10 and strike a balance.

11 And we think we have strike a good balance in
12 which Mr. Alten made the second floor of the property smaller
13 which is something that a lot of the opposition wanted. And
14 of course, it would affect us directly as well. So they have
15 been generous to accept this.

16 And then as kind of getting back to them, we also
17 accepted that they put this deck on. So with these changes,
18 you would never know if everybody got a perfect solution.
19 But we think we have got a solution that would work.

20 We would want to support our neighbors. And we,
21 of course, really appreciate the discussions that we have had
22 with Mr. Alten. So we support this.

23 And we also want to thank other neighbors, the
24 neighbors that were opposing and especially Ms. Horsey and
25 Mr. Barr that we had a lot of discussions with them. We hope

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1 that the solution also somewhat accommodates their concerns.
2 So from our side, we fully support this.

3 We ask the Board to kindly grant it. We just have
4 a couple of requests. The request, we have put it in a
5 statement that we issued yesterday as well. So as a result
6 of this compromise, we have 10 feet of setback on the first
7 floor from our property of this ADU and then 14 feet from the
8 second floor.

9 We hope the final solution, whatever the Board
10 decides, respects these setbacks. And also all the screening
11 that Mr. Alten has suggested, we hope that on the record it
12 would be put that these would be maintained going forward.
13 So bottom line, we support this and ask the Board to approve
14 it and also continue to respect these agreements, the
15 setbacks, and also the maintenance of the screening. That's
16 the end of our testimony. Thanks, Mr. Chair.

17 CHAIR HILL: Okay. Thanks, Mr. Alich. Mr.
18 Alten, can you hear me?

19 MR. ALTEN: Yes, sir.

20 CHAIR HILL: Yeah. I mean, the design is what the
21 design is. And so therefore, you can only build what we
22 approve. But you are also going to keep all of the
23 vegetation alive, correct?

24 MR. ALTEN: Yes, yes. My neighbor across the
25 street is the head orchid gardener at the Hillwood garden.

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1 And he's chopping at the bit to help me plan this, so with
2 native plants that attract butterflies and bees and all those
3 sorts of things. And he knows that my thumb is perhaps not
4 as green as I'd like to pretend, and he's going to make sure
5 that it's attractive and maintainable with not horrific
6 amounts of effort. Yes, that's the intent.

7 CHAIR HILL: That's great. Hillwood is great.
8 You're lucky. All right. That's okay. I just need you on
9 the record that you're going to keep it up. And so it sounds
10 like you're going to. All right. Mr. Alich, did you have
11 any questions for anybody?

12 MR. ALICHI: No, Mr. Chairman. Just want to say
13 that apart from vegetation, there's also some other type of
14 screening that Mr. Alten plans to put in. If you could also
15 put on the record that those also be maintained, like a
16 lattice that they're going to put in.

17 I mean, we don't have any doubt they're going to
18 put it in. Just want it to be on the record that it would
19 be maintained. Maybe there would be future owners of this
20 property. I want to have on the record that these lattices
21 that would give us some privacy would be maintained going
22 forward as well. Thank you.

23 CHAIR HILL: Okay. No, that's fine. Mr. Alten,
24 it's kind of a question. I mean, you are planning on
25 maintaining those items that Mr. Alich just spoke of,

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1 correct?

2 MR. ALTEN: For sure. We've lived here for 15
3 years. I mean, I don't know if they're going to carry me
4 out. But that's kind of the plan. So we're here for the
5 duration. So yes, the short answer is yes.

6 CHAIR HILL: Okay. Ms. Nagelhout, that screening,
7 that is in the design. So that would have to be maintained
8 if the property changed hands, correct?

9 MS. NAGELHOUT: Actually, the approved plans might
10 refer to the structure. The Board might want to adopt a
11 condition requiring the maintenance of the screening if it's
12 vegetation --

13 CHAIR HILL: Yeah, I think it's vegetation, but
14 it's also --

15 MS. NAGELHOUT: -- or a trellis or whatever.

16 CHAIR HILL: The trellis, that's fine. The
17 trellis -- maintain the trellis and the vegetation.

18 MR. ALTEN: Yeah, I believe DCRA will only do the
19 hard things. The vegetation is something that I think you
20 all would have to address.

21 CHAIR HILL: Okay. The trellis and the vegetation
22 is on which side again, Mr. Alten?

23 MR. ALTEN: There's vegetation on top of the
24 pergola that basically runs the perimeter of the pergola.
25 And then there's vegetation on the north side, sort of a --

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1 there's vegetation and lattice work that screens the north
2 edge of the balcony or deck or whatever the right word is.
3 And then there's also a lattice that screens the south side
4 and the western landing area of the staircase.

5 CHAIR HILL: All right. And these are all --

6 MR. ALTEN: So there's lattice on those two sides
7 --

8 CHAIR HILL: That's okay. And these are all in
9 your most recent exhibit. Correct --

10 MR. ALTEN: Correct.

11 CHAIR HILL: -- Mr. Alten?

12 MR. ALTEN: Correct.

13 CHAIR HILL: And I'm trying to get an exhibit
14 number here real quick.

15 MR. ALTEN: It would be --

16 CHAIR HILL: Give me a second because I don't have
17 two screens.

18 MEMBER SMITH: 63.

19 CHAIR HILL: 63? Thank you, Mr. Smith. All
20 right. I'm just going to reference Exhibit 63 for the
21 screening because whether or not, Ms. Alten, you think you're
22 going to be there forever, it's unlikely. Forever is a long
23 time.

24 MR. ALTEN: I understand. Excuse me, sir. It's
25 also number 60 as well.

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1 CHAIR HILL: Is it 63 or 60 that looks more --

2 MR. ALTEN: 63 are the views. 60 is the plans
3 except for the views because I had to shrink it to upload it.
4 So 60 and 63 are the two exhibits that reference all of the
5 things that Mr. Alichì and you have referenced.

6 CHAIR HILL: Okay. That's fair. Okay.

7 MR. ALTEN: And Ali, I hope I'm pronouncing your
8 last name right. I've never asked you.

9 CHAIR HILL: Alichì. All right, Mr. Alichì.
10 Okay, great. All right. So that's all of that. Mr. Young,
11 is there anyone here wishing -- I know we have one person
12 here that was the previous party status request people. Is
13 there anyone else wishing to speak?

14 MR. YOUNG: Yes, we have two others.

15 CHAIR HILL: Are they in support or opposition?

16 MR. YOUNG: So four total, opposition.

17 CHAIR HILL: Are they in support or opposition?

18 MR. YOUNG: Opposition.

19 CHAIR HILL: Everyone is in opposition? Okay.

20 MR. YOUNG: Yes.

21 CHAIR HILL: Can you give me -- so you're saying
22 you have four total meaning not counting --

23 MR. YOUNG: Mr. Brown.

24 CHAIR HILL: Yeah, not counting --

25 MR. YOUNG: No, that is counting --

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1 CHAIR HILL: -- Mr. Brown, Horsey, and Barr.

2 MR. YOUNG: So just two not counting them.

3 CHAIR HILL: Okay. Can you bring the two in then,
4 please. And don't bring Mr. Brown in and Ms. Barr -- I'm
5 sorry, Mr. Barr and Ms. Horsey just yet. We'll have them
6 last. And if you could give me the names of the two people
7 that are dropping in.

8 MR. YOUNG: So Katherine Mitchell who's calling
9 in by phone and I'll bring her in and Sariah Tambre who
10 actually might've dropped off. So I'm going to have staff
11 reach out to her.

12 CHAIR HILL: Okay. Ms. Mitchell, can you hear me.

13 MR. YOUNG: So just Ms. Mitchell.

14 MS. MITCHELL: Yes, can you hear me?

15 CHAIR HILL: Yes, could you introduce yourself for
16 the record, please?

17 MS. MITCHELL: Sure. I'm Katherine Mitchell, and
18 I'm outside of the 200 foot radius. But only the Barr's
19 house is between my house and the applicants. And I'm at
20 basically the exact same -- I'm 4511 Davenport Street and
21 he's at 4511 Chesapeake.

22 CHAIR HILL: Okay, great. Thank you, Ms.
23 Mitchell.

24 MS. MITCHELL: Sure.

25 CHAIR HILL: Ms. Mitchell, did you complete the

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1 oath? I think you did, correct, when you signed up?

2 MS. MITCHELL: Yes.

3 CHAIR HILL: Okay.

4 MS. MITCHELL: Yes, I did.

5 CHAIR HILL: All right, Ms. Mitchell.

6 MS. MITCHELL: And I've submitted four -- oh,

7 sorry.

8 CHAIR HILL: Go ahead.

9 MS. MITCHELL: I've submitted four photos to Mr.
10 Young. And I'll tell him when to bring them up that are
11 included in my three minutes --

12 CHAIR HILL: Okay. I believe we saw them, but you
13 can go ahead.

14 MS. MITCHELL: -- which I've rehearsed and
15 hopefully it will be two minutes.

16 CHAIR HILL: I got you. No, thanks, Ms. Mitchell.

17 MS. MITCHELL: Okay. Thank you.

18 CHAIR HILL: So go ahead, Mr. Young. If you want
19 to bring -- Ms. Mitchell, do you want Mr. Young to bring
20 those up now?

21 MS. MITCHELL: Sure. He can start with photo 68B.
22 All right. Can you still hear me?

23 CHAIR HILL: Yeah.

24 MS. MITCHELL: Okay.

25 CHAIR HILL: Okay. Go ahead, Ms. Mitchell.

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1 MS. MITCHELL: Okay. Thank you. Again, I'm
2 Katherine Mitchell and I am outside the 200 foot radium. And
3 there are some historic accessory structures in the
4 neighborhood. But to my knowledge, none needed a special
5 exception with none used as a construction company's
6 warehouse.

7 And Mr. Alten has a home occupancy permit, 155455,
8 it is for, quote, a home improvement contractor, office use
9 only. That means an office, not a warehouse and a loading
10 dock. The applicant in ANC 3E characterized our concerns
11 about the operation of this home occupation use as irrelevant
12 but they are not.

13 If you could hold up photograph 68C. And these
14 photographs taken two months ago clearly shows that he has
15 long ignored Subtitle U, Section 251.3(f). And so after 68C
16 is up, if you can put up 68B and I'll keep talking.

17 Now I'm excerpting from Exhibit 48, a letter of
18 opposition from a neighbor within 200 feet, quote, the use
19 of the alley area for loading and unloading of material and
20 actual construction activities. And then we want to hold up
21 photo 68A and leave it up. At least two to three times a
22 week, I would encounter Mr. Alten's crews blocking two points
23 of access through the alley as they load and unload material.

24 As a result, I regularly had to reverse my car.
25 Over the years, there's frequently material and debris,

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1 including wood shards, screws, and metal scraps left in the
2 area. Kids play in that alley. I don't want dangerous
3 debris there, end excerpted quote.

4 I, too, often use the alley to access my home or
5 walk my dog. While loading his van, Mr. Alten dismissed my
6 request to move his van closer to one side of the alley. So
7 I too had to back up blindly across the sidewalk to continue
8 to my home.

9 And there you can see the van that is clearly
10 loading and unloading construction materials. And regarding
11 the Office of Planning report, Subtitle E, 5201.6, this
12 section shall not be used to permit the introduction or
13 expansion of a nonconforming use as a special exception. And
14 applicant's written response on the office of planning
15 omitted his nonconforming use as a warehouse for storage and
16 loading of construction materials, instead only saying,
17 quote, the continued use of the property as a single
18 household dwelling is permitted in that zone, end quote.

19 DC OP makes decisions based on information that
20 the applicant provides. And that information in my opinion
21 was incomplete and misleading. It is admitted and clear from
22 numerous -- I counted 13 opposition letters, that Mr. Alten
23 uses his home office permit to a nonconforming use.

24 How can it be allowable for him to build an
25 oversized 600 square foot garage with a 480 square foot ADU

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1 with an additional outdoor balcony to expand a nonconforming
2 use that affects everyone's safe enjoyment of our
3 neighborhood? This structure is only oversized so that he
4 can expand his nonconforming use. Thank you very much for
5 taking my views into account as you consider the special
6 exception request, and I urge you to deny it. Thank you for
7 the time.

8 CHAIR HILL: Thanks, Ms. Mitchell.

9 MS. MITCHELL: Thank you.

10 CHAIR HILL: Does the Board have any questions of
11 Ms. Mitchell?

12 (No audible response.)

13 CHAIR HILL: Okay. Ms. Brown, do you got any
14 questions of Ms. Mitchell?

15 MS. BROWN: Just one quick question. Ms.
16 Mitchell, have you raised these concerns with DCRA?

17 MS. MITCHELL: No, I'll be honest. We all wanted
18 to get along as neighbors. This has been going on clearly
19 for years, this yard. But when he wanted to expand this and
20 we saw what this original proposal was with this huge 660
21 foot garage with parking pads, we said, we're never going to
22 get through the alley.

23 We're going to have nothing but construction work
24 and debris in our alley. And 13 people wrote specific
25 letters opposing this only because of the use -- mostly

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1 because of the use, that it's a nonconforming use in my
2 opinion. And he has a home office permit. It says home
3 office only.

4 CHAIR HILL: Okay.

5 MS. MITCHELL: And I just don't think a warehouse
6 is an office.

7 CHAIR HILL: Okay, Ms. Mitchell. I'm sorry. But
8 I appreciate you answering the question. Ms. Brown, are you
9 good?

10 MS. MITCHELL: Okay. Thank you.

11 MS. BROWN: All good. No more questions.

12 CHAIR HILL: All right. Mr. Young, can you see
13 Ms. -- thank you, Ms. Mitchell, for your testimony.

14 MS. MITCHELL: Sure thing. Thank you.

15 CHAIR HILL: Mr. Young, did you find Ms. Tambre
16 or is it Mr. Tambre?

17 MR. YOUNG: No, she told staff that she was going
18 to be unavailable between 1:00 and 1:30. So I'm keeping an
19 eye out for her.

20 CHAIR HILL: Okay. All right.

21 MR. YOUNG: If she shows up, I'll let you know.

22 CHAIR HILL: Let's see what happens. If she pops
23 back up, let me know. You can bring in Mr. Brown now and Mr.
24 Barr and Ms. Horsey. Yeah, hang on one second. Just let me
25 ask.

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1 Are you guys -- are my Board members okay with
2 continuing? Are you all right? Like, I was going to hear
3 from Mr. Brown and Ms. Horsey and Mr. Barr. I mean, I'm just
4 trying to figure out if you guys are okay, meaning it's 1:30.

5 Are you all okay? I got one thumbs up.
6 Everybody's thumbs is up. Okay. All right. I cheated. I
7 turned off the camera and ate a sandwich. So I'm good,
8 right? So okay. All right.

9 So if you all turn off the camera, we'll all know
10 what's going on, right? Okay. So let's see. Mr. Brown, if
11 you could introduce yourself for the record again, please.

12 MR. BROWN: Yes, I'm David Brown with Knopf and
13 Brown. I represent Sarah Horsey and her husband Al Barr.
14 Sarah will be the one testifying today. And I will follow
15 up with some legal argument to present our opposition.

16 CHAIR HILL: Got it. I'm trying to think where
17 is -- I can't see your clients. Or can they hear me?

18 MR. YOUNG: Yeah, they're the call in user.

19 CHAIR HILL: Got it. Ms. Horsey, can you hear me?
20 No. Ms. Horsey? Ms. Horsey, can you hear me? Oh, can you
21 hear me, Ms. Horsey?

22 MS. HORSEY: Yeah, I'm sorry.

23 CHAIR HILL: Can you hear me?

24 MS. HORSEY: I can hear you, but can you hear me?

25 CHAIR HILL: Yes, I can hear you.

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1 MS. HORSEY: Oh, all right. Success.

2 CHAIR HILL: Can you mute your computer?

3 MS. HORSEY: Mute my computer. Can you hear me?

4 CHAIR HILL: I can hear you.

5 MS. HORSEY: My computer tells me that I'm mute.

6 CHAIR HILL: Mute your computer.

7 MS. HORSEY: My computer says --

8 CHAIR HILL: Or actually, Mr. Young --

9 MS. HORSEY: -- I am muted.

10 CHAIR HILL: -- can you mute the computer? Mr.

11 Young, can you hear me?

12 (Simultaneous speaking.)

13 CHAIR HILL: Give me one second, Ms. Horsey.

14 MS. HORSEY: Okay.

15 CHAIR HILL: Mr. Brown, Ms. Horsey, can you hear

16 me?

17 MS. HORSEY: Yes.

18 CHAIR HILL: Okay. Mr. Brown, go ahead. I'm

19 going to put ten minutes on there so I know where we are.

20 Go ahead, please.

21 MR. BROWN: Would you please introduce yourself

22 and explain your objections to the application, Ms. Horsey?

23 MS. HORSEY: Certainly. Are we okay here --

24 CHAIR HILL: Yes.

25 MS. HORSEY: -- with the noise? Okay. All right.

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1 My name is Sarah Horsey. My husband, Al Barr, is here with
2 me. And we thank the Board for granting us the opportunity
3 to speak.

4 We live at 4510 Davenport which is the house
5 directly across the alley from the Alten's proposed
6 garage/ADU project. Concerns about this project have
7 recently been the dominant topic in the neighborhood where
8 we have lived for over 36 years. Opinions have been diverse,
9 but no one to our knowledge has spoken out against ADUs as
10 a general concept and as authorized by law. For years, the
11 neighbors have quietly tolerated the applicants running his
12 commercial construction business out of his eyesore expanded
13 garage --

14 CHAIR HILL: Hey, Ms. Horsey? Ms. Horsey? Ms.
15 Horsey?

16 MS. HORSEY: What?

17 CHAIR HILL: I got to figure out how to -- I can
18 kind of hear you but it's really hard.

19 MS. HORSEY: Should I find out if you can hear me
20 on my cell phone?

21 CHAIR HILL: Yeah, turn off your computer.

22 MS. HORSEY: Okay. Leave webinar. Okay. Now
23 we're just on the cell phone. Is this better?

24 CHAIR HILL: Yeah, yeah, yeah. Can you hear me?

25 MS. HORSEY: Yes, I can.

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1 CHAIR HILL: Mr. Brown, can you say something?

2 MR. BROWN: Yes, Ms. Horsey, perhaps --

3 MR. BARR: Hello.

4 MR. BROWN: -- you can start over.

5 CHAIR HILL: Can you hear me --

6 MR. BARR: Hello, Mr. Chairman.

7 CHAIR HILL: -- Ms. Dorsey? Who's speaking?

8 MS. HORSEY: Before it was my husband. He said,
9 hello, Mr. Chairman.

10 CHAIR HILL: Right, are you guys both on --

11 MS. HORSEY: He can say it again.

12 CHAIR HILL: Are you guys both on different
13 phones?

14 MS. HORSEY: No.

15 CHAIR HILL: Okay.

16 MS. HORSEY: I've got the phone to my ear right
17 now, and he's sitting beside me.

18 CHAIR HILL: Okay. No, that's great. Go ahead,
19 Ms. Horsey, and start again with your testimony.

20 MS. HORSEY: Okay. So I'll start from the
21 beginning. Okay. So you know by now my name is Sarah Horsey
22 and my husband, Al Barr, is here. And we thank the Board for
23 giving us the opportunity to speak.

24 We live at 4510 Davenport, the house directly
25 across the alley from the Alten's proposed garage/ADU

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1 project. Concerns about this project have recently been the
2 dominant topic in our neighborhood where we have lived for
3 over 36 years. Opinions have been diverse, but no one to our
4 knowledge has spoken out against ADUs as a general concept
5 and as authorized by law.

6 For years, the neighbors have quietly tolerated
7 the applicants running his commercial construction business
8 out of his eyesore expanded garage without a permit and
9 inconveniencing others who want to use the public alley
10 behind our house. With his present application to build a
11 larger structure on the property to facilitate his commercial
12 business activities, opposition to the project has sharpened.
13 Two distinction concerns have been the focus of the
14 discussions.

15 One is the size of the building they want to
16 construct is larger than what is permitted by code. The
17 second is the use of the public alleyway from commercial
18 activity not in character with our residential neighborhood.
19 One, the size, even under the applicant's amended current
20 proposal, the building with 650 square feet at eye level, far
21 exceeds the 450 square foot standard and presents a massive,
22 ugly facade.

23 As one critic said, a limit set by the 2016
24 changing code was not, quote, 450, unless you wanted a larger
25 unit, end quote. It was 450. A meeting to persuade the

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1 Altens to visually improve the building failed.

2 You can see those exhibits 67 and 67A that have
3 examples of the proposal. And the use of foliage in this
4 current proposal to mask the worst of the design is very
5 likely to fail due to Mother Nature. We share the view of
6 other neighbors in opposition who cite the precedent of
7 granting this still oversized garage/ADU in our 1B
8 neighborhood as their main concern.

9 The second issue is the question of use. And this
10 is a matter of deeper concern. There's strong neighborhood
11 irritation at Mr. Alten's use public alley for commercial
12 endeavor. As our attorney detailed for you, the proposed use
13 of the ground floor of the proposed new building where
14 storage and materials related to his commercial business is
15 not allowed without a second special exception that has not
16 been applied for.

17 We agree with others. We want our neighborhood
18 to remain residential. We want our alleys to remain a
19 convenience for all of us and a place where kids can safely
20 ride their bikes. Our neighbors, Linda Hughes, who lives on
21 45th Street directly across the alley from the proposed
22 construction to the east where the most impacted neighbors
23 could not speak today.

24 She has articulated her concerns in her letter to
25 the BZA found in Exhibit 57A where she expressed her concerns

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1 about the proposed project and attached a photo with the
2 outline of how the structure, almost 20 feet high and 30 feet
3 long, would look from the rear of her house. I hope members
4 of the BZA have, in fact, seen that photo because it is on
5 the record. She's asked us to solicit the modification
6 proposed by the applicant in his revised drawings as Exhibit
7 63 which are mainly impacting positively Mr. Alich's
8 property to the west but do nothing to improve her situation.
9 And she's indicated that the idea is conveyed in Exhibit 67
10 and 67A would be acceptable to her.

11 Notwithstanding these negative sentiments about
12 the use of the variants of the proposal, we are willing
13 compromise along the following terms. Modify the building
14 design as shown in Exhibit 67A with a more compatible massing
15 of a gable shed dormers. This design has the same first
16 floor at 660 square feet and a second floor at 480.

17 The design would also be accepted to one of the
18 most impacted neighbors to the east, Linda Hughes I just
19 discussed. This compatible design is also compared with the
20 applicants two, quote, box designs at Exhibit 67. Two, the
21 approved design attach the following conditions for the use
22 of the building:

23 A, only the interior of the garage to be used for
24 storage of construction materials related to the applicant's
25 business. B, no materials of any kind can be stored outside

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1 the building or the house anywhere on the property. C, any
2 construction/workshop activity or noise making activity shall
3 be done inside the building with the doors closed.

4 Regardless of what the law says about more
5 construction work hours of operation because other benefits
6 are accruing to the applicant. And so his noise-making
7 activities as a tradeoff should be done inside the building
8 with the doors closed. And finally, loading/unloading
9 materials in the future building should be done while vehicle
10 is parked on a parking pad and not in the alleyway. This
11 concludes my remarks and I thank you for your attention. I'm
12 going to try to sign back on, but maybe I won't. May I
13 should just keep the phone connection going --

14 (Simultaneous speaking.)

15 CHAIR HILL: Just keep the phone. Just keep the
16 phone. You can hear --

17 MS. HORSEY: -- until you finish with me. Okay.

18 CHAIR HILL: Yeah, you can hear, Ms. Horsey. Just
19 go ahead and, like, mute your phone or turn it down. Just
20 listen. Mr. Brown --

21 MS. HORSEY: I'm listening.

22 CHAIR HILL: -- go ahead.

23 MR. BROWN: I'm here.

24 CHAIR HILL: No, go ahead, Mr. Brown, with what
25 your comments were.

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1 MR. BROWN: Thank you. I just wanted to follow
2 up and emphasize the importance of the conditions that she
3 talked about with regard to the storage of construction
4 materials on the property. As I said in the pre-hearing
5 statement that we filed, Exhibit 57, even if you were to
6 grant the special exception, that is insufficient relief to
7 entitle the Altens to proceed with the planned construction.

8 They did not ask for a special exception with
9 regard to anything except the size of the building. However,
10 under Section U-253.8, it makes it quite clear in
11 Subparagraph D that an accessory building that houses an
12 apartment which is what we have here shall not be used
13 simultaneously for any accessory use other than three things:
14 one, a private vehicle garage that they're doing, two, an
15 artist studio, they're not doing that, and three, storage for
16 a dwelling unit on the lot. Storage for a dwelling unit on
17 the lot to me means storage that would be accessory to the
18 use of the dwelling or perhaps such things as lawn tools and
19 implementation materials for the lawn. But it would not be
20 for storage of equipment and tools and materials used in a
21 construction business.

22 That's because as Ms. Mitchell pointed out and as
23 we attach to our pre-hearing statement, the home occupancy
24 permit is not for a construction business. It's for an
25 office. So the storage could be used for things like storing

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1 paper and other materials used in an office but not
2 construction materials.

3 And Mr. Alten testified consistently before the
4 ANC and before you here today that his intention is to use
5 this storage area for the loading and unloading of
6 construction materials used in his business. Now there, of
7 course, is as usual and escape clause for him. He could ask
8 you to be excused from this requirement under Subparagraph
9 F of 253.8 which says that an accessory building proposed
10 within -- within an accessory -- an accessory apartment
11 proposed within an accessory building that does not meet the
12 conditions of this section shall be permitted as a special
13 exception.

14 That, to my way of thinking, means that he needed
15 a second special exception which he hasn't applied for. Now
16 I heard Ms. Brown talk about apparently some kind of a letter
17 that we haven't seen from the zoning administrator that says
18 storage for a home occupation is permitted on the site. And
19 I would say that storage for a home occupation in this case
20 would be storage for a home office, such things as extra
21 Xerox paper for -- or computer equipment for the home office.

22 But that's not licensed to operate what Ms.
23 Mitchell described as a commercial warehouse which has, more
24 or less, sort of constant loading and unloading activity for
25 storage of equipment used in the business. Now in my mind,

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1 this all could've been resolved if they had applied for two
2 special exceptions at the same time. But they didn't. And
3 it's not clear to me that the Board can remedy that by
4 basically authorizing a second special exception.

5 It hasn't been properly noticed for hearing and
6 evaluating. Nonetheless, I think if the Board were to impose
7 the conditions that my client recommended, it would go a long
8 way toward alleviating that problem. And so I strongly
9 recommend that the Board conclude either -- either these
10 conditions have to be imposed or the application is simply
11 not in harmony with the general purpose and intent of the
12 zoning regulations because they're approving a project
13 without all the necessary zoning relief.

14 CHAIR HILL: Okay.

15 MR. BROWN: A second special exception is
16 required.

17 CHAIR HILL: Okay. All right, Mr. Brown. Thanks.
18 I mean, I'm going to have some questions now also from the
19 applicant and also from the Office of Planning. But before
20 I get to mine, does the Board have any questions for the
21 witness? Because there's one more witness, by the way.

22 And my plan is to go ahead and let you ask your
23 questions of this witness and the other witness and maybe
24 keep Mr. Brown and Ms. Horsey around. We'll see. Does the
25 Board have any questions for Mr. Brown?

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1 (No audible response.)

2 CHAIR HILL: Okay. Ms. Brown, do you have any
3 questions for Mr. Brown?

4 (No audible response.)

5 CHAIR HILL: Okay. All right. Mr. Young, can you
6 tell me who the additional witness is?

7 MR. YOUNG: Yeah, it's Ms. Tambre.

8 CHAIR HILL: Okay, great. Can you bring her in,
9 please?

10 MR. YOUNG: Yeah, she's in.

11 CHAIR HILL: Ms. Tambre, can you hear me?

12 MS. TAMBRE: Yeah, can you hear me?

13 CHAIR HILL: Yes. Could you introduce yourself
14 for the record, please?

15 MS. TAMBRE: Yeah, sure. My name is Sariah
16 Tambre. I live at 4713 46th Street, Northwest which is just
17 within the 200 feet --

18 (Simultaneous speaking.)

19 CHAIR HILL: Okay. Ms. Tambre, you'll have three
20 minutes to give your testimony. And before you begin, did
21 you go to the ANC meeting?

22 MS. TAMBRE: I was unable to attend the ANC
23 meeting. Apologize.

24 CHAIR HILL: That's all right. Go ahead and give
25 your testimony, please. And you have three minutes, and it's

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1 on the clock right there.

2 MS. TAMBRE: Okay. In general, I am very
3 supportive of ADUs to increase housing density in the
4 neighborhood. But I do object to increasing the size for
5 this structure because a precedent could be set. Can you
6 hear me?

7 CHAIR HILL: Yes.

8 MS. TAMBRE: There are three other ADUs in this
9 particular alley, and they range in size from about 400 to
10 450 square foot footprint which allows for a two car garage
11 and an apartment below or up to a 900 square foot dwelling.
12 From my understanding, these three ADUs and alley were built
13 before the current regulations were issued. So I'm concerned
14 about a precedent being set since the regulations were put
15 into effect rather than prior.

16 A 600 square foot footprint is about the size of
17 many of the principal dwellings in the neighborhood,
18 including my own house which is 625 square feet footprint.
19 My understanding is that the definition of an accessory
20 dwelling is that it's subordinate to and secondary in size
21 to a principal dwelling. I'm concerned about allowing
22 basically two principal dwelling sized structures on the
23 property.

24 I understand that the applicant has revised the
25 second floor down to 480 square feet. But I'm still opposed

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1 to setting a precedent for allowing exceptions for very large
2 future two-level ADUs in the neighborhood above the matter
3 of right footprint of 450 square feet. And as I mentioned,
4 I was not able to attend the ANC meeting.

5 But I would like to note that most of the
6 opposition letters were sent in after that ANC meeting. That
7 concludes my comments. Thank you very much.

8 CHAIR HILL: Okay. Thanks, Ms. Tambre. Thanks
9 for your testimony. Does the Board have any questions of Ms.
10 Tambre?

11 (No audible response.)

12 CHAIR HILL: Okay. Ms. Brown, do you have any
13 questions of Ms. Tambre?

14 MS. BROWN: No questions.

15 CHAIR HILL: Okay. Ms. Tambre, thank you for your
16 testimony and you will be excused. Mr. Young, if you could
17 excuse Ms. Tambre. Thank you. All right. Let me see.
18 Okay. Mr. Alichì, are you still with us?

19 MR. ALICHI: Yes.

20 CHAIR HILL: You don't have any questions of
21 anybody, do you?

22 MR. ALICHI: No questions. No, thanks.

23 CHAIR HILL: Okay. Thanks, Mr. Alichì. Okay.
24 All right. Ms. Vitale, can you hear me?

25 MS. VITALE: Yes, I can.

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1 CHAIR HILL: I got a little confused with the
2 whole like occupation, home occupation, home office stuff,
3 storage, construction equipment storage. I mean, the office
4 of planning, what is being proposed. Can you help clarify
5 for me why it's appropriate or acceptable? And if it is, I
6 just want to understand how this home office gets to store
7 construction equipment or whatever. Can you just kind of
8 talk to a little bit all this stuff?

9 MS. VITALE: I can certainly try, and some of
10 these are items that are not within kind of the purview of
11 the Office of Planning. And it would be more appropriately
12 addressed by DCRA and the Zoning Administrator. We're
13 reviewing the application before us which is for the
14 accessory building.

15 It's for the structure to exceed the maximum
16 building area permitted for an accessory structure. The
17 application before us did not address anything having to do
18 with the home occupation. The applicant has entered into the
19 record their home occupancy permit.

20 Those are not -- that's not issued by Office of
21 Planning. That hop is issued by DCRA. There are certainly
22 criteria in zoning if someone is requesting a home occupancy
23 permit that doesn't meet the regulations. But the home
24 occupancy permit for this property was not before us and was
25 not reviewed by us as part of the relief that the applicant

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1 is requesting.

2 CHAIR HILL: Okay. That's somewhat helpful.
3 Thank you. Let's see. Okay. So then Ms. Brown, I mean, I
4 see the email. And Mr. Brown, if you want to look at the
5 email that's now on the record from the Zoning Administrator.

6 It doesn't give more detail than home occupancy.
7 But it does at least speak to home occupancy. Ms. Brown, do
8 you have any comments about your discussions with the Zoning
9 Administrator about this type of home occupancy?

10 MS. BROWN: Mr. Chairman, in my --

11 (Simultaneous speaking.)

12 MS. BROWN: -- initial email to Mr. LeGrant which
13 is included in the document I had just submitted, I
14 specifically told him that he will be providing parking
15 spaces for two vehicles meaning Mr. Alten and a storage work
16 area associated with the owner's home occupation as a
17 construction contractor. So when Mr. LeGrant issued his
18 decision saying that storage associated with the home
19 occupation was allowed in the accessory building because it's
20 associated with the dwelling on the lot which is the
21 principal residence, he knew that it was associated with
22 construction.

23 CHAIR HILL: Okay. I'm reading your email.

24 MS. BROWN: It's in the second paragraph, last
25 sentence or last two sentences.

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1 CHAIR HILL: Okay, okay. All right. Let's see.
2 So Mr. Alten, can you hear me, Mr. Alten?

3 MR. ALTEN: Yes, sir. I can hear you.

4 CHAIR HILL: Mr. Alten, I've seen your face as
5 some of this testimony has been given. So I don't want to
6 get in a he said, she said kind of stuff or whatever. But
7 so, like --

8 MR. ALTEN: Sure.

9 CHAIR HILL: -- you have heard the conditions that
10 seem reasonable to me. And now your camera is kind of gone.
11 I don't know if you can -- is your camera gone or can you
12 hear me?

13 MR. ALTEN: I can hear you. It says I'm still on
14 video.

15 CHAIR HILL: Okay. As long as you can hear me,
16 that's fine. You're kind of frozen.

17 MR. ALTEN: I don't know. It looks normal to me.
18 Apologize.

19 CHAIR HILL: That's all right. You don't have to
20 apologize. Can you hear me?

21 MR. ALTEN: Yes, sir. I can hear you.

22 CHAIR HILL: Okay. Because I'm not worried about
23 your camera now. I'm just trying to listen to you. So the
24 conditions that I've kind of heard -- or what happened to Mr.
25 -- oh, okay. The conditions that I kind of -- not

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1 conditions, concerns were, like, not to store anything
2 outside to do whatever work you were going to do inside the
3 garage and to load up your van in your parking spot and now
4 in the alley. Have you heard of those concerns before?

5 MR. ALTEN: Yes, sir. During the Sunday meeting
6 with Mr. Barr, Mrs. Hughes, and Mr. Horsey, Sarah's brother,
7 Mr. Barr gave me that list. I have responded to that list
8 with a slight modification to their conditions. And I did
9 not hear a response before the meeting.

10 CHAIR HILL: What was the slight modification?

11 MR. ALTEN: So my -- I'd like to back up one
12 critical, critical point that is maybe the reaction to my
13 face. I combed my records and any whiff that we're at my
14 house since 2007. I combed payroll, text messages, my
15 calendar.

16 I counted 70 times since 2007 that we were even
17 remotely associated with something at my address. So that's
18 approximately one time every three months. And invariably,
19 it's either loading a piece of equipment or what have you.

20 So this assertion that it's a commercial loading
21 dock is completely false. The two to three times a week,
22 completely false. I would never make any money if I was at
23 my house two to three times a week.

24 My job is to go to your house and do stuff. So
25 that assertion aside, the only modification that I made to

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1 their demands was that I would comply with any kind of
2 workshop or activity to the DCRA construction noise rules
3 which are 7:00 to 7:00 on Monday through Saturday. That
4 said, I said we will do as much as we can between only 9:00
5 and 3:00.

6 But again, I go back to we've been to my house 70
7 times in 15 years. And I will say the only activity that may
8 occur is if we're working in a building, for example, a condo
9 and we can't -- we're building a bookcase. I might have to
10 pre-cut the material and put it in my truck to bring it to
11 the job site because there's no access or ability to do it
12 there.

13 Those are the only times we're ever at my house.
14 But the only condition that I did not agree with was the work
15 hours. And I agree that -- I would say 95 percent of the
16 stuff will occur when my truck is in the parking spot.
17 Otherwise, I'm just not there. I mean, that's the bottom
18 line. I'm just not at my garage two to three times a week.

19 CHAIR HILL: When you say you -- I mean, Mr.
20 Alten, I'm just trying to make sure is everything is
21 happening on your property and in your garage and not like
22 out in the alley, right? That's all I'm trying to figure
23 out, right? And I don't know what those conditions were.
24 And I don't know -- and you can respond. Like, it's okay.
25 Like, I mean, the photographs weren't the most favorable,

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1 right --

2 MR. ALTEN: For sure. I'm not going --

3 CHAIR HILL: -- in terms of all that stuff that's
4 kind of outside. And I've looked on just even, like, the
5 Google map stuff. And I think that your project looks better
6 than the favela or whatever you want to call it there, right?

7 MR. ALTEN: For sure.

8 CHAIR HILL: And so I'm not disagreeing with that.
9 I'm just trying to understand how you use that alley for your
10 work. And it sounds -- and so loading and unloading your van
11 inside the parking pad seems reasonable.

12 And I don't know what happened with blocking that
13 alley, even if you block the alley one time every three
14 months. I mean, I don't know. Like, I'm just saying I have
15 no issues really with anything you all are talking about.

16 Just as part of what our job is in terms of undo
17 impact and what think might happen from the approval of this
18 to the neighborhood. Now it just kind of brings into play
19 maybe what things you have been doing in the past. And now
20 I see Mrs. Brown shaking her head.

21 So I don't know what -- and I'll get Ms. Brown to
22 respond. I'm saying I'm just trying to understand how the
23 work gets done. And now I'm asking Mr. Alten, I guess, how
24 the work gets done in terms of when you're ever out in that
25 alley.

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1 And what you're saying is that whether or not
2 you've done it in the past, I don't care. In the future now
3 you're not going to be in that alley at any time. Is that
4 what you're telling me?

5 MR. ALTEN: Unless I'm -- yeah, except traversing
6 the alley to park my truck on my parking spot. That's it.
7 The whole purpose of this thing is to resolve, I mean, 99
8 percent of these issues that the neighbors have raised.

9 The whole -- and that's why I pushed back on the
10 working hours. If it's a beautiful spring day and we're
11 building furniture, maybe I want to be outside because it's
12 a beautiful spring day. I mean, and ask long as I'm not
13 violating noise requirements, that was my own push back on
14 Mr. Barr's and Mrs. Horsey's --

15 CHAIR HILL: What -- and I'll get you, Ms. Brown.
16 What was the hours that you're talking about that you're
17 allowed to work and that they're trying to get you to work
18 within? I don't understand.

19 MR. ALTEN: There were two things. They require
20 that any work has to be in the building with all the doors
21 shut. That's what they asked for.

22 (Simultaneous speaking.)

23 MR. ALTEN: So that's what they asked for. I
24 pushed back and said D.C. -- the rules that I abide by for
25 construction is 7:00 a.m. to 7:00 p.m., Monday through

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1 Sunday. Those are the noise ordinance rules for construction
2 in the District. And I said --

3 CHAIR HILL: I got you. No, no, it's okay. You
4 can finish your statements. I got Mr. Smith's and I'm going
5 to get there. Mr. Alten, I got you. That's construction
6 that's happening in somebody's site. It's not necessarily --
7 and I don't know how this is different. It's not necessarily
8 always that being the site, right? So -- but let me first
9 get Mr. Smith.

10 MS. BROWN: I'm sorry, Mr. Chairman Hill. We're
11 just running way far afield about what the special exception
12 is before you. We're getting into all sorts of issues that
13 have nothing to do with the relief requested for the square
14 footage of the accessory structure.

15 And to get into all these home occupation issues,
16 those are enforcement issues that belong at DCRA. And no one
17 has filed any kind of complaint or issue with DCRA. So I
18 don't know why we're focusing on that issue.

19 But to Mr. Alten's point, everything gets solved
20 by the construction of this building.

21 CHAIR HILL: Okay. Ms. Brown, I'm letting you
22 know that this is under X 901.2. It's what I'm talking
23 about, right? I'm proving something that is going to be in
24 harmony and general purpose with the intent of the zoning
25 regulations and the zoning maps and will not tend to

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1 adversely affect the use of neighboring property in
2 accordance with the zoning regulations and zoning maps.

3 And so I'm not going approve something that people
4 are working out in an alley, blocking the alley, leaning up
5 junk against their building. Okay? So that's what I'm
6 talking about, right?

7 MS. BROWN: And I disagree to an extent because
8 all you're talking about is the 450 square feet. And
9 whatever that is --

10 CHAIR HILL: No, no, no. I'm under X, 901.2.
11 That's what I'm arguing about. And you can argue it all you
12 like. But I've been here for seven years, and I know that
13 this is within my purview. And I see my fellow Board members
14 nodding in agreement, so --

15 MS. BROWN: I'll leave it there then. Thank you.

16 CHAIR HILL: All right. So let's see.

17 MR. BROWN: Mr. Chairman, may I have a word?

18 CHAIR HILL: No, Mr. Brown. Give me one second.
19 I see Mr. Smith's hand up first.

20 MEMBER SMITH: Mr. Brown, I'll let you go after
21 I make this statement because there was one thing that Mr.
22 Alten stated. When it comes -- and I get some of these
23 questions are getting into how a home occupation operates.
24 But I would just like to reiterate that home occupations
25 should be ancillary incidental to the primary purpose of the

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1 property as a residence.

2 And one of the provisions of having home
3 occupation is under 251.3 that states no operations related
4 to the home occupation should be conducted outside a
5 structure nor shall any storage or unsightly condition be
6 permitted outside the structure. Now that doesn't state that
7 you can't have a home occupation. But that home occupation
8 must be inside of the building.

9 And if it grows outside of that building, then to
10 a certain extent that means that you have outgrown the home
11 occupation. So I'm not going to get into this question about
12 home occupation. But if you have a home occupation license,
13 that's the way you must be conducting your business there.
14 If not, the Zoning Administrator can revoke that license.

15 So you have to be within the confines of that
16 license and the conditions of that license. That's one of
17 the conditions. I hear what you're saying that if we do
18 grant the approval of this special exception, some of these
19 concerns of your neighbors would be moot. But you have to
20 operate under the conditions of 251.3.

21 MS. BROWN: Mr. Smith, if I could respond briefly.

22 MEMBER SMITH: Yes.

23 MS. BROWN: We wholeheartedly agree. That is
24 absolutely the requirement of the regulations. And Mr. Alten
25 absolutely knows that he has to -- the equipment cannot be

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1 stored in his yard. In fact, when I met with him at his
2 site, I told him to get it out of there and he cleaned it up.

3 And that's exactly what the van picture is that
4 Ms. Mitchell showed is him removing the materials because I
5 told him it couldn't be there. And now the storage area in
6 the new garage will cure that problem as well. He will not
7 be operating outside the confines of the garage. But it also
8 doesn't mean that you're not allowed to have deliveries to
9 the site just like anybody else doing --

10 (Simultaneous speaking.)

11 MS. BROWN: So he's allowed to do those things
12 outside. But I agree wholeheartedly that everything else
13 must be inside.

14 MEMBER SMITH: Okay. Thank you. That's all I
15 had, Mr. Chair.

16 CHAIR HILL: Yeah, sure. Dr. Imamura?

17 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
18 Just a quick question for Mr. Alten or Ms. Brown. Ms.
19 Brown's comment said that all this work will be done inside
20 where Mr. Alten said if it's a nice spring day, he'd like to
21 work outside. So my question where.

22 MR. ALTEN: I mean, to Mr. Smith's -- I just want
23 to respond to Mr. Smith because to be fair, there's on my end
24 some confusion. There's Section 203.6 that says a
25 practitioner may perform and be paid for service even if the

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1 service results in a creation of a product. So fine, if
2 that's only inside.

3 But a lot of what we do, if we do anything on site
4 which is rare, is most of the stuff that when we've done
5 stuff is sorting material. Or we demobilize off a job site
6 and I got to clear up everything and we do that. But the
7 whole purpose of this parking spot with the French door or
8 the sliding door that goes to the parking spot is to move
9 things in and out easily.

10 So anything that would occur that was allowed, we
11 would do on the parking spot. I mean, all of the garages on
12 our alley, every single person who accesses their alley has
13 to block the -- excuse me, every person who accesses their
14 garage blocks the alley because they're all right on the
15 alley. So I guess that's my response to you, sir.

16 MEMBER SMITH: Mr. Alten, I'm not disagreeing with
17 that, that you can have pick up and delivery. I'm not
18 getting into -- I'm not arguing that you can't have that.
19 That is something that is commonly done by home occupations.

20 My concern is what Mr. Imamura has just stated
21 that you would be doing business -- if it's a beautiful day
22 outside, you would be doing construction outside. That is
23 in violation of your home occupation license. That's the
24 only point that I'm breaking up here.

25 MR. ALTEN: I'll conceded that I'm incorrect.

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1 MEMBER SMITH: Okay.

2 CHAIR HILL: Ms. John, did you have any comments
3 or questions?

4 VICE CHAIR JOHN: I am totally confused about
5 whether the type of construction work that's being described
6 is allowed under the regulations. But that's not before the
7 Board. And this is a self-certified application, I believe.

8 So I'm going to leave it at that. And it's an
9 enforcement issue, and I'm really not going to try to
10 interpret the scope of the home occupation license. It's not
11 before us. So I'm just listening to the discussion.

12 In terms of the potential adverse impact to the
13 neighbors, I agree that none of the work or none of the
14 loading or unloading or any kind of sorting should take place
15 in the alley because even blocking the alley for a few
16 minutes is really adverse impact on the neighbors. And I can
17 tell you from experience where there are delivery trucks and
18 various people blocking both sides of an alley. That is
19 really very disruptive.

20 So I would just ask the applicant if the
21 application is approved to be very mindful of that situation.
22 And I also agree that the parking pad should solve some of
23 those issues. But my ears sort of perked up when I heard the
24 applicant say, well, if it's a great day, he'd be working
25 outside. And hopefully, that work will take place on his own

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1 property. So those are just my comments.

2 CHAIR HILL: Mr. Blake?

3 MEMBER BLAKE: To that point, I mean, obviously,
4 Mr. Alten, you're a design-build kind of guy. So you
5 understand these things. It's interesting to the extent that
6 we wanted to make sure that everything took place on your
7 property. I do agree that having a pergola above where your
8 van can fit into and be on your property will help a lot with
9 loading and unloading so it won't impact the alley.

10 The other thing that could be helpful in your
11 design is if you put a garage type door on the other side
12 where you have a single door and single window, that would
13 allow you to be on your property to do the things you want
14 to do. And it would be shielded from the public view. So
15 that might be one other thing that we could consider or you
16 consider it and as you look at this project. That's all.

17 MR. ALTEN: Thank you.

18 MS. BROWN: Could I ask a clarifying question?

19 CHAIR HILL: Yeah, give me one second, Ms. Brown.
20 Dr. Imamura had his hand up.

21 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
22 I think the crux of this issue here is really just about
23 messaging. And I think as Vice Chair John said, the focus
24 is really what's before the Board. But just as a lesson
25 learned I think to Mr. Alten, Ms. Brown, this is really just

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1 about messaging to the community, to your neighbors and how
2 this project was pitched.

3 And so I think everybody here reached the same
4 conclusion that the pergola and the loaded parking space will
5 help alleviate some of those issues that the neighbors have
6 experienced in the past. And certainly some of the
7 photographs that Chairman Hill had described as sort of
8 unfavorable I think will also be reconciled with the garage,
9 a better way to store some of your material. So I think it's
10 just really a matter of messaging. So I'll yield back to
11 you, Mr. Chair, so we can get back on track.

12 CHAIR HILL: Okay. I don't know where you guys
13 are, right? I'm -- Mr. Alten, can you hear me? So honestly,
14 I'm not trying to -- I want to get a clear picture and
15 understanding, right? So whatever obviously happened in the
16 past is what happened in the past. And you guys are trying
17 to do things so that you can continue.

18 And I have no problems with what you're trying to
19 do in terms of a business, design-build. I mean, everybody
20 needs stuff done in the city, right? So those photographs
21 that were taken, when were those photographs taken do you
22 think?

23 MR. ALTEN: I believe Ms. Mitchell said they were.
24 I want to say I pulled the tank off a job in December of last
25 year. So the big black tank was pulled off a job in December

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1 when we got our final sediment control erosion approval. So
2 those photos were taken sometime the beginning of this year
3 as far as I can tell.

4 CHAIR HILL: Right. But I'm saying kind of like
5 -- and obviously, I would assume -- if no, you're going to --
6 that this stuff has been kind of cleaned up, right? So is
7 that kind of how you had managed the storage of things and
8 now this is what is -- meaning that's kind of the way the
9 storage was managed in the past. And now this is something
10 that's going to alleviate those issues.

11 MR. ALTEN: Yes, sir. I mean, when I needed to
12 bring something home that doesn't fit in the garage or my
13 truck -- I mean, my truck transports it. But if it's really
14 large and it couldn't fit in the garage for whatever reason,
15 I would try and put it under a tarp or stick it somewhere
16 where nobody could see anything.

17 So to be fair, so our new neighbors, Mr. Alich
18 and his wife, prior to them purchasing the house, the
19 neighbor had lived there for 50-some-odd years. And she may
20 have cut her grass once a year whether it needed it or not.
21 And so my yard was basically impossible to see unless you
22 were in the yard.

23 And so when Mr. Alich and his wife are doing
24 their design, they did some landscaping. And then some of
25 these foibles, if you will, were visible. But before, no one

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1 said anything. No one could see anything. Basically
2 impossible to see because of the vegetation. So yeah, the
3 short answer to your question is the whole purpose of the
4 garage is to alleviate this concern.

5 CHAIR HILL: Okay. I don't know where you guys
6 are. Honestly, like, I can follow you all's lead also.
7 Like, whether or not you want to see the conditions, whether
8 you care about the conditions, whether you think everything
9 is fine, I will totally follow along and -- I mean, this is
10 has gone -- honestly, this has gone longer than I thought it
11 was going to go.

12 And so I'm going to let Ms. Brown have a -- not
13 a rebuttal, I guess a conclusion, right, from all the stuff
14 that's been said. But before I go -- Mr. Brown, I appreciate
15 you being quiet because you don't have party status. But I
16 might have a question for you.

17 That's what I'm waiting to see if my fellow Board
18 members have anything that they want or if they're ready to
19 move forward. And I'm going to go with who I think is kind
20 of neutral which is Mr. Smith. I'm going with Mr. Smith.
21 You got an opinion, Mr. Smith?

22 MEMBER SMITH: Regarding any questions?

23 CHAIR HILL: You need anything, or are you ready
24 to go?

25 MEMBER SMITH: I'm ready to go. I don't have any

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1 additional questions. I'm of the mind where the Vice Chair
2 is. A lot of this back and forth about home occupation I
3 know we've kind of gone down the rabbit hole with that. But
4 this question about the home occupation is not what's before
5 us right now. And if there's any questions about how a home
6 occupation -- if he's in violation of his home occupation
7 license, then file that with DCRA -- files or complaints.

8 I don't think that's -- just because you filed a
9 complaint doesn't mean you're not being a good neighbor. So
10 by all means, file that. And I would just say to Mr. Alten
11 from your paperwork that you have that grant you the home
12 occupation license and ensure that you are in compliance with
13 those regulations going forward.

14 And it sounds like the way that you designed this
15 particular structure, you will mostly be in compliance. But
16 please make sure that you're queuing to the regulations of
17 the home occupation going forward. So with that, I don't
18 have any other questions.

19 CHAIR HILL: Ms. Brown, can you hear me? So I got
20 a question. What happened at the ANC meeting? Like, all
21 these people came and, like, they complained about the alley
22 being blocked and, like, I mean, I would assume things being
23 in the yard, whatever. The ANC still voted in favor. Like,
24 how did all this kind of play out at the ANC meeting?

25 MS. BROWN: They wanted to separate out the

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1 request of the special exception and the home occupation
2 enforcement issues. And they were very focused on the actual
3 relief requested for an additional, at the time, 210 square
4 feet. And they thought that it was okay given all the other
5 mitigating elements that were incorporated into the design,
6 a lot of the energy features of the pervious pavers, the
7 greenery, and those issues. And it was a 2 to 1 vote.

8 CHAIR HILL: But they didn't talk about, like --
9 I mean, and Ms. Brown, I mean, I know a lot about the ANCs.
10 And the ANCs honestly -- I shouldn't say it this way. They
11 talk about everything at the ANCs. Okay? And so, like,
12 whether it's in the regulations or whether it's not in the
13 regulations, right? So I'm trying to ask you at the ANC
14 meeting, right, they didn't talk about alleys being blocked
15 or anything like that or what happened?

16 MS. BROWN: Actually, I don't recall that detail.
17 I focused on what the ANC resolution was.

18 MR. ALTEN: Mr. Hill, they did not. All of the
19 opposition letters came in after the March ANC, I believe.
20 I think it was the -- I can't remember if it was January-
21 February or February-March. But after the second meeting,
22 all of the opposition or most of the opposition letters came
23 in after that meeting.

24 CHAIR HILL: Okay. All right. I'm done. I'm
25 done. I'm going to go around with the Board, yeah. Mr.

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1 Blake?

2 MEMBER BLAKE: Follow up on the ANC question, Ms.
3 Brown. The question there was the resolution was not
4 opposing the application and not necessary for the
5 application. Is there a nuance there that we just should be
6 aware of?

7 MS. BROWN: Not that I'm aware of.

8 CHAIR HILL: Okay. So Mr. Smith doesn't need
9 anything. Mr. Black, you don't need anything. Mr. Imamura,
10 you don't need anything. Ms. John, you don't need anything.
11 Okay. All right. Then Mr. Brown, I'm going to let you go.
12 It was nice to see you. Can you hear me, Mr. Brown?

13 MR. BROWN: Are you saying I'm going to have an
14 opportunity to say something or not?

15 CHAIR HILL: I mean, I don't know, Mr. Brown. I
16 guess -- you don't have party status. I'll let you make a
17 statement if you want to. But you don't have party status.

18 MR. BROWN: I understand.

19 CHAIR HILL: Go ahead. Go ahead and make a
20 statement.

21 MR. BROWN: I believe that it is a
22 misunderstanding of the situation to characterize the issue
23 of how the construction material is housed as a home
24 occupation enforcement issue. The statute is very clear in
25 saying that the -- when you have an apartment above a garage,

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1 you can only park vehicles, have an artist studio or store
2 for the dwelling unit on the lot. When Ms. Brown brought
3 this question up with the Zoning Administrator in the last
4 few days which I've now had a chance to look at, she asked --
5 she characterized the owner's home occupation as a
6 construction contractor.

7 If you look at the actual document which is
8 attachment to Exhibit 57, our pre-hearing statement, it says,
9 type of business, home improvement contractor, parentheses,
10 office use only. I agree with the Zoning Administrator's
11 conclusion that storage for the home occupation is allowed.
12 But this would be storage for a home occupation office --

13 CHAIR HILL: Okay, okay, Mr. Brown.

14 MR. BROWN: -- or a contractor.

15 CHAIR HILL: I got you. Mr. Brown, you've heard
16 all the stuff that we've been talking about with the Board
17 also. They're saying it's DCRA's issue for compliance. But
18 I appreciate your last comment as a member of the public and
19 representing your client. So I do appreciate the time that
20 you've spent to be with us here today. And you'll have an
21 opportunity to see what happens right after this. Okay?

22 MR. BROWN: Okay. Thank you very much.

23 CHAIR HILL: Thank you, Mr. Brown. All right, Mr.
24 Young. If you could please excuse the members of the public
25 which would be Mr. Brown and Mr. Barr and Ms. Horsey. Okay.

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1 Ms. Brown, would you like to give a conclusion and rebuttal
2 and conclusion all you like?

3 MS. BROWN: Basically, I think that we have
4 discussed this at great length and probably longer than it
5 deserves. But we have met the burden of proof as set forth
6 in our pre-hearing statement as we stated today. And giving
7 the great weight that the Office of Planning is due and the
8 ANC is due in their recommendations, we think that this
9 should be approved.

10 We've heard you loud and clear on the instructions
11 that Mr. Alten needs to make sure that this home occupation
12 is in full compliance with the regulations and the
13 enforcement issues. And I suspect that some of these
14 neighbors will be following up with DCRA as a result of this
15 hearing. So he's on notice that he needs to follow the rules
16 and regulations to a tee, that everything needs to be stored
17 indoors and in compliance with the home occupation
18 regulations.

19 I would just make one final note that the
20 alternative design that the opposition submitted is larger
21 than what we are proposing today. It is 660 square feet, and
22 ours is 600 square feet. So we're asking for less. So with
23 that, we would ask that you grant the application. Thank
24 you.

25 CHAIR HILL: Okay, thanks. Ms. Brown, before you

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1 leave, I forgot. Mr. Alichì, do you hear me?

2 MR. ALICHI: Yes, Mr. Chairman.

3 CHAIR HILL: Do you have any questions or comments
4 for anybody?

5 MR. ALICHI: No questions. Just would like to
6 thank you and the Board for giving us the opportunity. Thank
7 you.

8 CHAIR HILL: Okay. Thanks, Mr. Alichì. Okay.
9 I'm going to -- about to close the hearing and the record.
10 But I'm looking to you guys, my fellow Board members. Never
11 mind. Okay. I'm going to close the hearing and the record.
12 Okay. Thank you, guys. Bye-bye.

13 Okay. We're not on the dais. We're not in
14 public. We're about to discuss. I'm letting you know I'm
15 punting. I'm frustrated, and I don't know what about it.
16 So you apparently don't need me.

17 If we get to the point where you need me and I
18 will come back in and stick my nose back in it. Okay? But
19 if a motion gets made, I'm just pointing out again the
20 trellis and the vegetation that is in Exhibit 60 and Exhibit
21 63. After that, whoever wants to start talking first, raise
22 their hand.

23 COMMISSIONER IMAMURA: I think a couple things.
24 One, I think it's important for us to just focus on what's
25 before the Board. Clearly, there's a lot of disgruntled

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1 neighbors. This is not an issue. We're not here to mediate
2 or arbitrate their issues.

3 He's lived there for quite some time. People are
4 like rubber bands. They always go back to their original
5 state. So this is an issue at least with the neighbors that
6 I don't think will be fully resolved.

7 As I mentioned in the hearing that this is a
8 messaging issue and it is. I think he should've pitched the
9 project in a way that says, hey, there's a parking pad. Get
10 my van off the alley.

11 I'm constructing a structure here that will
12 contain all this construction material that you all find
13 unsightly. And this is a great opportunity to sort of
14 confine all those things into one location. In terms of the
15 structure itself, it's actually a really -- it's a really
16 nice design solution compared to all the other ADUs up and
17 down the alley and in the immediate neighborhood.

18 So it's super simple which I appreciate. He's
19 certainly made some concessions in terms of trying to shield
20 or hide structure with vegetation. I think it's actually a
21 nice little solution, a nice little design.

22 So I don't particularly have an issue. It seems
23 to me that based on what's before us, he meets the special
24 exception requirement. There's no impact to light.

25 In my opinion, there's not an issue with privacy,

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1 use, and enjoyment of neighboring properties, right? It's
2 about character of the alleyway. That is the mass and scale
3 issue from an architectural point of view.

4 Generally, I think it's really the width of what
5 everybody is concerned with. You're talking three car
6 widths, right, whereas the other examples that they showed
7 with two car garages. Those generally have a profile. So
8 that was my point about recessing the north elevation
9 screening. It would break up that facade and it wouldn't
10 appear as sort of this 18 foot 6 mass.

11 But I personally think that -- I give great weight
12 to OP and their report who needs the requirements laid out.
13 And again, I certainly am sensitive to the neighbors and
14 their concerns and their issues. I would say, right, he said
15 he counted 70 times that his address has been raised, once
16 every three months.

17 That's a lot. That's a lot of times, once every
18 three months. But that's not for us to debate. Again, it's
19 a messaging issue. I think his ability to park on the pad,
20 load and unload there, he certainly may feel like the
21 alleyway gives him some additional real estate there.

22 So it's just about being a good neighbor. I think
23 he just feels like he's on the corner. He's got more real
24 estate in terms of the alleyway. And that's just the
25 convenience of it for him.

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1 But at the end of the day, this is really about
2 the structure. And again, going back to light and air, peace
3 and enjoyment, none of those things are impacted in my
4 opinion. So I will let the neighbors take up their issues
5 with DCRA home occupation permit. That's not for us. We are
6 here to apply the zoning regulations. So as imperfect as
7 they may be. But it seems to meet the criteria.

8 CHAIR HILL: Okay. Thank you. Who's next? Mr.
9 Blake?

10 MEMBER BLAKE: Yeah, sure. I'll be voting in
11 favor in support of the application. I do think that the
12 scaled down accessory building meets the general development
13 standards with the exception of that one point I made earlier
14 which they may have to come back on that balcony. But the
15 shadow studies certainly represent that they demonstrate any
16 light and air issues.

17 The building's height was fine. It abuts a fairly
18 large 16 foot alley. There's a reasonable setback from the
19 property line to the west. A privacy fence will be in place
20 to the adjoining properties.

21 There are no windows on the west facing
22 elevations. And the proposed door windows will face the rear
23 alley and the rear of the subject property. So from that
24 perspective, the privacy, use, and enjoyment, light and air
25 should not be unduly impacted as Dr. Imamura pointed out.

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1 And also given the eclectic collection of
2 accessory buildings along the alley and in that zone, I don't
3 think that this will be visually intrusive. I think it fits
4 in pretty well. But clearly, there are some issues here that
5 the applicant is well aware of now.

6 And I think that we'll have to address that. I
7 think he made a point in his statement that in the past there
8 was a lot of growth in the neighbor's building which allowed
9 him to kind of do what he was doing. But clearly, this is
10 a new day. He's got new neighbors.

11 The neighbors along the alley have some concerns
12 that they clearly voiced. And the applicant, I think, is
13 aware of the fact that he needs to address those issues in
14 terms of being a little more tidy with his operations. So
15 that will be a DCRA enforcement issue which I believe
16 everyone is on notice that it's a DCRA enforcement issue and
17 the applicant as well as the neighbors. So there will
18 probably be some improvement there.

19 I also think the design of the building will do
20 a lot to alleviate some of the issues. The pergola setting
21 will allow him to load his truck to the extent he does that
22 without being in the alley per se or at least essentially in
23 the alley. And of course, anyone can come and go and use the
24 alley. And sometimes you block it. Sometimes you don't.

25 So I think there is a reasonable case there that

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1 this will do a lot to mitigate the impacts on neighboring
2 properties. And this will ultimately work out in the end.
3 I give great weight to the ANC -- the Office of Planning's
4 report. I also give weight to the ANC's written report.

5 It seems that the ANC acknowledged a lot of the
6 things that actually -- the steps he was taking to mitigate
7 the potential adverse impacts. If you look at the
8 resolution, it kind of lays out quite a few steps that they
9 took. And I do take some concern about the fact that they
10 did choose to not oppose as opposed to support and the fact
11 that it was a small ANC with a split vote.

12 So I give great weight to the Office of Planning's
13 report and recommendation. I know DDOT has no objection to
14 the project. And I'll be voting in favor of the application.

15 CHAIR HILL: Mr. Smith?

16 MEMBER SMITH: We've spent a fair amount of energy
17 in discussion on this particular case. I won't take too
18 long. I completely agree with the good doctor and Mr.
19 Blake's position on this particular case.

20 As Dr. Imamura stated, we have to focus on what's
21 before us now. And what's before us now is this special
22 exception to construct this accessory building -- accessory
23 apartment building. And I believe that they meet all the
24 criteria, just as Mr. Blake and Dr. Imamura explained.

25 And so I won't belabor that. I agree with their

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1 points. I agree with the Office of Planning's position and
2 how they meet the special exception.

3 I would just state that a lot of the back and
4 forth discussion that we heard today from the residents and
5 from Mr. Brown is regarding the operation -- the applicant's
6 operation of a home occupation which isn't before us. It's
7 an administrative process that is reviewed, approved, and
8 enforced by DCRA. If the applicant is not in compliance with
9 their home occupation license in compliance with their HOP,
10 file a complaint.

11 It'll be handled by DCRA. And DCRA will make a
12 determination of whether they keep that license or if that
13 business has outgrown the intent of a home occupation. Then
14 they will have to find some space within the District that
15 that use is allowed.

16 So Mr. Brown, as you are very aware in your
17 professional capacity that that's how that works. So please
18 advise your clients to file any complaints with how they
19 operate with DCRA. So with that, I'll leave it alone. I'll
20 be quiet now, and I will recommend approval for the special
21 exception.

22 CHAIR HILL: Okay. Ms. John? Well, I'll make my
23 little piece, and then I won't say anything which is to say
24 I think that some of the items that we spoke about I do think
25 apply as I've said, X, 901.2. And I think that you can speak

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1 to some of those issues.

2 I agree that the DCRA issues -- I'm not
3 discounting what was going to be in DCRA's purview and what's
4 in ours. I do, however, think that it is something that I
5 would've felt more comfortable with concerning possible
6 conditions that might have been spoken to. There was a lot
7 of this, that, and the other might happen and 70 complaints
8 over three years is 70 complaints over three years.

9 And building the work out -- but I agree. I agree
10 with everything you all said. And you all don't need me, and
11 I'm going to abstain. But I get to at least say my peace
12 which is that, again -- and nice for the applicant also. He
13 was honest.

14 He didn't, like -- he was, like, a nice day, I'm
15 going to work outside. So now he's probably not going to
16 work outside. But in the past, I guess he did work outside.

17 And I'm not discounting anything he's done. As
18 I said before, I think the design is very nice. But I'll go
19 back to that. I'll leave with Ms. John, and then I'm out.
20 Ms. John?

21 MEMBER SMITH: Can I speak just before Ms. John
22 speaks, when you were referencing conditions? And I too
23 thought about maybe we can put in some type of conditions on
24 the operations of this building. But I was thinking that we
25 probably can't condition it any more than what is already

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1 conditioned per the zoning regulations, how you typically
2 operate a home occupation.

3 If we condition this as a condition in the
4 building, I don't know -- again, I don't know if we can
5 condition it beyond the other -- these various standard
6 conditions under U, 251.3(a) through (n) that could be any
7 more stringent. It is just honestly up to DCRA to enforce
8 the regulation or don't be afraid to revoke the home
9 occupation. So I agree, 70 is a lot within three years.

10 So that is on the Zoning Administrator to enforce
11 and potentially seek action against this. So I'll leave it
12 at that. Sorry to interrupt, Vice Chair John.

13 VICE CHAIR JOHN: Thank you. Thank you. That
14 just leaves less time for me to speak. So I agree with just
15 about everything that's been said. Basically, this is a very
16 basic, simple request to exceed the footprint on an ADU
17 that's allowed under the regulations.

18 That's all he's doing. Nothing else is before the
19 Board and whether or not that increase is allowed under the
20 regulations. And I think the Office of Planning did a good
21 job in explaining how it meets the regulation. And the same
22 goes for the ANC's report which I agree with Mr. Smith. It
23 was really quite detailed.

24 And so I appreciate the testimony of the neighbors
25 and the anxiety. And as I mentioned, having your alley

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1 blocked is no fun. It means if you have a doctor's
2 appointment, you could be late because people are blocking
3 the alley.

4 And so good neighbors don't do that. They're
5 mindful that they could have a situation where they need to
6 get out of the alley. But sadly, that's the way we live in
7 the city.

8 So let me get off that soapbox and just say that
9 I believe that the applicant towards the end worked with the
10 neighbors and came up with a solution that I think would work
11 to mitigate any kinds of privacy issues. And looking at the
12 vegetation that's there now, I agree with the applicant. I'm
13 not sure how they saw anything happened in his house.

14 I mean, those trees are pretty tall. He said they
15 were 18 feet high. It's a huge lot. He's still got a 55
16 foot rear yard even with this ADU.

17 So a lot of this is that people really don't want
18 change and it might be difficult to accept that these types
19 of uses are allowed. But they're allowed under the
20 regulations. This is not a very tall building. It's 18 feet
21 or 18 and a half where the regulations allow 22 and a half
22 feet. So the pergola breaks it up. It doesn't look like a
23 three-car garage in my view. It's a two car structure with
24 a pergola at the side.

25 So that's all I have to add. And I think the

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1 applicant needs to be aware that he should conduct his
2 activities on his property. That's all. So I'm in support
3 of the application.

4 (Simultaneous speaking.)

5 VICE CHAIR JOHN: -- Dr. Imamura.

6 COMMISSIONER IMAMURA: I would just like to
7 compliment Vice Chair John. She knows how to cut through the
8 nonsense and get straight to the issue. So certainly she
9 ought to receive the credit for making sure the Board sticks
10 to what's before us.

11 CHAIR HILL: Vice Chair John, would you like to
12 make a motion? And Dr. Imamura, would you like to second it?
13 Vice Chair John, would you like to make a motion?

14 VICE CHAIR JOHN: Anything to make you happy
15 today, Mr. Chairman. So I would like to make a motion to
16 approve Application 206.61 as captioned and read by the
17 Secretary and ask for a second.

18 CHAIR HILL: Ms. John, may I just interrupt you?
19 There was Exhibit No. 60 and Exhibit No. 63 which was the
20 vegetation and the screening if you wanted that.

21 VICE CHAIR JOHN: So that's -- okay. What would
22 you like to say and would you like to make the motion, Mr.
23 Chairman?

24 CHAIR HILL: Somebody told me before, and I should
25 say quiet, but Mr. -- I don't know why I'm talking.

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1 VICE CHAIR JOHN: I don't know either because I
2 assumed -- Mr. Chairman, let's just discuss why I made the
3 motion. I assumed -- or believed, not assumed, that the
4 plans we have now in the record of those exhibits are the
5 final submitted plans. So I didn't need to refer to the
6 plans because they should be complete.

7 Well, perhaps I need to change that because there
8 was the issue of the balcony on the second floor that's not
9 before the Board. So what do we do? If we approve the
10 application as submitted, it includes the balcony. So the
11 motion, I guess, should say excluding the balcony or provided
12 that the balcony is approved by the Zoning Administrator.

13 (Simultaneous speaking.)

14 CHAIR HILL: I thought -- and you all can tell --
15 and I apologize, Ms. John. We're all friends. And so I'm
16 just trying to -- and we're not here together in person.

17 VICE CHAIR JOHN: Yes.

18 CHAIR HILL: As I said before, I'm not conflicted.
19 I'm just going to abstain. And so I just remembered that --
20 and it's because, like, things are going on that there was
21 Exhibit 60 and Exhibit 63 that spoke about the vegetation and
22 the screening of the lattice or whatever and that that was
23 going to be there in perpetuity because somebody moved or
24 something. But again, I apologize because I'm out. So I'm
25 going to go back to being out and --

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1 VICE CHAIR JOHN: Well, do you want to come back
2 in since you clearly have a full understanding -- oh, my
3 goodness. Everybody is tired. I'm punchy. Mr. Blake, what
4 can I do for you?

5 MEMBER BLAKE: Can we include those two exhibits
6 as they reflect the vegetation and the lattice?

7 VICE CHAIR JOHN: Yes.

8 MEMBER BLAKE: And just say that, this includes
9 the vegetation and the lattice as reflected in those
10 exhibits. And that would be the way we would incorporate
11 that and not include the balcony.

12 COMMISSIONER IMAMURA: And then may I also ask if
13 we can make a motion to get Chairman Hill back in.

14 VICE CHAIR JOHN: To do what?

15 COMMISSIONER IMAMURA: For Chairman Hill to come
16 back in. I'm only kidding.

17 VICE CHAIR JOHN: Oh, I couldn't hear. Well, I
18 have a real question about the balcony which there's some
19 question that there might be relief needed for the balcony.
20 And I wish OZ would pipe in because I think what we would do
21 is make it conditional, an approval of the balcony by the OZ
22 or approve it without the balcony. Yes, ma'am.

23 MS. NAGELHOUT: If you approve the application,
24 you will approve the plans submitted with the application.
25 That refers to the building. If the building requires

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1 additional relief because of the balcony, they will come
2 back.

3 They will seek a modification or they will ask for
4 whatever relief they need to carry out that design. The
5 conditions for the landscaping and the trellis would be
6 needed because the approved plans I think refer to the
7 structure only and not the vegetation or the trellis.

8 VICE CHAIR JOHN: Okay. So to the exhibits -- I'm
9 sorry, Mr. Chairman. What were they?

10 CHAIR HILL: 60 and 63.

11 VICE CHAIR JOHN: 60 and 63. Okay. So let's try
12 this again.

13 COMMISSIONER IMAMURA: Mr. Chairman?

14 VICE CHAIR JOHN: No, he's still out. Okay. We
15 need some levity. Okay, dear lord. So I would like to make
16 a motion to approve Application No. 20661 as captioned and
17 read by the Secretary with the conditions specified in
18 Exhibit 60 and 63 that set forth the type of landscaping to
19 be included on the lot and ask for a second.

20 MEMBER SMITH: Can I modify that slightly?

21 VICE CHAIR JOHN: Absolutely.

22 MEMBER SMITH: Landscaping and screening, so
23 that'll capture the trellis.

24 VICE CHAIR JOHN: So modified.

25 MEMBER SMITH: Okay.

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1 VICE CHAIR JOHN: And may I ask for a second?

2 MEMBER SMITH: Second.

3 VICE CHAIR JOHN: Thank you, Mr. Smith.

4 VICE CHAIR JOHN: Mr. Moy, the motion has been
5 made and second. Can you take a roll call?

6 MR. MOY: Okay. When I call each of your names,
7 if you would please respond with a yes, no, or abstain to the
8 motion made by Vice Chair John to approve the application for
9 the relief requested along with the conditions as she has
10 specified regarding the Exhibit 60 and 63 in the record as
11 it regards to landscaping and screening. The motion to
12 approve was second by Mr. Smith. Zoning Commissioner Dr.
13 Imamura?

14 COMMISSIONER IMAMURA: Yes.

15 MR. MOY: Mr. Smith?

16 MEMBER SMITH: Yes.

17 MR. MOY: Mr. Blake?

18 MEMBER BLAKE: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIR HILL: Abstain.

23 MR. MOY: Then staff would record the vote as 4
24 to 0 to 1. And this is on the motion made by Vice Chair John
25 to approve with the conditions as just stated in her motion.

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1 The motion to approve was second by Mr. Smith. Also in
2 support of the motion to approve is Dr. Imamura, Mr. Blake,
3 of course, Mr. Smith, Vice Chair John. Abstaining to the
4 motion is Chairman Hill. The motion carries on a vote of 4
5 to 0 to 1.

6 CHAIR HILL: Okay. Cool, everybody. I love how
7 we started with a covenant. Remember the day started with
8 a covenant. Okay. So which was or wasn't in our purview,
9 right? So all right. Everybody have a lovely day. Does
10 anybody have anything to add before we adjourn?

11 (No audible response.)

12 CHAIR HILL: Okay. I'll see you all when I see
13 you all.

14 (Whereupon, the above-entitled matter went off the
15 record at 2:48 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 04-06-22

Place: teleconference

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