

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 11, 2022

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 9:30 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 MEMBERS PRESENT:

ANTHONY HOOD, Chairman
JOSEPH S. IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
SARAH BAJAJ, Attorney Advisor
RYAN NICHOLAS, Attorney Advisor
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT
MATT JESICK
JONATHAN KIRSCHENBAUM

STEPHEN MORDFIN
CRYSTAL MYERS
KAREN THOMAS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on May 11, 2022.

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

(9:43 a.m.)

1
2
3 MR. MOY: The Board is now in its public hearing
4 session. And this would be Case Application No. 20380,
5 Polygon Holdings, LLC. And okay. And this is an application
6 as amended, self-certified, pursuant to Subtitle X Section
7 901.2 for Special Exceptions under Subtitle U Section 421 to
8 allow a new residential development, 17 unit apartment house,
9 and under Subtitle F Section 5201 from the side yard
10 requirements of Subtitle F Section 306.2(a). This property
11 is located in the RA-1 zone at 4457 through 4459 MacArthur
12 Boulevard NW, square 1363, lots 57 and 961.

13 Mr. Chair, I'm not sure you're aware, this
14 application was at a full hearing action on July 14, 2021.
15 But, since then, there have been multiple postponements
16 arriving at today, May 11, 2022.

17 In the record, as a reminder, there are two
18 parties in opposition in the record. One is from Dawn Lea,
19 Dr. Dawn Lea. And the other one is the Foxhall Terrace, LLC.
20 And I believe that's all I have for you.

21 BZA CHAIR HILL: Okay. Mr. Sullivan, could you
22 introduce yourself for the record, please.

23 MR. SULLIVAN: Yes. Thank you, Mr. Chair, members
24 of the Board. Marty Sullivan with Sullivan & Barros on
25 behalf of the applicant.

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1 BZA CHAIR HILL: Okay. Mr. Brown, are you with
2 us today? Can you introduce yourself for the record.

3 MR. BROWN: Yes, I am, Chairman Hill. Patrick
4 Brown from Greenstein DeLorme & Luchs on behalf of the
5 opponent, Foxhall Terrace.

6 BZA CHAIR HILL: Okay. Let's see. So we granted
7 -- you guys, this was so long ago. I can't even believe.
8 I can't believe that this is back here. That you guys stuck
9 with this. So let's see. Mr. Brown, we gave you guys party
10 status. Is that correct?

11 MR. BROWN: That's correct.

12 BZA CHAIR HILL: Okay. All right. Mr. Sullivan,
13 I'm going to go ahead. I see everything that you have in the
14 record, and I know what you're going to be trying to persuade
15 the Board, in terms of why you believe your client is meeting
16 the criteria to grant the relief requested. I see your
17 PowerPoint. I don't know how much we need to go into the
18 diagrams of the actual units, the architectural drawings,
19 that is. If you want to, primarily, just speak, again, to
20 what the Board is trying to focus on, that might be helpful.
21 And let's go ahead and start there. And, Mr. Sullivan, you
22 can begin whenever you'd like.

23 MR. SULLIVAN: Thank you, Mr. Chair. And, a
24 preliminary matter, I filed a submission asking the Board to
25 strike the party status opposition of Dr. Lea because she no

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1 longer owns that property.

2 BZA CHAIR HILL: Yes. I see it there. Was that
3 late, Mr. Sullivan?

4 MR. SULLIVAN: Well, it was, it definitely was not
5 within 21 days. Yes, it was a recent filing. Yes.

6 BZA CHAIR HILL: Okay. Unless the Board, and I'm
7 just speaking to my Board members, has any issues, I want to
8 allow that into the record. I don't see anybody speaking up
9 or raising their hand. And, Mr. Sullivan, I can see that
10 that's part of what you guys had been doing for the past
11 year. And so I understand, and I'm glad that you were able
12 to come to some agreement with Dr. Lea. So, okay. So that's
13 it, then, Mr. Sullivan.

14 MR. SULLIVAN: Thank you, Mr. Chair and members
15 of the Board. So Mr. Young, could please load the PowerPoint
16 presentation? And, if the Board recalls, this application
17 was originally just 4457 MacArthur Boulevard. And it was
18 just the right side of what is, currently, a two semi-
19 detached single-family homes surrounded on each side by much
20 larger apartment buildings.

21 And the applicant was able to negotiate with Dr.
22 Lea and purchase her property, which is something the ANC
23 suggested to us at the beginning would be a nice solution.
24 Therefore, now we, rather than being a 9-unit apartment
25 building adjacent to a single-family home, it's now proposed

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1 to be a 17-unit apartment building which is in between two
2 larger apartment buildings. Next slide, please.

3 So we're requesting Special Exception approval in
4 order to construct the new residential development under U
5 421. Also requesting side yard relief in order to maintain
6 the existing eight-foot side yards. The reason why we think
7 we needed this relief is because we were going from a single-
8 family home, which is not currently in nonconforming
9 condition. So, technically, under the language in the
10 regulations, we're not extending a nonconforming condition,
11 which would have allowed us to do a two-foot or a three-foot
12 side yard because we're going from a single-family. So we're
13 asking to keep the eight-foot side yard on the side that
14 requires a side yard, which is both sides, actually. Next
15 slide, please.

16 We do have the support of ANC 3D now. We have the
17 support of the Office of Planning as well as DDOT. We talked
18 about Dr. Lea next door. And, regarding Foxhall Associates,
19 the applicant has been working with Mr. Brown and his client
20 in discussing amendments, of a sort, to the existing right
21 of way, which the applicant enjoys, across Foxhall
22 Associates' property, to get to its parking spaces. We have
23 not come to an agreement yet. We still look forward to that
24 possibility. Next slide, please.

25 BZA CHAIR HILL: Mr. Sullivan, you guys added

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1 that, your easement, into the record. Is that correct?

2 MR. SULLIVAN: It's been in there for quite a
3 while. It's in Exhibit 60.

4 BZA CHAIR HILL: Okay. Sixty.

5 MR. SULLIVAN: Sixty (a) through (d) as a plat
6 showing the right of way from the location --

7 BZA CHAIR HILL: No, that's great. I couldn't
8 remember. Thank you.

9 MR. SULLIVAN: Yeah. It's in there. So I'll turn
10 it over to Mr. Crain.

11 ADAM CRAIN: For the record, Adam Crain, the
12 project architect with 2Plys. Photos we're looking at
13 existing conditions. These are built as two single-family
14 semi-detached structures. If we could forward to slide
15 number, page number 7, we should be the existing site. Just
16 to give an overview, kind of the areas in red are the
17 existing structures. As Marty mentioned, it was previously,
18 I think, a 9-units, now expanded into a 17-unit to encompass
19 both buildings. Can forward one slide.

20 This is some just renderings showing the exterior
21 perspective. We worked pretty intensively with the Office
22 of Planning in retaining the front porch and the front facade
23 and the side facades as they wrap around to keep some of that
24 street character there. Obviously, you can see all the
25 additions towards the rear to provide the space for the 17

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1 units. Forward one slide, please.

2 Shows the proposed site plan. Five parking spaces
3 at the rear as well as trash. We've got pedestrian
4 circulation on both left and right sides of the building.
5 Move forward two slides.

6 Brief overview of the plans. Four levels at the
7 cellar. Five at the first. And four each of the second and
8 third floor for a total of 17 units. We've got the required
9 bicycle long-term spaces there in the cellar in public space
10 and, outside of the building, we'll have the short-term bike
11 spaces as well as a rooftop and cellar space for roof access
12 and maintenance. I think we can forward to slide number 18.

13 Just really just showing some of the elevations
14 how we've kept as much of that existing building as possible
15 with the proposed additions. And that was with the Office
16 of Planning request. If we can go to slide 24, please.

17 This is just kind of a unit overview. You'll see
18 that unit 11 and unit 5 are provided for for IZ. We are
19 using the IZ bonus, and two units are required to satisfy
20 that here. I'll turn it back over to Marty and slide 27.

21 MR. SULLIVAN: Thank you, Adam. So, to over the
22 general requirements, of course, it's fairly simple. This
23 is a RA-1 zone. This is in an apartment building, so it's
24 compatible with the zone. And it's also compatible with the
25 surrounding area as we're surrounded by two significantly

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1 large apartment buildings. Next slide, please.

2 BZA CHAIR HILL: Hey, can in interrupt you one
3 second, Mr. Sullivan?

4 MR. SULLIVAN: Yes. Of course.

5 BZA CHAIR HILL: I guess where the IZ stuff goes.
6 You guys got the unit 5 and unit 11. Unit 11's a two bedroom
7 and then unit 5 is a one bedroom. And you chose those
8 because why, again? Because that was the square footage that
9 you needed to meet the requirements?

10 MR. CRAIN: Correct. We calculated 1,060 required
11 square feet for IZ. None of the units are that large. So,
12 basically, we have one and then we kind of provide second one
13 to meet that minimum requirement.

14 BZA CHAIR HILL: Got it. Okay. Okay. Thank you.
15 All right, Mr. Sullivan. Please continue.

16 MR. SULLIVAN: Thank you. Next slide, please.
17 So in the two areas of relief, the specific requirement. For
18 the side yard, we're just asking for a foot of relief.
19 That's what's required for this height of building on each
20 side. And there's a significant distance between these
21 properties and the adjacent apartment buildings as well. So
22 that's a minor request that wouldn't have any impact on light
23 and air or privacy. Next slide, please.

24 And also, of course, does not affect the
25 character, scale, and pattern of houses along the street and

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1 alley fronts. It's just a continuation of the existing side
2 yard width. Next slide, please.

3 For the specific requirements regarding U 421,
4 these are the standard requirements that the Board goes
5 through for these cases. The application has been referred
6 to these agencies. And next slide, please, the Office of
7 Planning has made a very detailed evaluation of its criteria.
8 And I'll defer to the Office of Planning report on that.
9 Next slide, please.

10 I believe that's it. Yes, that's all. Thank you.

11 BZA CHAIR HILL: Okay. Does the Board have any
12 questions of the applicant? Okay. Mr. Brown, do you have
13 any questions of the applicant?

14 MR. BROWN: I do. And I don't know who to address
15 it to specifically. In the record, have you provided a
16 survey drawing showing the location of the 10-foot right of
17 way in relationship to the driveway for Foxhall Terrace at
18 4465?

19 MR. SULLIVAN: Yes. All the easement documents
20 are provided in Exhibit 60 (a) through (d), including a plat
21 from the recorded easement that shows the right of way.

22 MR. BROWN: But that wasn't my question. My
23 question is have you provided a survey drawing showing, in
24 2022, the easement area in relationship to the property lines
25 and the existing driveway at 4465?

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1 MR. SULLIVAN: I would have to check the record.
2 I'm not sure if we also filed that in addition to the
3 existing easement drawing, which shows the exact location of
4 the easement in relationship to your client's property and
5 my client's property.

6 MR. BROWN: Just for the record, Mr. Chairman,
7 having reviewed the record, I'm not aware of any such
8 drawing. And I've been asking for that since my involvement
9 in this case.

10 BZA CHAIR HILL: Okay. All right. That's fine,
11 Mr. Brown. You don't think it's in the record what you're,
12 at least, trying to ask for. But I do see the easement
13 documents that they have in there. Do you have another
14 question, Mr. Brown?

15 MR. BROWN: I do not.

16 BZA CHAIR HILL: Okay. Mr. Brown, would you like
17 to give us your presentation?

18 MR. BROWN: If I could, my client, Mr. Feldman,
19 should be -- he was given the warning from Robert Reed. He
20 should be available.

21 BZA CHAIR HILL: Okay. Great.

22 MR. BROWN: I'd like to let him start.

23 BZA CHAIR HILL: Sure. Mr. Feldman, can you hear
24 me? Mr. Feldman, can you hear me? Great. Could you
25 introduce yourself for the record. And have you been sworn

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1 in do you know? I think you did go through the process.

2 MR. FELDMAN: I did with Mr. Reed yesterday.

3 BZA CHAIR HILL: Okay. Could you introduce
4 yourself for the record, please.

5 MR. FELDMAN: Yes. My name is Jack Feldman. I
6 am a part owner of the LLC that owns 4465 MacArthur
7 Boulevard, located next to the property we're hearing about
8 today.

9 BZA CHAIR HILL: Okay.

10 MR. FELDMAN: More importantly, I'm the owner of
11 a private driveway with a right of way to be used by the
12 applicant, their future residence guests, and service
13 vehicles. This is not a public alley, as some documents have
14 shown. It's a private driveway.

15 I oppose this development until such time as the
16 parties can agree on the easement terms for the maintenance
17 of the driveway because of the increased density, the
18 applicants -- I'm sorry, the occupants, guests, and service
19 vehicles that will be increased on the driveway. This
20 includes but not limited to driveway maintenance, storm drain
21 service, snow and ice treatment. And we want to restrict the
22 unauthorized use of my parking lot for their guests and
23 deliveries and services.

24 I've had several communications with the applicant
25 but no resolution. As recently as yesterday, I got two emails

1 that they rejected documents that our attorneys have been
2 working on. I desire a recordable document outlining the
3 obligations of the applicant and the future owners of that
4 property in the event that it's a condominium.

5 And, lastly, the driveway is 10 feet wide. And
6 in order for the split parking spaces behind the proposed
7 apartment building ,they will trespass on my property on a
8 regular basis, short of me putting a wall up, I suppose. So
9 and I'd just like to have an agreement with them, in writing
10 and recordable, so that the applicant and future people can
11 exist together peacefully.

12 BZA CHAIR HILL: Okay. Thanks, Mr. Feldman.
13 Okay. Mr. Brown, can you hear me?

14 MR. BROWN: Yes, I can.

15 BZA CHAIR HILL: I guess, Mr. Brown, and I
16 appreciate -- we -- I do recall the last hearing that we had.
17 And there was Dr. Lea was here. And the house was, again,
18 supposedly, one house. And they got split. And then there
19 was different -- and I don't remember, Mr. Brown. Were you
20 there at the beginning of this?

21 MR. BROWN: I've been from the very beginning.

22 BZA CHAIR HILL: Okay. All right. So you
23 remember like he pictures of the walls and all that stuff.
24 As far as the easement, I don't even know if that necessarily
25 relates to the regulations that we're kind of taking a look

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1 at, right? And so I don't mind that Mr. Feldman just
2 testified to it, but we're here for the regulations that
3 we're supposed to look at.

4 And so I do appreciate that you all are trying to
5 work this out. I'm a little surprised. I guess you guys
6 haven't worked this out, insofar as if it's additional cars,
7 the five cars that are going to be going back there as
8 opposed to two cars that would have gone back there. So
9 you're talking about an additional three cars, considering
10 that it was two homes at one point, right?

11 And so, anyway, I guess I'm prattling along here
12 a little bit to just say I'm going to turn this back over to
13 you, Mr. Brown, to go ahead and give us any more of your
14 presentation that you would like to.

15 MR. FELDMAN: Can I add one thing, please? This
16 is Jack Feldman.

17 BZA CHAIR HILL: Sure.

18 MR. FELDMAN: The two houses had parking for four
19 cars. And a 17-unit condo or apartment building is going to
20 have a lot more activity. If there's only one person in each
21 unit, that's 17 people coming and going, as opposed to the
22 house. If they have more than one person living in an
23 apartment, having guests and visitors and deliveries.

24 BZA CHAIR HILL: I got you, Mr. Feldman. I
25 understand.

1 MR. FELDMAN: See, an awful lot of activity on
2 that driveway, even though they only have those five --

3 BZA CHAIR HILL: Yeah, Mr. Feldman. I just don't
4 know if you understand what I'm trying to say, is that I
5 don't know if that falls within, necessarily, what we're
6 looking at with the regulations. And so, but I understand
7 what you're trying to, your concerns. And so, Mr. Brown, do
8 you have anything else you'd like to add?

9 MR. BROWN: Sure. And I think, to your point, Mr.
10 Chairman, your role, in this instance, is to evaluate whether
11 this project is creating objectionable conditions. And our
12 --

13 BZA CHAIR HILL: Within the regulations.

14 MR. BROWN: Pardon?

15 BZA CHAIR HILL: Within the regulations.

16 MR. BROWN: Within the regulations. I understand
17 that. But and our view is that, within the context of the
18 regulations, that the use of this 10-foot right of way, and,
19 remember, it's only 10 feet. And the driveway that exists
20 now is wider than 10 feet. So and Mr. Feldman and his
21 ownership had interest in no trespassing on his property
22 without some sort of understanding, which doesn't exist now.

23 But the use of that 10-foot right of way, which,
24 and, I think, it's important to note, the applicant has not
25 identified its location in relationship to the existing

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1 driveway, will create objectionable conditions to Mr.
2 Feldman's property. And we've outlined them. In the
3 original herein, I had Exhibit 68, which I would refer to.
4 And I don't intent to go through it.

5 But I'll note that I've gone through and listed,
6 in slides 12 and 13, the objectionable conditions. If you
7 look at the drawing that was provided by the applicant, in
8 order to, and it's on my slide on that Exhibit 68, in order
9 to access the rear of this property, the vehicles have to
10 turn beyond the 10-foot and swing onto Mr. Feldman's
11 property.

12 The other objectionable conditions are enhanced
13 wear and tear on Mr. Feldman's property, illegal parking,
14 blocking of the driveway by vehicles. At 10 feet, while it
15 may comply with the zoning regulations, it makes two-way
16 traffic difficult, particularly in an increased occupancy of
17 the applicant's property, and safety hazards. It's also --
18 and this is a problem that Mr. Feldman fights every day, but
19 will be made worse: people think that that parking lot behind
20 his property is theirs to use. So there is an illegal
21 parking problem.

22 What I think would be an appropriate measure for
23 the Board to take would be to impose some reasonable
24 conditions, certainly within the Board's jurisdiction to, and
25 I've laid them out on slide 14. If I could go through. And

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1 vehicle access limited to the vehicles who are assigned or
2 own the parking spaces behind the property. No pickup or
3 drop off at the rear. No deliveries, move-in, move-out, or
4 trash using the right of way. Bicycle storage and pedestrian
5 access not using the 10-foot right of way. This is very
6 important. No construction access using the right of way.
7 And no parking of the applicant's property's vehicles at
8 4465. That's all.

9 Those are the items that we attempted. And Mr.
10 Sullivan and I worked at it, attempted to incorporate it in
11 a written agreement. We haven't accomplished that so,
12 unfortunately, the burden falls on the Board to impose some
13 reasonable conditions that, I think, respond to the
14 objectionable conditions and, certainly, within the Board's
15 jurisdiction.

16 BZA CHAIR HILL: Okay. Thanks. Can you guys hear
17 me?

18 MR. BROWN: I can.

19 BZA CHAIR HILL: Okay. I just, I don't know what
20 happened.

21 MR. BROWN: Can't see you. You were in the dark.

22 BZA CHAIR HILL: I don't know what happened to my
23 camera. All right. Let's see. Does the Board have any
24 questions of Mr. Brown? Okay. I'm going too -- oh. Sorry.
25 Someone has a question. Mr. Blake?

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1 MEMBER BLAKE: Yeah. Mr. Brown, what, this is a
2 very interesting dilemma. It's not really within our purview
3 as a civil issue. But what is the sticking point between the
4 negotiations, if you could give an indication of that? And
5 is this something that can be managed within some reasonable
6 time frame?

7 MR. BROWN: I believe so. And there's a draft
8 document that's been provided that, if the applicant has
9 specific objections to that, we're happy to discuss those but
10 not on a take it or leave it basis. Mr. Sullivan and I can
11 roll up our sleeves and work it out.

12 BZA CHAIR HILL: Okay. Anybody else have a
13 question?

14 ZC CHAIR HOOD: To echo Mr. Blake's question, I
15 was sitting here when you asked. I didn't say anything
16 because was simply trying to find a nexus between what Mr.
17 Brown was saying versus our regulations. Now, the Board
18 isn't necessarily going to look at that. But the Commission,
19 everything's in my purview, our purview. So I'm just trying
20 to figure out how to tie that in.

21 But I think, if the Board is willing, I hear Mr.
22 Brown. I haven't heard from Mr. Sullivan, but I think Board
23 Member Blake's question is very relevant. If that could
24 ease everybody's adherence and be able to work together, as
25 I always call, the good neighbor policy, then there may maybe

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1 some room to hold off for a week or so or two weeks or
2 whatever the case is. Those are just my comments, not
3 necessarily a question. Thank you.

4 BZA CHAIR HILL: Okay. Does anybody actually have
5 a question? Okay. Ms. John?

6 VICE CHAIR JOHN: Thank you, Mr. Chairman. I'd
7 like to hear Mr. Sullivan's response to Mr. Brown's
8 discussion. And I'm looking at the, I believe, it's Exhibit
9 98 that shows the right of way. And, from your
10 understanding, Mr. Sullivan, what more is Mr. Feldman
11 requesting, in addition to this exhibit, which shows the
12 right of way? I'm not talking about the parking at the back.
13 That's a different thing. I'm just talking about the access.

14 MR. SULLIVAN: Well, first of all, the applicant
15 would have loved to not have a full order in this case.
16 They're still taking a year. So we had a significant
17 interest in reaching an agreement. I'm never comfortable
18 discussing negotiations that happened behind the scenes when
19 it comes to the Board for an issue that's a separate
20 contract. But Mr. Brown has brought it up.

21 And so everything he said, I could say also. I
22 could say, our offer was outright rejected. I put forward
23 a draft which was based on an email agreement which was based
24 on the parties themselves, without the lawyers involved, that
25 had three simple points. One was just ensuring that the

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1 users of the easement would not encroach onto his property
2 and having some sort of enforcement mechanism for that. And
3 the other one was to share maintenance cost, which the
4 applicant was happy to do.

5 So we got back an agreement that had a whole bunch
6 more of stuff. And it became very burdensome. So if Mr.
7 Brown would like to open up that discussion, we can talk
8 about all that in front of the Board. I don't think it's
9 appropriate. I would go with what Mr. Brown said in one of
10 his initial filings where he said, although resolution of
11 this dispute is, ultimately, a civil litigation matter and
12 beyond the scope of the Board's authority.

13 We would still like to have an agreement. I think
14 it would still be in the interest of both parties to have an
15 agreement after this is done. So I think they're going to
16 continue to discuss this because they're going to be
17 neighbors. And they're going to have to deal with the use
18 of the easement. And we're certainly open to that, and my
19 client's open to that.

20 Regarding the easement itself, the language of the
21 easement, it's almost 100 years old. So it's rather
22 ambiguous, as easements are back then. But it grants a
23 driveway. That's basically what the language says in the
24 easements. And it's very clear where the location is from
25 those documents. But some of the language is, the 10-foot

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1 right of way leading to conduit road to be in favor of all
2 of said property.

3 And an interesting point on this, when this
4 easement was established, Mr. Feldman's 34-unit building was
5 2 single-family homes. So it was a whole different situation
6 then. There's nothing in the easement that says the easement
7 goes away or needs to be amended when a use is changed that's
8 benefitted by the easement.

9 And now we're getting into easement law, which I'm
10 not comfortable arguing of. And, I think, anything that an
11 objectionable condition, which is not actually a word
12 anywhere, I don't think, in U 421 or in the general Special
13 Exception requirements, it's in the context of the easement.
14 He's saying that all the things that exist, all the concerns,
15 existed before this application. You heard Mr. Feldman say
16 there were four cars back there before. Now we're proposing
17 there may be five cars back there. So we're talking about
18 one car difference.

19 So I just think it's a completely separate issue.
20 But I do want to say, we're there. My client and Mr. Brown's
21 client came to an agreement in an email and then it wasn't
22 reflected on the document that was written. And we were
23 working hard on it yesterday, and so here we are. I don't
24 know if additional time would change any of that,
25 unfortunately. And I'd love it if it would because I'd love

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1 to not have a full order. But I don't have much faith that
2 we're not just wasting more time. And I'd like to get to
3 that point where, at least, we begin to wait for that full
4 order, I guess.

5 VICE CHAIR JOHN: So, Mr. Sullivan, if I could
6 follow up, in terms of the Board's concern because the
7 easement is only of interest to us in making sure that there
8 is access to the parking. So in terms of what's in the
9 record, where is that 10-foot driveway shown? And because
10 the parties can arrange for a survey among themselves because
11 that goes towards trespassing, I think. But we're just
12 concerned with making sure that there is access to the
13 driveway. I'm sorry. To the parking.

14 And then, while you're doing that, could you also
15 address whether or not there is sufficient turning radius?
16 Assume that the applicant is interested in protecting his
17 property at the rear and is not interested in having cars
18 trespass on his property and might put up a fence, which a
19 reasonable property owner might do, would the cars be able
20 to turn around without hitting that fence?

21 MR. FELDMAN: I don't know. In answer to your
22 question --

23 MR. SULLIVAN: The question was directed for me,
24 Mr. Feldman.

25 VICE CHAIR JOHN: This is for Mr. Sullivan --

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1 BZA CHAIR HILL: That question is for Mr. Sullivan
2 from Board Member John.

3 MR. FELDMAN: Oh, I'm sorry. I thought it was for
4 me. Sorry.

5 VICE CHAIR JOHN: No, sorry. It's for Mr.
6 Sullivan.

7 MR. SULLIVAN: So, again, these are easement
8 questions that have existed for 100 years, not related to
9 this project. And if he wanted to put a wall up, he could.
10 But DDOT, in its report, has mentioned the easement several
11 times and still is in support. So I would refer to DDOT's
12 opinion on that as far as the access and turnaround, as well
13 as the Office of Planning.

14 And, regarding access, again, in the end, it's a
15 self-certified issue. We believe that we meet the parking
16 requirement. How this would play out as I've self-certified,
17 and I do have something in the record. Exhibit 34, I think
18 it was. No. I'm sorry. That's not it. It's Exhibit --
19 there's an exhibit in the record, I'll find the number, that
20 has a confirmation from the zoning administrator in a similar
21 matter, in an identical matter, where he states that a
22 private easement suffices in lieu of a public alley. So as
23 long as the private easement's 10-feet wide, it meets the
24 requirement for access to those parking spaces.

25 So and we've met with the zoning staff on this as

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1 well. And they confirmed yes, that's still the
2 interpretation. But we didn't get that in writing yet. But
3 we have it in writing on another case. But I'm self-
4 certifying as to that. So how that would play out is if Mr.
5 Brown's client wanted to sue in civil court and say that,
6 hey, the easement never allowed an increase in the density
7 of the property that was benefitted by the easement, well
8 then that, we might lose access at that point, if the court
9 agreed with them. And then we would have to come back to the
10 Board. So or if the zoning administrator said, I changed my
11 mind and the easement no longer works, I'd have to come back
12 to the Board. So it's all, there's a path for all of that.

13 Regarding the easement itself, it think it's, my
14 client understands that it's in their interest to continue
15 to work with Mr. Feldman on that easement. It wouldn't hurt.
16 And he's willing to share maintenance costs as well, which
17 is not an obligation currently.

18 VICE CHAIR JOHN: Mr. Sullivan, all I'm trying to
19 find out is whether or not the cars can turn around in the
20 back without trespassing on Mr. Feldman's property. Are they
21 doing that now? Or -- that's all I would be interested as
22 a Board member. I'm not trying to interpret the easement.
23 That's not what I'm trying to do.

24 And I'm aware of that opinion in terms of having
25 a recorded easement where there's no rear alley access. I'm

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1 not questioning that. I'm just questioning the access to the
2 parking at the rear and whether or not there's an exhibit
3 that shows where the easement is. And you have confirmed that
4 there's an exhibit that shows where the easement is and that
5 it's 10 feet. Whether or not, we don't require a survey.
6 That's a private matter. What I'm interested in is whether
7 or not there's room at the back for access to the parking.
8 That would be in the Board's interest.

9 MR. SULLIVAN: Yes. And it would show on the site
10 plan in the plat and then in Exhibit 60(a). It's a 10-foot
11 easement but then it turns into the property. So as long as
12 there's room for a car to go, you turn into the property, and
13 then you have the whole rear of the property with which to
14 turn around. And so the issue of whether or not they would
15 ever encroach into non-easement property, again, that would
16 just be a violation of the easement, which would have been --
17 is not changing. That situation is not changing. We're
18 going from four spaces to five spaces.

19 VICE CHAIR JOHN: Okay. Thank you.

20 MEMBER BLAKE: Just to follow up, Mr. Sullivan,
21 with regard to loading, I understand that the trash will also
22 be back there. Could that pose a problem? And I know it's
23 not quite within the context of what we're saying. But it
24 would seem large trucks trying to do that would be an
25 obstruction. How do you do the loading and unloading and

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1 also the move-in and move-out?

2 MR. SULLIVAN: Mr. Crain, do you have information
3 on that? I'm not so sure the trash won't be collected at the
4 front.

5 MR. BROWN: I believe the trash receptacles are
6 in the rear in the parking area. This is Mr. Brown.

7 MR. SULLIVAN: Well then this would be on the
8 applicant and the condo owners and the condo association to
9 then provide for that with a private pickup. So the private
10 pickup would pull up in the front, would have to walk the
11 trash back if that truck can't get in there without violating
12 that easement, which is not -- that's something that private
13 companies do all the time. They'll tailor the service to the
14 property.

15 BZA CHAIR HILL: Can you hear me?

16 MR. SULLIVAN: Yes.

17 MR. BROWN: Yes, Mr. Hill.

18 BZA CHAIR HILL: Thanks. Hey, I'm going to jump
19 off for a second and try to jump back on and see if my camera
20 clicks in, okay? Just give me one moment. I'm sorry. Are
21 you guys there? Can you all hear me? Okay. Great. I'm
22 sorry. It was just so distracting. I couldn't wave. I
23 couldn't raise my hand. I can't do anything. All right.
24 Let's see. Further questions from the Board? Mr. Blake.

25 MEMBER BLAKE: Mr. Sullivan, one last question.

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1 With regard to the trash again, does, based on the current
2 easement agreement, are you allowed to traverse that 10-foot
3 space with the garbage trucks or with the trash removal?
4 It's a little bit different. Now you've got 17 people in
5 there. It's going to get -- there will be, 17 units, there
6 will be more trash. And it will be a commercial delivery
7 service or removal service. So I'm just curious to know, do
8 you have that ability, based on your reading of the easement,
9 not that -- to do that. Just wanted to make sure you can
10 access the trash.

11 BZA CHAIR HILL: Somebody, Mr. Feldman, you might
12 want to -- is it Feldman? You might want to mute your phone.
13 Thank you.

14 MR. FELDMAN: Okay.

15 BZA CHAIR HILL: Go ahead, Mr. Sullivan.

16 MR. SULLIVAN: So, yes. Thank you. In the
17 documents, the easement documents, it says right of way or
18 driveway. And that's it. Now, I'm not an expert in
19 easement. I do believe, I do understand, from discussion
20 with others that, if it was restricted, it would have to say
21 that. But it's a driveway for the benefit of that property.

22 And on the trash, I would add that my client has
23 had conversations with Tenleytown Trash. They've said that
24 they have vehicles that would fit and not encroach across the
25 easement. But if it did, that would be on them. And it

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1 would be on my client and their successor to not do that or
2 to find a way around that under the terms of the easement.

3 So if they couldn't get on there, then the trash
4 would be -- it's still just going to be one -- it's going to
5 be a couple -- I don't know how much more trash is
6 accumulated as a result of that. I think we have six
7 receptacles. But the short answer is, as I read the
8 easement, and as I understand that law, there's no
9 restrictions.

10 BZA CHAIR HILL: Okay. Anyone else? Okay. I'm
11 going to turn to the Office of Planning.

12 MR. KIRSCHENBAUM: Good morning, Chair Hill and
13 members of the Board of Zoning Adjustment. I am Jonathan
14 Kirschenbaum with the Office of Planning. We recommend
15 approval of the revised proposal to provide a 17-unit
16 apartment house now. And we -- so that's for the Special
17 Exception relief for new residential development.

18 And then we also recommend approval for
19 maintaining the existing side yards. Our approval is based
20 on the revised plans that are at Exhibit 93(a) and the
21 landscaping plan that is Exhibit 87(a) and we rest on the
22 staff report. Please let me know if you have any further
23 questions. Thank you.

24 BZA CHAIR HILL: Okay. Does the Board have any
25 questions for the Office of Planning? All right. Does the

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1 applicant have any questions for the Office of Planning?

2 MR. SULLIVAN: No, thank you.

3 BZA CHAIR HILL: Mr. Brown, do you have any
4 questions for the Office of Planning? Mr. Young, is there
5 anyone here wishing to speak?

6 MR. YOUNG: We do not.

7 BZA CHAIR HILL: Mr. Brown, would you like to add
8 anything in conclusion?

9 MR. BROWN: Yes, just briefly. One, I still think
10 that Mr. Sullivan and I can work out an agreement that would
11 one, meet the needs of both sides, and also remove the party
12 in opposition status.

13 Regardless of how we feel about what occurred, we
14 plain ran out of time before this morning. So I would make
15 the suggestion two weeks. See, see if Mr. Sullivan and I,
16 who speak the same language can work this out?

17 BZA CHAIR HILL: Yes, I got you, Mr. Brown.

18 MR. BROWN: The alternative is, as I've mentioned,
19 and I think Ms. John and others have raised questions about
20 potential objectionable conditions. And the conditions that
21 I outlined in my presentation, absent an agreement, would
22 address and minimize the potential objectionable conditions.

23 In a way that wouldn't harm the applicant's
24 project, but would in fact, respond to and prevent
25 objectionable conditions. And with that, I'll leave it to

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1 the Board.

2 BZA CHAIR HILL: Okay, Mr., I'll let the Board,
3 we'll talk with the Board a little bit about what we kind of
4 do. I have a couple of opinions and so we'll see how that
5 goes. Mr. Sullivan, do you have anything you'd like to add
6 conclusion?

7 MR. SULLIVAN: Just that in, I mean, one of the
8 things that was interesting about this is when we went back
9 to the to the ANC with this solution, they were so excited
10 to have two IZ units.

11 And the Chair was very pointed in asking me,
12 Mr. Sullivan, do you know how many IZ units we have in this
13 SMD right now? And he said zero, and they all chuckled. And
14 so they were really excited about this.

15 And I don't, I don't, they're not here, so I don't
16 want to leave them out in consideration of their point of
17 view. So I wanted to point that out. I think the
18 application meets the requirements.

19 We're, well again, we do want to come to an
20 agreement with the neighbor, we would love to avoid having
21 a full order. We've had six weeks to work on it so far, and
22 it hasn't really been changing. So I'm not so sure. As I'm
23 saying this, I'm communicating with my client as well.

24 BZA CHAIR HILL: Okay, give me a second,
25 Mr. Sullivan. If you're done, I'm going to talk to my fellow

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1 Board members, okay?

2 MR. SULLIVAN: Okay.

3 BZA CHAIR HILL: So, I'm just looking at my fellow
4 Board members, I don't really, my opinion are a little bit
5 of all this is that the easement is not something that's
6 necessarily within our purview.

7 If you all think, and I'm happy to give a couple
8 of weeks to the client just so, you know, they might have an
9 opportunity to work something out. In terms of, you know,
10 I remember this case a year and a half ago.

11 And I remember Dr. Lee, who was here, and I
12 remember that like, you know, the objections of the apartment
13 building next door, which the applicant has pointed out,
14 which I think is kind of what I'm taking hold of, is that
15 when this easement was done, that was a two-bedroom house as
16 well.

17 So they built their apartment building, right?
18 And so now they want to build an apartment building on the
19 other side. And so I think we're kind of getting in the way
20 of what the Board necessarily has to do.

21 But, you know, I'm happy to if the Board wants to
22 wait a couple of weeks, fine. If the applicant wants to wait
23 a couple of weeks, fine. I also am trying to run the hearing
24 here today and whether or not this turns in, I guess it would
25 just be a decision case.

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1 So I'll go around the horn and see what people
2 have to say before I let the applicant either go or if we
3 have any questions, I guess whether the applicant's client
4 has a thought on wanting to wait a couple of weeks.
5 Mr. Smith, do you have a thought?

6 MR. SMITH: I do, Chairman Hill. I don't think
7 it's something that's necessarily within our purview. And
8 they wouldn't be able to start construction anyway on their
9 proposal without being able to satisfy or meet the easement
10 requirements that specify about the zone administrator before
11 they can even get a building permit.

12 So they, you know, I'm happy to defer this for two
13 weeks and we could put this on for a decision meeting but
14 not, I mean, I'm on, I'm with you. I'll think I'm prepared
15 to vote.

16 BZA CHAIR HILL: Okay, Mr. Blake?

17 MEMBER BLAKE: I would agree with your statements.
18 I do think it would be nice to have this neatly packaged with
19 the agreement in place, but it seems like it may not be
20 possible based on Mr. Sullivan's comments in a timely fashion
21 to make much of a difference.

22 And the permitting process will ultimately
23 determine rather, that if they can't get the parking, then
24 they'll have to come back to parking relief, in which case
25 we would revisit this.

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1 And they can work something out between now and
2 then it's a long road. So I would be prepared to wait if
3 they think they can get something resolved. Otherwise, I'm
4 prepare to vote today.

5 BZA CHAIR HILL: Chairman Hood?

6 ZC CHAIR HOOD: The issue is whether it would be
7 a full order or summary order because I really know and
8 pretty much can tell where the Board is going with this. So
9 it's up to whether or not, because of a summary order or a
10 full order. So I'll just leave it at that, thanks.

11 BZA CHAIR HILL: Okay. Vice Chair John? You're
12 on mute, Vice Chair John.

13 VICE CHAIRPERSON JOHN: I'm pretty much in
14 agreement with what's been said so far. The questions I
15 asked were clearly within the Board's purview in terms of
16 whether there's proper access to the property and the
17 parking.

18 And looking at the Exhibit 122, the revised plot,
19 and the copy of the easement in the record, there's a 10 foot
20 easement shown. And the rear yard is 42 feet and that's
21 enough to provide access to parking, I think, and turn
22 around.

23 I mean, that's how I'm seeing it. So I'm prepared
24 to decide today or set this, continue this for two weeks for
25 decision if the parties want to file anything else.

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1 BZA CHAIR HILL: Okay, then I don't even, I mean,
2 I'm fine with setting a two weeks for a decision. Two weeks
3 isn't going to make a difference one way or the other.

4 VICE CHAIRPERSON JOHN: Okay.

5 BZA CHAIR HILL: And so then if they can, you
6 know, and I'll let, if they can work something out or try to
7 work something out, that's fine. I mean, again, just so the
8 people that are listening, you know, the incentive on the
9 applicant side is, again, just some of the time parameters
10 in terms of what the Board has to do to issue an order.

11 And then on the other side is trying to get an
12 agreement before this may or may not get passed. So I don't
13 need to hear from Mr. Sullivan or Mr. Brown and we're going
14 to go ahead and well, I guess I'll let you all -- I mean,
15 Mr. Sullivan, did you get in touch with your client?

16 MR. SULLIVAN: Yes. And --

17 BZA CHAIR HILL: That's okay, Mr. Sullivan.

18 MR. SULLIVAN: -- they're, you know, they're not
19 real, they're not real --

20 BZA CHAIR HILL: That's all right. That's all
21 right.

22 MR. SULLIVAN: -- optimistic about it. So
23 that's --

24 BZA CHAIR HILL: Okay, so that's fine. That's
25 fine.

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1 MR. SULLIVAN: -- but I defer to the Board, so.

2 BZA CHAIR HILL: That's fine. So we're going to
3 go ahead and put it off for two weeks anyway because it's
4 just not going to do anything one way or the other. And so,
5 you know, if you all can come up with something, great.

6 And if not, you know, then there you go. Okay,
7 I'm going to go ahead and close the hearing of the record.
8 We don't need, I'm sorry. I'm going to leave the record open
9 for any agreement. Mr. Moy, are you there?

10 MR. MOY: I heard everything.

11 BZA CHAIR HILL: All right. So Mr. Moy, I'm going
12 to leave the record open just for an agreement, okay? Or
13 anything concerning the discussions that are going on with
14 an easement.

15 Mr. Brown, can you hear me? So yes, I mean, I
16 don't want to go through like, anyway, you understand what
17 I'm saying. Like, just, if you guys can come up with an
18 agreement, you can go ahead and submit that into the record.
19 And if you don't, you could submit something into the record
20 that says you didn't come up with an agreement, okay?

21 MR. BROWN: Very well.

22 BZA CHAIR HILL: Okay, all right. Then, Mr. Moy,
23 when would you leave that open? I guess if there's two
24 weeks, that means we're back here on the 25th. So can you
25 tell me some dates?

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1 MR. MOY: I think, just give me a second. Let me
2 pull up my calendar. I have too many calendars. Okay, so
3 if this is May 11th, so this will be back to the Board for
4 decision making on Wednesday of May 25.

5 And if the, well, there are two ways we can go on
6 this, Mr. Chairman. We can just allow filings from, if
7 there's an agreement, I'm guessing, correct me if I'm wrong,
8 it would be a signed agreement.

9 So that could, I suppose, come from the applicant
10 if he makes that filing by, the decision's May 25th. Let's
11 say by, gosh, let's save Thursday May the 19th for filings
12 for that, May 19.

13 BZA CHAIR HILL: That's with no responses. Would
14 the Board care to have responses to that?

15 MR. MOY: Responses --

16 BZA CHAIR HILL: Okay, I just wanted clarification
17 on that.

18 MR. MOY: That's --

19 BZA CHAIR HILL: So that's all I have on
20 timelines.

21 MR. MOY: That's fine. And then I would assume,
22 Mr. Brown, part of this whole thing with the party status is
23 withdrawn. So that's another thing that we would leave open
24 for the record, if in fact, party status was withdrawn.
25 Okay.

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1 MR. BROWN: And Mr. Sullivan, not that this was
2 a schedule but if all your, you're basically asking for a
3 yes, we have an agreement, or no, we don't and withdrawal of
4 the party status. Would we be better suited by setting the
5 date for the Monday before the hearing? I mean, it's an on
6 or off thing.

7 BZA CHAIR HILL: That's fine. I don't, I don't
8 think, I mean, I'm fine with that to the 23rd if that gives
9 you guys a little bit more time. That's fine. I mean, I
10 think you might, you guys might know by the end of today
11 whether or not you're going to do anything. Mr. Sullivan,
12 it looked like you're about to say something? No, okay.

13 MR. SULLIVAN: No, I just wanted to confirm that
14 the date. There were a couple of different dates stated.
15 The decision date was two weeks?

16 BZA CHAIR HILL: The decision date is the 25th.
17 You guys can supply us whatever you want to supply us by the
18 23rd, which would also include a withdrawal of the party
19 status if you guys end up getting there, right?

20 And otherwise, we're going to make a decision on
21 the 25th. Okay, does any Board members have anything to say
22 before I leave? And also, just raise your hand. Okay. All
23 right, you guys, this is taking longer than I thought but
24 it's taken me years to get here anyway. So okay, thank you.

25 MR. SULLIVAN: Thank you. Take care, Mr. Hill.

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1 BZA CHAIR HILL: Bye, bye. Closing the hearing
2 and the record except for the items that we mentioned for the
3 23rd. Thank you. Okay, let's try to do one more before we
4 take a break. Is that okay? Mr. Moy?

5 MR. MOY: One more. This would be in case
6 application number 20648 of 824 Taylor Street Northeast for
7 NE, LLC. This is, as amended, a self-certified application
8 for special exceptions, presented to Subtitle F, Section
9 901.2, under Subtitle U, Section 421.1.

10 That would allow a new residential development,
11 a new eight unit apartment house in one IZ and under Subtitle
12 F Sections 302.2 and 5206 for an increase in the floor area
13 ratio for the voluntary IZ development.

14 The property is located in RA-1 zone at 824 Taylor
15 Street Northeast Square 3-814 Lot 55. And I believe, Mr.
16 Chairman, there is a letter from the adjacent 5B-05 that was
17 submitted in the 24 hour block. So if the report can address
18 that, that would be helpful. And I think that's, I think
19 that's all I need to say, thank you.

20 BZA CHAIR HILL: Okay, thanks, Mr. Moy. All
21 right, unless the Board has any issues, I want to go ahead
22 and allow the information from the ANC into the record. If
23 anyone has any issues, please speak up. And I didn't realize
24 it, but I guess we lost Chairman Hood.

25 Chairman Hood, if you're still listening, you have

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1 a good day. Sorry we, we only got you for one today. And
2 Dr. Imamura is with us, and I still think Dr. Imamura, you're
3 lucky guy. You still seem to get a lighter day.

4 COMMISSIONER IMAMURA: For the BCA.

5 BZA CHAIR HILL: Maybe you can come every week
6 then if that's the case, Dr. Imamura.

7 COMMISSIONER IMAMURA: All right.

8 BZA CHAIR HILL: All right, let's see.
9 Mr. Sullivan, if you can hear me, if you can introduce
10 yourself for the record, please?

11 MR. SULLIVAN: Thank you, Mr. Chair, and members
12 of the Board. Marty Sullivan with Sullivan and Barrows on
13 behalf of the applicant.

14 BZA CHAIR HILL: Okay. Mr. Sullivan, I'm going
15 to go ahead and let you walk us through your application and
16 why you believe your client is meeting the criteria for us
17 to grant the relief requested.

18 I know that this ties in with the other case. If
19 the Board has the ability, we're going to try to do both of
20 them before our break, but we'll see what happens after this
21 one. And you can begin whenever you like, Mr. Sullivan.

22 MR. SULLIVAN: Thank you, Mr. Chair. Mr. Young,
23 could you please load the presentation? So the story behind
24 this one, of course, is that there was an original proposal
25 to do an addition to the existing apartment building, which

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1 was essentially a semidetached structure, just like the one
2 you see to the left of the subject building here.

3 And initially, the applicant next door, which is
4 also a client of ours, expressed an interest in having these
5 buildings be more compatible. He thought it would look
6 better and that turned out to be something that the Office
7 of Planning thought was not a bad idea.

8 And also, both ANC's, the subject ANC and the ANC
9 across the street, a lot of their residents had the same
10 comment that these may look better as compatible buildings
11 and then they were also anticipating the further
12 redevelopment of the rest of this block, too.

13 And they thought that it would be important to
14 start that off with something like this. So we did manage
15 to get them on Board and my client in this application then
16 completely revised to do a new building, added, was able to
17 add inclusionary zoning at that point as well. So next
18 slide, please.

19 This is in, as I mentioned, there's single family
20 homes across the street, but there's apartment buildings on
21 this side of the street. The proposal is to demolish the
22 existing building and construct a new eight unit residential
23 building opting into inclusionary zoning. So there'll be one
24 inclusionary zoning unit. Next slide, please.

25 We'd have the support of ANC 5A. I haven't seen

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1 the ANC 5B letter. We have worked pretty closely with
2 Commissioner Costello on that, although the ANC did not put
3 it on their agenda.

4 They decided not to put it on their agenda. And
5 the office of planning is in support as is DDOT. With us
6 here today is Will Teass, the architect, and the applicant,
7 Representative Matt Scorzafava, if you have any questions for
8 them. But I'll turn it over to Will to present the project.
9 Thank you.

10 MR. TEASS: Will Teass, the principal of Teass One
11 Architects who is architects of record for the project. If
12 we could move, I think, to slide six for to give us, to give
13 the Board an overview and I'll try to move through this
14 relatively quickly.

15 As Mr. Sullivan indicated, we're proposing to
16 replace an existing two-story four unit building with a new
17 three-story plus cellar, and a small penthouse structure
18 eight unit apartment building. It's very similar to the
19 project to the east, which is on the right hand side of the
20 slide that you're looking at. Next slide, please.

21 The view from the street here shows the massing
22 of the new building is being very similar to the building on
23 the east. We're proposing a brick clad structure with a bay
24 projection.

25 There's an existing set of stairs that lead up

1 from the sidewalk and this is one of the notes that was made
2 in the DDOT report, we'll come back to that in a minute.
3 Next slide, please.

4 So the overall site plan shows our proposed
5 building in green. 828 is the building to the east on the
6 right hand side, which is what we're matching in terms of
7 footprint massing.

8 I think it's important to understand that we're
9 aligning the building with the buildings to the, further to
10 the east. There is a 15-foot building restriction line that
11 we're building to.

12 We are proposing a bay projection and a window
13 well. They're in conformance with DDOT standards. I think
14 there was some confusion in the DDOT report. There is a set
15 of existing, there's a grade change from the sidewalk up to
16 the building.

17 And there's an existing concrete stair that's
18 shared by both buildings that we intend to keep and reuse.
19 So there may be some confusion on the DDOT part about that
20 aspect of the project. Next slide, please.

21 This is the proposed cellar plan. I think there
22 were a couple of questions in the, off the planning report.
23 One was the location the bike storage. The bike storage here
24 is located in the middle of the building at the cellar level.

25 It's accessed by a rear stairway that comes down

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1 to the utility room and then into the bike storage area.
2 Next slide, please. The other question I think that was in
3 the Office of Planning report had to do with the location of
4 the inclusionary zoning unit.

5 This is the ground floor plan, and the
6 inclusionary zoning unit is unit four which is at the rear
7 of the building at the ground floor. It is a two-bedroom
8 unit. Next slide, please.

9 The building repeats. It has a unit up front, a
10 unit at the back with a stair in the middle. It's fairly
11 straightforward. Next slide, please. Next slide, please.
12 And then as we indicated, we have a small penthouse structure
13 that permits the upper level units to access a private roof
14 deck.

15 We are proposing a green roof, the location of our
16 mechanical equipment, again, at the pent, the roof level.
17 So at this point, I was, I would like to conclude my portion
18 of the presentation and I'm happy to answer any questions
19 that the Board members may have.

20 BZA CHAIR HILL: Mr. Teass, where, where's the IZ
21 units?

22 MR. TEASS: If we can go back two slides it's on
23 the ground floor. Unit Four, which is at the rear, one more
24 back. And so the area that's highlighted in yellow in this
25 particular slide, that's the inclusionary zoning unit.

1 BZA CHAIR HILL: Got it.

2 MR. TEASS: It's virtually identical in shape and
3 configuration to the other units on the cellar ground and
4 second floors.

5 BZA CHAIR HILL: Okay. I mean, it's the one in
6 the back, right? I mean, it's okay, but that's what you,
7 that's what you guys ended up doing, correct?

8 MR. TEASS: Correct.

9 BZA CHAIR HILL: Okay. Okay, keep going,
10 Mr. Teass, or Mr. Sullivan, wherever you are.

11 MR. SULLIVAN: Thank you, Mr. Chair. The general
12 requirements of the buildings are very clearly in harmony
13 with the purpose and intent of zoning regulations here. Next
14 slide, please.

15 The specific requirements, it's been referred to
16 the relevant agencies, including the Office of Planning,
17 which has made its detailed findings and is in support. So
18 that's, that's our presentation if the Board has any
19 questions, thank you.

20 BZA CHAIR HILL: Thank you. Does the Board have
21 any questions for the applicant? Any for the Office of
22 Planning?

23 MR. MORDFIN: I guess they did it me again.

24 BZA CHAIR HILL: It's the same file, Mr. Mordfin.
25 They like your profile.

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1 MR. MORDFIN: Yes, well, there are two cameras
2 here and I guess I just keep picking the wrong one. But in
3 this case, the Office of Planning is in support of the
4 application finding that it does conform to the criteria as
5 required to build a new residential development in the RA-1.

6 We did have two questions. Where was the bike
7 parking, and also which unit was the IZ unit? And the
8 applicant did provide that information supplemented the
9 record.

10 For the specific criteria to build a new
11 residential development, in this case, there are adequate
12 facilities that we found by looking online and finding out
13 the usage of the public school system.

14 It also has access to a public street, a public
15 alley, and behind the, I'm sorry, and also the, nearby less
16 than a quarter of a mile, or a third of a mile, rather, is
17 a large public park with many facilities to that the
18 applicant, that the future residents would be able to take
19 advantage of.

20 The siting of the building, we find acceptable,
21 it's going to be similar to the one next door that is also
22 proposed, and it will, they will continue maintaining the
23 common walkway up from the sidewalk on Taylor Street, which
24 helps serve to unify the project, even though they're two
25 separate buildings.

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1 It does maintain the semblance of what is already
2 on street where you have that common walkway up to two
3 buildings. So we find that the sighting of the proposed
4 building to be acceptable.

5 And the site plan and elevation plans, and
6 architectural plans were all submitted as required. So
7 therefore, the Office of Planning recommends approval of this
8 application.

9 BZA CHAIR HILL: Okay, does anybody have any
10 questions of the Office of Planning? Mr. Young, is there
11 anyone here wishing to speak?

12 MR. YOUNG: We do not.

13 BZA CHAIR HILL: Mr. Sullivan, do you have
14 anything you'd like to add at the end?

15 MR. SULLIVAN: No, thank you.

16 BZA CHAIR HILL: Mr. Teass, can you hear me? Is
17 it Mr. Teass? I apologize, how do you pronounce your last
18 name?

19 MR. TEASS: It's not, it's Mr. Teass.

20 BZA CHAIR HILL: Teass, yes. I thought it was
21 Teass, okay. All right, and by the way, I think it's a nice
22 design.

23 MR. TEASS: Thank you.

24 BZA CHAIR HILL: Okay, all right, I'm going to go
25 ahead and close the hearing on the record. Okay, I didn't

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1 really have any issues with it. I would agree with the
2 applicant as to how to meet the criteria within the standard
3 for us to grant the relief requested.

4 I also think that I would agree with the ANC on
5 how they, you know, the design of the building, as I
6 mentioned to Mr. Teass that I do think they're compatible.
7 I think it's a nice design, and also that there's going to
8 be an IZ unit there.

9 And I did see all the notes that Ely had, and I
10 think the applicant addressed those as well as the concerns
11 of the Office of Planning. I'm going to be voting in favor.
12 Mr. Smith, do you have anything you'd like to add?

13 MR. SMITH: I don't have anything to add. I
14 appreciate the analysis on this case and I recognize that
15 both of the, the ANC, you know, ANC 5A is in support of the
16 application and also the ANC to the South of Taylor Street,
17 while there wasn't a formal vote on it.

18 But the single member district representative of
19 the area does support, has spoken that her single member
20 district is in support of this particular application and,
21 you know, based on testimony we've heard today, I do believe
22 that it meets the criteria for us to support the application.
23 I will be supporting.

24 BZA CHAIR HILL: Thank you. Mr. Blake?

25 MEMBER BLAKE: Well, with Board member Smith's

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1 analysis and yours as well and that the applicant is in
2 conformance with the Subtitle U 421 the specific requirements
3 and also the general requirements. So would it preferable.
4 I would be willing to support this application.

5 BZA CHAIR HILL: Thank you. Dr. Imamura?

6 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
7 I have nothing further to agree other than that I agree with
8 my colleagues and with you that it's a nice design and a good
9 example of design excellence in architecture so nothing
10 further. I'm prepared to vote in favor.

11 BZA CHAIR HILL: Thank you. Vice Chair John?

12 VICE CHAIRPERSON JOHN: Chairman, I agree with all
13 of the comments. I believe the application meets the
14 requirement for relief, and I'll be voting in support.

15 BZA CHAIR HILL: Thank you. All right, thank you,
16 everybody. I'm going to make a motion to approve application
17 number 20648, as captioned and read by the secretary. And
18 ask I for a second, Ms. John?

19 VICE CHAIRPERSON JOHN: Second.

20 BZA CHAIR HILL: The motion made and second,
21 Mr. Moy, can you take a roll call?

22 MR. MOY: When I call your name, if you would
23 please respond, reply with a yes no or abstain to the motion
24 made by Chairman Hill to approve the application for the
25 relief requested that the motion to approve was seconded by

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1 Vice Chair John.

2 Dr. Imamura?

3 COMMISSIONER IMAMURA: Yes.

4 MR. MOY: Mr. Smith? Mr. Blake?

5 MEMBER BLAKE: Yes.

6 MR. MOY: Vice Chair John? Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MR. MOY: Staff would record the vote is 5, 0 to
9 0 and this is on the motion made by Chairman Hill to approve.
10 Motion to approve was seconded by Vice Chair John. Also in
11 support of the motion to approve, Dr. Imamura, Mr. Smith,
12 Mr. Blake, of course Vice Chair John and Chairman Hill.
13 Motion carries on a vote of five to zero to zero.

14 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.
15 If you could call our next case, Mr. Moy, and then we'll take
16 a break. Board members, if that's okay?

17 MR. MOY: So the next case before the Board is
18 application no. 20678 of Taylor Lofts, L-O-F-T-S, LLC. This
19 is a self-certified application pursuant to Subtitle X,
20 Section 901.2.

21 This is for special exceptions under Subtitle U,
22 Section 421.1 that would allow a new residential development
23 eight and eight unit apartment house. And Subtitle F,
24 Sections 302.2 and 5206 to increase the floor area ratio for
25 a voluntary IZ annulment.

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1 The property is located in the RA-1 zone at 828
2 Taylor Street Northeast Square 3814 Lot 54. And let's see,
3 and there is, I believe, Mr. Chairman, a letter from the
4 adjacent IB-05 Commissioner which attempted to file within
5 our 24 hour block.

6 BZA CHAIR HILL: Okay, unless the Board has any
7 issues, if you could drop that into the record, Mr. Moy?

8 MR. MOY: Thank you, sir.

9 BZA CHAIR HILL: All right, and I don't see the
10 Board mentioning anything, that's great. Ms. Wilson, if you
11 can hear me, could you introduce yourself for the record?

12 MR. WILSON: Alex Wilson from Sullivan & Barros
13 on behalf of the applicant in this case.

14 BZA CHAIR HILL: Great. Ms. Wilson, if you want
15 to go ahead and walk us through your application as to why
16 you believe your applicant is meeting the criteria pressed
17 to grant the relief requested. I see a lot of the design
18 elements in here, which is great, in terms of getting an
19 opportunity to kind of walk through some of those.

20 However, if you want to talk, again, a little bit
21 more about the requirements for the regulations that the
22 Board can focus on why you're going through the diet, I'm
23 sorry, the architectural drawings, that will be helpful. And
24 you can begin whenever you like.

25 MR. WILSON: Sure, thank you. Mr. Young, could

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1 you please pull up the presentation? So Mr. Sullivan
2 provided a bit of background for these cases. Unlike the
3 previous case at 824 Taylor, we were always proposing to
4 raise the existing building and the adjacent building at 824.

5 Taylor modified their plans and we made some minor
6 adjustments to make it look more cohesive. Next slide,
7 please. So similar to the other case, we have an ANC 5A's
8 support.

9 We attended SMD meetings for the ANC across the
10 street, the ANC 5B. OP is recommending approval. We also
11 had a couple of comments in our OP report, so we provided a
12 landscape plan in Exhibit 22-A and the grade plan and
13 elevations noting the grade changes are included in our plan
14 set in Exhibit 19.

15 And there are detailed grade notes on those plans
16 as requested. We do have one IZ unit, it is unit six. I
17 know that was asked in the previous cases, so I wanted to
18 just mention that at the outset. Next slide, please.

19 The project is meeting the general special
20 exception requirements, there is made up of a mix of
21 multifamily residential developments, the existing
22 multifamily use is not changing, and the applicant is
23 providing more parking to make the ANC comfortable. Next
24 slide, please.

25 In terms of the specific requirements, all D.C.

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1 Public students are eligible to enroll in their specific
2 schools. There are adequate public streets, recreation, and
3 other services available to accommodate the increase in
4 residence.

5 The applicant has provided sufficient information
6 for the Office of Planning to recommend approval and all
7 relevant materials have been submitted. With that I'm going
8 to turn it over to our architect, Garima Gupta, to walk
9 through the plans very briefly. Next slide, please.

10 MS. GUPTA: Good morning everybody. I am Garima
11 Gupta, and I am representing the architect, Michael Cross
12 here. And as mentioned, we are seeking a special exception
13 for new residential development in the RA-1 zone and for the
14 bonus density resulting from voluntary IZ compliance. As
15 mentioned earlier, our IZ unit is unit number six, which is
16 on the second floor. Next slide, please.

17 This project is located on Taylor Street, which
18 is very close to the intersection of Taylor and 9th Streets.
19 The total land area of the property is about 5,800 square
20 feet, and we are proposing about 36 percent lot occupancy,
21 which is less than 40 percent, which is allowed.

22 But the remaining 64 percent are to be used as
23 green covers, paver AOLs, parking, etc. The client is
24 proposing to raise the existing semi-detached four unit
25 structure and build a new construction which is fully

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1 detached and has eight two-bedroom units. Next slide,
2 please. This is the existing site plan which shows the
3 building which is to be raised. Next slide.

4 The proposed site plan, this project requires only
5 one parking space. However, we are proposing five parking
6 spaces which includes one of ADA compliant parking. The
7 project is well connected to the public transport with about
8 half a mile to Red Line metro and about the same to the
9 nearest bus stop.

10 In addition to the green cover on grade, we are
11 proposing other green elements like green roof and on site
12 storm water management which has a positive impact to the
13 immediate neighborhood and to the broader environment. There
14 is the dedicated trash space which will be screened towards
15 the rear of the property and the trash will be collected by
16 public, private service at intervals which is set to meet the
17 building requirement. Next slide.

18 This is the typical layout on each floor. We are
19 proposing two two-bedroom units, one in front and one in
20 rear. Since it is proposed as a fully detached structure,
21 it would allow for units to improve quality of life.

22 All units would be afforded with much increased
23 natural light, larger, with large loft-sized windows. Every
24 unit would also have access to other space, be it in the form
25 of patio, balcony, rooftop, deck. Each unit is about --

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1 BZA CHAIR HILL: Ms. Gupta? Ms. Gupta? Can you
2 hear me? Can you just show us which one is the IZ unit?

3 MS. GUPTA: So this all look the same if you go
4 to the next slide. This is floor, next slide, please. The
5 unit on top, as you can see unit six is the IZ unit. All of
6 the units are very identical. They all look the same and
7 they follow the same two-bedroom, two bathroom layout.

8 BZA CHAIR HILL: Okay, Ms. Wilson, I just have a
9 quick question because I'm just curious. How did your client
10 decide on the IZ unit? I kind of wanted to ask the previous,
11 but I was, I forgot.

12 MR. WILSON: Our client is here, Mark, but so --

13 BZA CHAIR HILL: Mark can you hear me?

14 MR. WILSON: -- he's able to answer that question,
15 Mr. Mlakar, but they're all identical.

16 BZA CHAIR HILL: Mr. Mlakar, can you hear me?
17 Could you introduce yourself for the record?

18 MR. MLAKAR: Mark Mlakar, owner of Taylor Lofts,
19 LLC, the owner of the project.

20 BZA CHAIR HILL: I'm just curious, there you go,
21 Mr. Mlakar, my gosh. What, I'm just curious, how'd you
22 decide the IZ unit?

23 MR. MLAKAR: I believe there are complicated
24 formulas that go into determining the exact square footage
25 and the average of all of the units and when we apply that

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1 formula, we try to figure out which area will meet those
2 requirements and --

3 BZA CHAIR HILL: So it was driven by the
4 architects is what you're saying?

5 MR. MLAKAR: It's driven by the, yes, I don't, I
6 don't get to just pick --

7 BZA CHAIR HILL: I was just curious. I was just
8 curious. Well, the last one, the last one was in the
9 basement in the back. So sometimes, I'm just curious how it
10 happens.

11 MR. MLAKAR: Yes, I don't believe there, they can
12 be in the basement anymore.

13 BZA CHAIR HILL: That one was in the cellar.

14 VICE CHAIRPERSON JOHN: No.

15 BZA CHAIR HILL: Wasn't it? Vice Chair John,
16 you're saying no?

17 VICE CHAIRPERSON JOHN: No.

18 MR. SULLIVAN: It was on the first floor.

19 VICE CHAIRPERSON JOHN: It was on the first floor.

20 BZA CHAIR HILL: The maybe I made an error. Okay.

21 All right let's see. Okay, Ms. Gupta, let me just go ahead
22 and see where my Board members might be, okay? In terms of
23 questions. I'm going to cut to, let me just look at the
24 slide deck here a second. Yes, okay.

25 Let me go ahead and drop the slide deck, Mr.

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1 Young. Okay, does my fellow Board members have any questions
2 for the applicant? Okay, I mentioned the Office of Planning.
3 Mr. Mordfin, can you hear me?

4 MR. MORDFIN: Yes, I can hear you. Sorry. So the
5 Office of Planning also recommends approval of this
6 application, which is similar to the last one. The applicant
7 did provide the two additional items, the landscaping plan
8 and grading plan.

9 As detailed in the OP Report, and similar to the
10 other application, the building is very similar. It meets
11 the same requirements as the last case in that there's
12 adequate public school facilities and it is, it does have
13 access to a pub, to a public alley, it has access to Taylor
14 Street.

15 It's about a third of a mile from Turkey Thicket
16 Recreation Center. So the Office of Planning recommends
17 approval of this application in that it does conform to the
18 requirements for a new residential development in the RA-1
19 district and I'm available for questions.

20 BZA CHAIR HILL: Okay. Does the Board have any
21 questions for the Office of Planning? Does the applicant
22 have any questions for the Office of Planning?

23 MR. WILSON: No, thank you.

24 BZA CHAIR HILL: Mr. Young, is there anyone here
25 wishing to speak? Okay, Mr. Mlakar, can you hear me?

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1 MR. MLAKAR: Yes.

2 BZA CHAIR HILL: It's good to see you Mr. Mlakar.
3 Last time I saw you it was, it was a, it wasn't as easy.

4 MR. MLAKAR: I agree. Let's never do that again,
5 yes.

6 BZA CHAIR HILL: Okay. All right, Mr. Mlakar.
7 Okay, Ms. Wilson, do you have anything you'd like to add at
8 the end?

9 MR. WILSON: No, thank you.

10 BZA CHAIR HILL: Okay, I am going to go ahead and
11 close the record on the hearing. Thank you everyone, have
12 a nice day. Mr. Smith, since you were enthusiastically
13 shaking your head and I've been talking a long time, would
14 you mind starting?

15 MR. SMITH: Sure, I didn't have any major issues
16 with this, with this particular project. I feel like it's
17 fairly straightforward. Similar to the last project, I do
18 believe that the project needs things for us to be able to
19 bring it.

20 The special exceptions from the Subtitle U,
21 Section 421.1 and Subtitle F, Section 302.2 and 5206 when
22 they're finally in the additional IZ unit, I, the, I do
23 believe that design, I do appreciate that the applicant
24 worked with the adjacent property owner.

25 To create a design that is they're both compatible

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1 with each other given that these two, these two addition,
2 these two buildings will be the two tallest buildings, I
3 think, along that block within that area. And both of these
4 projects have the support of the ANC that they located in,
5 as well as the adjacent ANC to the south side of Taylor.

6 The single member district representative has
7 stated that the residents are for SMD are in support of the
8 application. They have had some discussions with the, with
9 the applicant. So with that, I do get a great way to open
10 the staff port and I'm in support of the application.

11 BZA CHAIR HILL: Thank you, Mr. Smith. Mr. Blake?

12 MEMBER BLAKE: Nothing to add to that. I agree
13 with the comments from Mr. Smith completely. I will be
14 voting in support of the application.

15 BZA CHAIR HILL: Thank you. Dr. M. Imamura?

16 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
17 I am in agreement with Board member Smith and Board members
18 Blake. I have nothing further to add other than it's nice
19 that these two units are setting a good example in quality
20 design.

21 BZA CHAIR HILL: Thank you. Vice Chair John?

22 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.
23 I am in agreement with all of the comments so far. I believe
24 this is a straightforward application, and I'm in support.

25 BZA CHAIR HILL: Okay, great. All right, thank

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1 you. I don't have anything to add. I appreciate my
2 colleagues taking the lead on the discussion of this. I'm
3 going to go ahead and make a motion to approve application
4 number 20678 as captioned and read by the Secretary and ask
5 for a second, Ms. John?

6 VICE CHAIRPERSON JOHN: Second.

7 BZA CHAIR HILL: Motion made and seconded.
8 Mr. Moy, could you take a roll call?

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

14 Dr. Imamura?

15 COMMISSIONER IMAMURA: Yes.

16 MR. MOY: Mr. Smith? Mr. Blake? Vice Chair John.

17 VICE CHAIRPERSON JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 BZA CHAIR HILL: Yes.

20 MR. MOY: Staff will record the vote as five to
21 zero to zero and this is on the motion made by Chairman Hill
22 to approve. The motion to approve was seconded by Vice Chair
23 John, also in support of the motion to approve Dr. Imamura
24 with the Zoning Commission, Mr. Smith, Mr. Blake, Vice Chair
25 John, and Chairman Hill. The motion carries on a vote five

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1 to zero to zero.

2 BZA CHAIR HILL: Thank you. Okay, everybody. You
3 want to just try and take a 10 minute break? And see if we
4 can come back in that time? Okay, thank you.

5 (Whereupon, the above-entitled matter went off the
6 record at 11:12 a.m. and resumed at 11:25 a.m.)

7 BZA CHAIR HILL: All right, Mr. Moy, could we call
8 the next case? I thought I got Mr. Moy but maybe not. Mr.
9 Moy? Mr. Moy, are you there? You all can hear me, right?
10 Okay.

11 MR. MOY: I'm sorry, Mr. Chairman, for being
12 tardy.

13 BZA CHAIR HILL: No, you're okay.

14 MR. MOY: I don't think we have, I got one thing
15 I do.

16 BZA CHAIR HILL: You can call our next case,
17 Mr. Moy.

18 MR. MOY: Sorry about that, sorry about that,
19 Mr. Chairman, that was my staff. They said, they said that
20 they could not hear me. Can you hear me?

21 BZA CHAIR HILL: We can hear you.

22 MR. MOY: Okay. All right, well, I don't know
23 what they're talking about. Okay, let's see, where am I?
24 Okay. Okay, so the Board has returned to its public hearing
25 session after a quick break, and the time is at or about

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1 11:28 in the morning.

2 The next case before the Board is application
3 number 20685 of Oladapo, O-L-A-D-A-P-O, Kolawole,
4 K-O-L-A-W-O-L-E. I apologize for my lack of skill here. So
5 anyway, so this is a self-certified application for special
6 exceptions, pursuant to Subtitle F, Section 901.2.

7 And this is from the rear edition requirements of
8 Subtitle E Section 205.4 pursuant to Subtitle E, Section
9 205.5 and Subtitle E, Section 5201. And the rooftop and
10 upper floor requirements, Subtitle E, Section 206.1 pursuant
11 to Subtitle E, Section 206.4 and Subtitle E, Section 5207.

12 This property is in the RF-1 zone at 1933 Second
13 Street Northeast Square 3565 Lot 54. Mr. Chairman, before
14 you, also with regards to filings, or rather the lack of
15 filings, we have three submissions that are submitted late
16 or are blocked because of the 24-hour period.

17 There's a letter in support, there's emails from
18 the ANC 5E03, submitted late. And finally, which is the
19 bigger one, late yesterday the applicant filed a request to
20 postpone. So if you could allow these into the record,
21 you'll be able to read the documents.

22 BZA CHAIR HILL: Okay, Yes. I mean, I think some
23 of them are in the record. So go ahead and drop them all in
24 the record, if you could, Mr. Moy. That's why if Board
25 members have an issue if so, please speak up. All right,

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1 Mr. Cross, can you hear me? If so, could you introduce
2 yourself, please?

3 MR. CROSS: R. Michael Cross, project architect
4 for the applicant.

5 BZA CHAIR HILL: Okay, Mr. Cross, do you guys want
6 a postponement?

7 MR. CROSS: Yes, sir. We have been, well, while
8 we have the support of the ANC, OPE and the neighbor to the
9 south, we had originally received a statement of
10 non-opposition to the neighbor of the North, but we have
11 recently received their concerns in opposition to this
12 project.

13 Since that time, we've been meeting with them
14 directly and as late as the ninth, just two days ago, we met
15 on site with them and the SMD Commissioner. And at that
16 time, they expressed an interest in some additional time to
17 consider the concessions that we have offered.

18 As well as potentially have us consider some
19 further concessions. My client has agreed to grant them that
20 time and work with them to see if we can come to an
21 agreement, agreeable resolution.

22 BZA CHAIR HILL: Okay. Mr. Moy, can you hear me?

23 MR. MOY: Yes, sir.

24 BZA CHAIR HILL: Okay, Mr. Cross, I know you know
25 this, but like, you know, where we are always amenable to try

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1 to let people work things out as best they can, in this
2 particular case, I mean, we do have a lot of information in
3 the record that we could probably hear the presentation from.

4 But, you know, if this is something that, anyway,
5 I should say, though. My point was, well, I know my point.
6 Okay, so it's okay. So, it's okay, Mr. Cross, you don't have
7 to say anything, so. Okay, Mr. Moy, when could we possibly
8 get back here?

9 MR. MOY: I'm going to propose a couple of days
10 for you, Mr. Chairman, and the Board. And of course, I have
11 no idea at this point how much time the applicant needs to
12 coordinate with the community.

13 BZA CHAIR HILL: Mr. Cross, how much time do you
14 guys think you need?

15 MR. CROSS: I believe that we should be able to
16 come to some, or understand whether there is a resolution or
17 not, pretty quickly as we have been working on this now for
18 about two weeks. So I think we probably only need another
19 week or two to capture that and re-file if needed.

20 BZA CHAIR HILL: Okay. Mr. Cross, would you have
21 been ready to present today?

22 MR. CROSS: I am ready to present today.

23 BZA CHAIR HILL: Okay. All right, Mr. Moy, can
24 you tell me again what, I mean, I know we're really jammed
25 up for a while, right? Or when's like another time?

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1 MR. MOY: Okay, another time, if you want to push
2 it, we have six cases and two expedited cases and one
3 decision making case on May 25th. But after that, on June
4 15th, you have six cases as well as six cases on June 22nd.
5 After that, it picks up by a couple more cases when we move
6 into July with usually eight or nine cases.

7 BZA CHAIR HILL: Mr. Cross, what seems to be the
8 opposition that you're getting from the neighbor to the
9 north?

10 MR. CROSS: Yes, the neighbor to the north has
11 expressed a concern about shade, shadow and views that have
12 been created by our addition, which, to note, actually only
13 extends 10 feet past their property. It is not the side
14 which we're seeking relief from.

15 BZA CHAIR HILL: Okay. All right, let me, I'm
16 looking at my Board members. I mean, just, and I don't know
17 what you guys think. Like, I mean, again, I'm only
18 hesitating because we're just so jammed up for a while.
19 Like, I'm kind of leaning towards go ahead and hearing the
20 case.

21 And then, we could leave the record open and allow
22 them time to work together and see what might happen before
23 we deliberate and or if you all think you've got enough
24 information after we have the hearing, go ahead and vote, or
25 we can postpone. So I don't really have a big strong opinion

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1 and I'll let you all chew on that for about 30 seconds.

2 MR. MOY: Yes, while you're chewing on 30 seconds,
3 Mr. Chairman, after the dates I gave you, we open up on July
4 27th, where we have two cases, but I'm actually working that
5 docket this week. So, of course, after that, we're looking
6 at September, okay?

7 BZA CHAIR HILL: July 27th?

8 MR. MOY: Yes.

9 BZA CHAIR HILL: Yes, no, I wouldn't, I wouldn't
10 stick them that far out.

11 MR. MOY: Well, okay.

12 BZA CHAIR HILL: And if you said that, and I'm
13 sorry, I lost track of that. So what date did you
14 potentially have available for us?

15 MR. MOY: May 25th for --

16 BZA CHAIR HILL: The decision that we just had?

17 MR. MOY: Yes, would you, yes, yes. Or June's,
18 June 15? I'd say June 15th or June 22nd. I have six cases
19 on each of those two dates.

20 BZA CHAIR HILL: Right. So I don't know about you
21 guys. Like, we can put, how many are on the 25th? We got
22 that decision case, two expedited reviews and then how many
23 cases?

24 MR. MOY: On the 25th?

25 BZA CHAIR HILL: Yes.

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1 MR. MOY: Which they, six cases, two expedited,
2 and one decision making.

3 BZA CHAIR HILL: Okay. I think then that, I don't
4 know, I'm kind of leaning towards going ahead and having the
5 hearing and then leaving the record open and letting them
6 kind of work. I mean, since I, since I saw a nod with Dr.
7 Imamura, I'm going to start with you, Dr. Imamura. What do
8 you think?

9 COMMISSIONER IMAMURA: I agree, Mr. Chairman.
10 Let's go ahead and your case and --

11 BZA CHAIR HILL: Okay.

12 COMMISSIONER IMAMURA: -- see how far we can get.

13 BZA CHAIR HILL: Mr. Smith, what do you think?

14 MEMBER SMITH: May or June? What was the date,
15 May or June?

16 BZA CHAIR HILL: There was, there's the 25th of
17 May, which would be six cases, two expedited reviews and a
18 decision. Like, we're kind of having a light day, maybe, you
19 know? Like, we might get out of here by three o'clock if all
20 goes well, right?

21 MEMBER SMITH: And so, I'm fine with hearing the
22 case if we're just pushing back that, you know, for two
23 weeks.

24 BZA CHAIR HILL: Right. I mean, we would, we
25 would leave the record open probably or have a continued, or

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1 brief continued hearing about anything that may or may not
2 come up. Mr. Blake, do you have any thoughts?

3 MEMBER BLAKE: I would love to hear the case
4 today.

5 BZA CHAIR HILL: Ms. John, Vice Chair John?

6 VICE CHAIRPERSON JOHN: Yes.

7 BZA CHAIR HILL: Okay, then Mr. Cross, if you
8 would go ahead and walk us through your application and why
9 you believe your client is meeting the criteria for us to
10 grant the relief requested.

11 We're going to go ahead and hear through with
12 everybody because I know there's also members of the
13 community that I think they want to speak, and then we'll see
14 where we get, okay?

15 MR. CROSS: That's, I believe if Mr. Young could
16 pull up Exhibit 30, I believe that's the most recent
17 architectural plans and elevations. All right, if I could
18 just get started while he's pulling that up.

19 We're seeking a special exception for two areas
20 of relief. One for the removal of an architectural rooftop
21 element. The second for a rear addition, which extends more
22 than 10 feet past the adjacent neighbor. The property we are
23 here today --

24 BZA CHAIR HILL: Could you give me a second,
25 Mr. Cross? Mr. Young, can you hear me?

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1 MR. YOUNG: Yes, I can.

2 BZA CHAIR HILL: Can you try to see that
3 Exhibit 30? Because it is kind of, I mean, it is pretty
4 helpful.

5 MR. YOUNG: Yes, I have it now.

6 BZA CHAIR HILL: Okay. Mr. Cross if you can
7 highlight the rooftop architectural elements that you're
8 changing? And then I can already see from the rear how, you
9 know, where it's kind of matching up with that building to
10 your, I don't know whatever direction that is. But go ahead
11 and please continue.

12 MR. CROSS: Yes, I will. And so let's see. Yes,
13 the project's located at 1933 Second Street Northeast. It's
14 on the east side of the block between U Street and Todd
15 place.

16 The project is otherwise matter of right expansion
17 of an existing apartment house. Currently it's a four unit
18 building, and it's proposed to become a six unit building.
19 It conforms with height, lot occupancy and other setback
20 requirements.

21 We have a determination letter from the zoning
22 administrator outlining that in the record. Furthermore, the
23 zoning administrator has granted finer flexibility, for lack
24 of a better term, for the parking in the rear. We originally
25 proposed to have sufficient parking for this proper project,

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1 which would require three spaces.

2 As we got into the project, we found there's
3 actually a heritage tree at the rear of the lot, which is
4 protected, and therefore, we're only able to provide two new
5 parking spaces.

6 Subsequently, the zoning administrator granted us
7 two parking credits because there's currently no parking on
8 this property and requires two spaces today. So we
9 technically on paper would have four parking spaces. Next
10 slide, please.

11 Existing properties today, both front and rear.
12 I don't think you can really see it here, but that mansard
13 roof is currently on our property directly in front of the
14 stairs leading up where our property is designed to be very
15 similar to the one to the North, the left on your screen,
16 that has it removed from the balcony up front.

17 Next slide, please. Currently, the property is
18 in line with the neighbor to the south. The neighbor to the
19 north projects 10 feet past the existing property. Next
20 slide, please.

21 As stated, we're proposing to do a 20 foot rear
22 addition. That would be 20 feet past the neighbor to the
23 south, which is on the right hand side of this diagram and
24 only 10 feet past the neighbor to the north.

25 Next slide, please. Next slide. My apologies,

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1 we're going to have to skip a few down. We don't have a
2 presentation set here posted. Next slide, please. Next
3 slide.

4 BZA CHAIR HILL: Yes, there's a lot of
5 architectural drawings. I guess you mean just show us the,
6 how far you're pushing back?

7 MR. CROSS: Yes, I'm hoping to go down to the
8 elevations.

9 BZA CHAIR HILL: Let's see what slide you're on.
10 Is it on 13, Mr. Young?

11 MR. CROSS: This is good. So this is the existing
12 elevation. As you can see, it's currently a two story
13 building with a mansard roof above that second story. It is
14 a faux mansard in that it's just a flat roof beyond it.
15 Next slide, please.

16 We're proposing to remove that mansard roof and
17 create a third story which is setback from the front and has
18 a balcony in the location of the current mansard roof and
19 that condition is similar to the adjacent neighbor to the
20 north, 1937, as shown in the rendering on the cover slides.
21 I think that's about it. We do have some solar studies
22 prepared as well if the Board would be interested in covering
23 those.

24 BZA CHAIR HILL: Where are they? Where are they?

25 MR. CROSS: Yes, those are going to be in Exhibit

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1 33.

2 BZA CHAIR HILL: All right, Mr. Young, if you can
3 pull up Exhibit 33 when you get a chance.

4 MR. CROSS: So when they, when they show we have
5 two different solar studies for each of the four periods of
6 the year, the first of each is the matter of right version.
7 That is a building which projects only 10 feet past our
8 neighbor to the south, which would actually be in line with
9 the neighbor to the north.

10 Obviously, the shadows are incurred on the
11 neighbor to the north, as the sun will be largely coming from
12 the south. Before we get too far into this, just staying on
13 this slide, as I think it's generally representative of most
14 of the matter of REITs slides that are presented here, this
15 is showing the winter solstice.

16 So possibly the worst case condition of shadows
17 and shading. But what I wanted to point out is that the
18 property at 1937 actually is largely shaded, even in this
19 matter of right condition where we don't actually pass them
20 at all.

21 And that has to do with the fence that both
22 there's sunken cellars in the fence that runs along the
23 southern property line, which casts significant shadows
24 across the lower levels and the rear yard system. Next
25 slide, please. So what we've done here is overlaid the new

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1 shadows of our proposed building, which is shown projecting
2 10 feet past the neighbor to the north and --

3 BZA CHAIR HILL: And it's 1937 that has the
4 concerns, correct?

5 MR. CROSS: That is correct. Yes, sir.

6 BZA CHAIR HILL: Okay. Go ahead, Mr. Cross.

7 MR. CROSS: The areas shown in red are the
8 increased shadows over and above those shadows cast by the
9 matter of right building. And so you can see that some of
10 those shadows are limited to rooftop.

11 There is some shading of the balcony that is
12 closest to our property during mid-day. And there is
13 additional shading in the rear yard, where there's currently
14 parking as well as some of the terraced patio at the far end
15 of the property and the cellar.

16 Mid-afternoon, towards the end of the day, all of
17 the shading is limited to the rooftop area. Next slide,
18 please. We can actually skip to the next slide to show the
19 difference here.

20 This is the spring equinox. Again, limited
21 additional shading largely found at the balcony directly
22 adjacent to our property there in early morning and mid-day.
23 And then on the, on the cellar patio areas and the associated
24 stairs in the early afternoon, by the end of the day, the
25 entire property is already largely shaded.

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1 In the matter of right condition, there's only a
2 small fragment of shadow that is added at that time. And
3 then if we can skip two slides. This is the summer solstice.
4 This is possibly the area of least impact because the sun is
5 highest in the sky.

6 No impact at the beginning or end of the day. In
7 mid-day there is some shading of a portion of the balcony
8 closest to us as well as a portion of the sunken patio
9 closest to our property.

10 Again, I'll point out that we are acknowledging
11 their shading here. We think it's limited and we would argue
12 that it is not undue shadowing because the addition that is
13 creating the shade to that property is actually the matter
14 of right 10 feet that would be allowed in other conditions.
15 I think with that I may simply close and answer any questions
16 you might have.

17 BZA CHAIR HILL: That's great, Mr. Cross.

18 MR. CROSS: And we can return back to the
19 architectural plans if those --

20 BZA CHAIR HILL: Yes, you can just drop it,
21 Mr. Young. Let me just see it because yes, we can pull
22 everything up on our laptops, or whatever, our desktop.
23 Madam Chair from the Office of Planning?

24 MS. MYERS: Crystal Myers with the Office of
25 Planning. The Office of Planning is recommending approval

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1 of this case. The only other thing I would add is that they
2 are also getting flexibility from the zoning administrator
3 for, or minor flexibility from the zone administrator for the
4 land area.

5 There's a 900 square foot requirement for each
6 unit and they are just shy of that for the six units they're
7 doing, but they've received flexibility from the zoning
8 administrator to allow them to do it.

9 So I just wanted to bring that up as well. So we
10 reviewed this, and we thought that it was appropriate for a
11 recommendation for approval, and I will stay on the record
12 for the staff report. Thank you.

13 BZA CHAIR HILL: Okay, thank you. Does anybody
14 have any questions for the Office of Planning? Mr. Cross,
15 what happened to the ANC, again?

16 MR. CROSS: Yes, we met with the ANC twice as well
17 as with Eckington Civic Association. We received approval
18 from both the, or whatever you say, motion to support from
19 both the ANC as well as from Eckington Civic Association.

20 BZA CHAIR HILL: Okay, all right. Okay,
21 Mr. Young, is there anyone here wishing to speak?

22 MR. YOUNG: Yes, we have four witnesses signed up.

23 BZA CHAIR HILL: Okay, could you bring them in and
24 give me your, their names as they come in, please?

25 MR. YOUNG: Yes. Ian Wing, Mark Belak, Mark

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1 Freeman, and Melissa Salerno.

2 BZA CHAIR HILL: Okay, great. Mr. Belak, can you
3 hear me? You're on mute, Mr. Belak. Okay, good. Now good,
4 thank you. Could you introduce yourself for the record?

5 MR. BELAK: Yes. Hello, my name is Mark Belak.
6 I live on 1937 Second Street Northeast, and I'm the president
7 of the Truesdell Condominium Association.

8 BZA CHAIR HILL: Okay. Let's see, Mr. Belak, I'm
9 going to give you five minutes as a member of an association,
10 or representing an association. And you'll have five minutes
11 to speak and give your testimony and you can begin whenever
12 you like.

13 MR. BELAK: Okay, very good. Thank you, Chairman
14 Hill. Thank you, Board members for listening to our concerns
15 today. Our primary opposition to this project as it is
16 designed currently is the substantial amount of shading and
17 view reduction. If I may share my screen, we've created some
18 practical documentation that may be easier to consume than
19 architectural drawings.

20 BZA CHAIR HILL: Yes, I don't know Mr. Belak if,
21 well, two things. I know you can't share your screen and
22 then I don't know how, given the COVID thing, I forget how
23 it works in terms of like you presenting information like
24 that. Why don't you just go ahead and tell us what you've
25 got, and we'll see if the Board has further questions.

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1 MR. BELAK: Sure. So frankly, I have a picture
2 from varying views in the building currently, as is today and
3 as would be matter of right. And I have a picture that has
4 a mock-up of what the extension would look like that shows
5 in very clear terms a substantial reduction in the view and
6 overall quality of life as a result of the project.

7 BZA CHAIR HILL: What's the address, again, that
8 you're in?

9 MR. BELAK: 1937 2nd Street Northeast.

10 BZA CHAIR HILL: Okay, please go ahead.

11 MR. BELAK: Okay. And as a matter of fact, we've
12 posted this information on the public Internet, so I think
13 if I can give that link to someone who can share their
14 screen, it would be pretty simple for that person to present.

15 BZA CHAIR HILL: Yes, it's not even so much that
16 Mr. Belak I'm trying to remember how, or not remember,
17 understand how this is going to work with presenting
18 information. Like you would have to submit this into the
19 record, I think.

20 But Ms. Nagelhout, do you know, I mean, if this
21 were like, again, if we were live, how would that have worked
22 versus now and can they just, I mean, can, I don't think they
23 can share the screen just because they can.

24 My question is, do you know whether or not they're
25 allowed to present stuff like off the cuff like this that,

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1 like, the applicant didn't have a chance to look at? And I
2 know that when we were alive, we did this all the time. And
3 so I don't know Ms. Nagelhout, if you have an opinion because
4 I'm just trying to clarify for my, because I always forget.

5 MS. NAGELHOUT: Okay, what was the question?

6 BZA CHAIR HILL: Yes, the question is whether or
7 not the witness can just provide us exhibits to look at.

8 MS. NAGELHOUT: Well, it's not in keeping with
9 your rules for the virtual hearings, but it happened all of
10 the time in the, when we were in person. So it's up to you
11 as chair.

12 BZA CHAIR HILL: Okay. All right, well, I don't
13 know how to get it. Mr. Young, you can't share, people can't
14 share, I don't really want you to share your screen, by the
15 way, just because I don't want to, it opens up different
16 issues maybe but I'm curious. Mr. Young, is there a way to
17 share the screen?

18 MR. YOUNG: For him to share his screen?

19 BZA CHAIR HILL: Yes.

20 MR. YOUNG: He can.

21 BZA CHAIR HILL: He can?

22 MR. YOUNG: I have to give him that privilege but
23 yes, if I do that then he can.

24 MR. BELAK: Mr. Young, I'd be happy to email you
25 the web link so you may share your screen to avoid, you know,

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1 the issue the chairman's posting. It's just a URL that can
2 hit it from any computer that has access to it.

3 BZA CHAIR HILL: Why don't you tell me what the,
4 what the link is?

5 MR. BELAK: It's griffinfreeman.com/1933 dash
6 extension. And I'd be happy to spell out any one of those
7 for you.

8 BZA CHAIR HILL: All right go and send, can you
9 send the, do you have Mr. Young's email address?

10 MR. BELAK: If someone were to recite it, I'd be
11 happy to send it.

12 BZA CHAIR HILL: Okay. Mr. Moy, Mr. Belak, were
13 you able to submit something to the record before?

14 MR. BELAK: I was not, but I'd be happy to submit
15 this to the record.

16 BZA CHAIR HILL: No, that's fine. So I mean, do
17 you know who you would send something to get something into
18 the record?

19 MR. BELAK: I would ask our architect Mark Freeman
20 on how to do that and I'm sure he can advise me.

21 BZA CHAIR HILL: Got you. Okay, got it so you
22 don't know.

23 MR. BELAK: Correct.

24 BZA CHAIR HILL: Mr. Moy, do you know how they can
25 send something to get it into the record?

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1 MR. MOY: Two ways, you can either send it
2 directly to me and then I could share with Mr. Young or if
3 the, if the chair allows it, since this is an open hearing,
4 he could send it to bzasubmissions@dc.gov.

5 BZA CHAIR HILL: Why don't you, do you mind if
6 he sends it to you real quick?

7 MR. MOY: Sure.

8 BZA CHAIR HILL: Okay. Mr. Freeman, can you hear
9 me? Can you introduce yourself for the record? And you're
10 on mute.

11 MR. FREEMAN: Hi, I'm Mark Freeman, architect
12 working with Truesdell HOA. My office is Aggregate
13 Architecture and Design.

14 BZA CHAIR HILL: Okay, Mr. Freeman, can you send
15 the link to Mr. Moy? And while all of this is getting done,
16 we're going to move on to another witness and come back to
17 Mr. Belak, by the way.

18 MR. BELAK: Thank you, sir.

19 BZA CHAIR HILL: Mr. Belak, can you mute yourself
20 if you wouldn't mind?

21 MR. BELAK: Yes, sir.

22 BZA CHAIR HILL: Mr. Freeman, do you have
23 Mr. Moy's email address?

24 MR. BELAK: I do not, but I can quickly do it.
25 Mr. Moy, do you, are you able to give that out?

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1 MR. MOY: Sure, it's just my, it's my office email
2 address, which Mr. Cross is very much aware of. It's
3 Clifford C-L-I-F-F-O-R-D .Moy, M-O-Y @dc.gov. Got it?

4 BZA CHAIR HILL: Mr. Freeman, did you get that?

5 MR. FREEMAN: I just sent it to him.

6 BZA CHAIR HILL: Okay, all right. So let's just
7 wait. And so Mr. Moy, wait until you get that, send it to
8 Mr. Young and I'm going to move on to another witness for
9 now. Let's see, Ms. Wing, can you hear me? Or is it
10 Ms. Wing?

11 MS. SALERNO: Ian Wing is my husband. I'm Melissa
12 Salerno. That's fine.

13 BZA CHAIR HILL: Okay, Ms. Salerno, could you
14 introduce yourself for the record, please?

15 MS. SALERNO: Sure. Melissa Salerno, I am the
16 Vice President of the Truesdell HOA at 1937 2nd Street, and
17 I occupy unit four.

18 BZA CHAIR HILL: Okay, we're doing another HOA.
19 Okay, so I'm going to, are you representing your HOA?

20 MS. SALERNO: Yes.

21 BZA CHAIR HILL: Okay.

22 MS. SALERNO: Along with Mark Freeman and Mark
23 Belak.

24 BZA CHAIR HILL: You're all with the same HOA?

25 MS. SALERNO: Yes.

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1 BZA CHAIR HILL: But Mr. Belak is the President
2 of the HOA?

3 MS. SALERNO: Yes, correct. He's the President.

4 BZA CHAIR HILL: I got you. So then he'll get the
5 five minutes for the HOA, and --

6 MS. SALERNO: Okay.

7 BZA CHAIR HILL: -- you'll get your three minutes
8 as a member of the public. And so --

9 MS. SALERNO: Okay.

10 BZA CHAIR HILL: -- the clock is right there on
11 the screen, and you can begin whenever you'd like.

12 MS. SALERNO: Sure, thank you. Well, I appreciate
13 the opportunity to be able to, you know, get our concerns
14 across today. As Mark had mentioned, the primary concerns
15 are the shading and the lack of sunlight, especially with the
16 lower units, as well as the loss of view that would impact
17 all of the units.

18 Another thing is just there'd not being enough
19 parking and adding to the stress of the neighborhood already.
20 We absolutely want this development to happen. We think it's
21 going to be a great thing for the neighborhood but as
22 presented, the ten feet back from our building is a
23 non-starter for our HOA and not something that we'll be able
24 to support at this time.

25 But we are looking forward to discussing it more

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1 and coming to a resolution. At present, we just haven't been
2 satisfied with anything that Michael Cross has presented us.
3 We even explored seven feet back, but as Michael showed, with
4 the shading and the drawings, or the renderings, I guess is
5 the correct term, there is essentially no difference there.
6 So we need to explore some further options.

7 BZA CHAIR HILL: Okay. All right, you guys are,
8 you guys are in 1937, right?

9 MS. SALERNO: Yes, correct.

10 BZA CHAIR HILL: Okay, and you're the ones that
11 are going far back now, right?

12 MS. SALERNO: Yes. So well, we aren't far, far
13 back. They would be going 10 feet beyond our building.

14 BZA CHAIR HILL: Right, all right. But, anyway,
15 okay. All right let's see. The next person is, is that it,
16 Ms. Salerno? I'm sorry.

17 MS. SALERNO: Yes, that's everything. Thank you.

18 BZA CHAIR HILL: Okay, great. So Mr. Wing is not
19 with us. Is that correct?

20 MR. WING: I'm here. This is Ian Wing.

21 BZA CHAIR HILL: Mr. Wing, could you introduce
22 yourself for the record, please?

23 MR. WING: Sure. My name is Ian wing, I'm a
24 resident of 1937 2nd Street Northeast. I'm also an officer
25 in the Eckington Parks and Arts Greenways Committee and I'll

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1 be speaking on behalf of that organization.

2 BZA CHAIR HILL: Okay, I got to tell you. Like
3 you guys, I'm being really flexible on the time. I don't
4 mind giving you the five minutes right now but what, the way
5 this will work if you guys are ever with us in the future,
6 I need a letter that says you're representing the association
7 in order to get five minutes versus three, right? So Mr.
8 Wing, you can go ahead and have five minutes, and you can
9 present the response.

10 MR. WING: It's fine, sir.

11 BZA CHAIR HILL: I'm just laying it out.

12 MR. WING: Okay. Well, yes, we're ordinary
13 people. We don't do this often. This is our first time
14 attending one of these hearings. We were just motivated as
15 a community to come out and make sure that all of the
16 information presented to the committee is accurate and voice
17 our concerns.

18 A couple matters of fact are correct. I handle
19 a lot of the community engagement for our association, and
20 I attended the Eckington Civic Association meeting that
21 Michael Cross referenced earlier in the call.

22 The comments that I made at the time were that we
23 are generally supportive of development of the building next
24 door, but we needed time to review the plans and assess the
25 impact on our property.

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1 It's a sort of a large leap to accept that as
2 support from the, from the Community Association given the
3 fact that we have not had a chance to review the plans and,
4 you know, once we, once we did have a chance to go over the
5 plans with our, with our architect and amongst ourselves, it
6 was clear that the impact of the proposed development would
7 be too great and it's not something that we as neighbors
8 could support.

9 And going forward, I mean, I think that the
10 exhibits that Mr. Belak is going to show will illustrate sort
11 of our concerns pretty clearly. You know, like I said, we're
12 ordinary people. I mean, we're not investors.

13 This is everyone in the building's first home and
14 it's just hard to wrap my head around, you know, this
15 development coming in next door and, you know, adversely
16 affecting our quality of life and our property values.

17 So it's just a tough sell for us and, you know,
18 again, we're supportive of development next door, but it's
19 just got to be done in a way that, you know, is, you know,
20 positive for the community here.

21 BZA CHAIR HILL: Okay. All right, thank you, sir.
22 Mr. Bremen or Ms. Bremen, are you there?

23 MR. YOUNG: Mr. Young, was there a Mr. Bremen or
24 Ms. Bremen? It's Freeman. Never mind. Sorry, Mr. Freeman.
25 Okay, so Mr. Freeman, are you also testifying and you're

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1 testifying with Mr. Belak?

2 MR. FREEMAN: I'm helping consult --

3 BZA CHAIR HILL: You're in support of Mr. Belak?
4 Okay. Great, okay. So Mr. Young, do you have the item? The
5 exhibit?

6 MR. YOUNG: Yes.

7 BZA CHAIR HILL: Could you pull it up please for
8 us? Mr. Belak, can you hear me? Okay, I'm going to start
9 your five minutes now. You can go ahead whenever you like.

10 MR. BELAK: All right, thank you very much
11 Chairman Hill, thank you very much Mr. Young for sharing this
12 documentation on my behalf. What we have here is the current
13 view from the first unit in the building would share a space
14 between in the cellar and the ground floor.

15 And Mr. Young, if you could click anywhere on that
16 picture, please? So this is the proposed change. And if you
17 could click again, please. As we can see, there's a dramatic
18 difference in visibility of the skyline, most of the greenery
19 and an overall complete blockage of all of that sky. So
20 could you click again on that? Are there any questions or
21 comments from the Board before we go to the next view?

22 BZA CHAIR HILL: Now you can go to the next view.
23 I'm sorry.

24 MR. BELAK: Thank you.

25 BZA CHAIR HILL: I'm sorry, I can't see, I can't

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1 see the pictures. I'm sorry, I can't see the faces of my
2 fellow Board members. Do the Board members have any
3 questions of this one?

4 COMMISSIONER IMAMURA: Yes, Mr. Chair. Is this
5 the proposed or the matter of right?

6 MR. BELAK: So if you would unclick or, just
7 simply click the link. So matter of right would look crudely
8 like this, right? And if you would click, that is the
9 proposal.

10 BZA CHAIR HILL: Mr. Belak, is that correct? I
11 thought that's, that's the 20 feet.

12 MR. BELAK: That's the 20 feet we're looking at.

13 BZA CHAIR HILL: Right, so they get, they get 10
14 feet by right. So half of that would exist by right.

15 MR. BELAK: That's incorrect. So ten feet would
16 put them right in line with the current building. Twenty
17 feet would put them here.

18 BZA CHAIR HILL: Okay, well I'll ask Mr. Cross.
19 Mr. Cross, can you hear me? It is correct?

20 MR. CROSS: It is correct. It is correct.

21 BZA CHAIR HILL: That's looks like more than ten
22 feet to me.

23 MR. CROSS: Yes, I would question the method these
24 were produced but I would agree that that the matter of right
25 solution would not pass their building as their building

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1 already passes us ten feet, so we would only be passing them
2 the similar ten feet. So the projection that any projection
3 they would see would be limited to 10 feet. But I can't --

4 BZA CHAIR HILL: So maybe I --

5 MR. CROSS: -- see the scale of this illustration.

6 BZA CHAIR HILL: -- you're able to go, you're able
7 by right just to match their building?

8 MR. CROSS: That's right because their building
9 already goes back the ten feet that is allowed as matter of
10 right under today's code.

11 BZA CHAIR HILL: Got it, okay. Okay, continue,
12 Mr. Belak.

13 MR. BELAK: All right, thank you very much. If
14 you will please scroll down, Mr. Young? So this is the view
15 from actually my balcony. This is unit three, one floor
16 above the previous view.

17 This was the current view. As you can see a lot
18 of skyline, a lot of greenery, some of the neighboring
19 buildings. If you would please click on that picture, Mr.
20 Young.

21 So this is the proposed change which again,
22 extends ten feet beyond, really that upwards gutter is where
23 the new building would be if you'd look vertically at that
24 black gutter going up the side of the building, and this
25 would be ten feet beyond that.

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1 So again, my poor little planter which I aspire
2 to one day have plants in will unlike, be unlikely to get any
3 sun there and unlikely to grow, and of course, the
4 limitations in the skyline are pretty dramatic. If you could
5 click and unclick again for us, please, Mr. Young, so we can
6 see the difference.

7 COMMISSIONER IMAMURA: Mr. Belak, can you tell me
8 how deep is your balcony?

9 MR. BELAK: I would say it's roughly five feet.
10 I don't have an exact measurement, though.

11 MS. SALERNO: It's four feet. I've measured it.

12 MR. BELAK: Thank you. Thank you, Melissa.

13 BZA CHAIR HILL: Mr. Young, I guess if could click
14 that again is what Mr. Belak said. There you go. Okay,
15 Mr. Belak.

16 MR. BELAK: Okay, no questions?

17 VICE CHAIRPERSON JOHN: Mr. Chairman, may I ask
18 a question about this, this photograph? So where did you
19 measure from and for the projection, for the, for the
20 addition? So you mentioned --

21 MR. BELAK: We measured --

22 VICE CHAIRPERSON JOHN: Go ahead.

23 MR. BELAK: -- we measured 10 feet from the end
24 of our building, which would be 20 feet from the end of the
25 current structure.

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1 VICE CHAIRPERSON JOHN: So from the wall?

2 MR. BELAK: Correct.

3 VICE CHAIRPERSON JOHN: Okay, thank you.

4 MR. BELAK: My pleasure.

5 VICE CHAIRPERSON JOHN: I have no other questions.

6 BZA CHAIR HILL: Okay, Mr. Belak?

7 MR. BELAK: Thank you ma'am. And then the last
8 one, if you'd be so kind, Mr. Young. This is actually viewed
9 from inside. So obviously, we spend most of our time inside
10 and out on the balcony.

11 And we think it's as important if not more to show
12 the difference in the amount of light and quality of light
13 inside the unit, which of course is near impossible to
14 represent on architecture drawings. If you could click on
15 that picture, please, Mr. Young.

16 So again, the view from the inside of the building
17 is dramatically reduced. The overall sunlight quality of
18 light is dramatically reduced. One more pair of clicks
19 please, Mr. Young.

20 Okay, thank you very much. So we'd be happy to
21 follow the appropriate procedure to enter this documentation
22 into the record. I apologize for not having done so already.
23 Are there any questions from the Board?

24 BZA CHAIR HILL: Okay. Thanks, Mr. Belak.

25 Thanks, Mr. Young. You could drop that one if you don't

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1 mind. Okay, I got the shadow studies, that's what I'm
2 looking at. The, okay --

3 Ms. Myers, can you hear me? Again, when the
4 Office of Planning was doing their analysis, I mean, this
5 happens, this has happened a lot to us, you know, just so
6 Mr. Belak, you know.

7 I mean people are with us all of the time looking
8 for a special exception to go beyond the 10 feet that's
9 matter of right and then we rely on different things to see
10 whether or not they're meeting the regulations for us to
11 grant the relief, right?

12 And so Ms. Myers, I know that like, you know,
13 within the regulations, views aren't something that are
14 protected. And so, you know, when the Office of Planning was
15 doing their analysis of this additional ten feet, how did
16 they go about that with comparison to 1937?

17 MS. MYERS: Well --

18 BZA CHAIR HILL: Go ahead and get started.

19 MS. MYERS: -- when it comes to going back more
20 than the matter of right, it's really more of an issue on the
21 other side. It's 20 feet from that neighbor's rear and
22 that's the side that brings us pretty much into needing
23 review for that issue.

24 On this side, it is ten feet beyond this neighbor,
25 but that is allowed. If the other side wasn't the 20-foot

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1 issue, this, we wouldn't even see this. So, you know, when
2 it comes to views, I mean, we do look at, I believe it's
3 enjoyment of your property.

4 But again, you know, I believe there's like,
5 there's no windows on the edition on either side. I'm trying
6 to take a look at my report to just make sure I can verify
7 that but I believe that was the case so that wasn't, yes.
8 I don't think there was any significant privacy impacts so,
9 you know, we didn't really --

10 BZA CHAIR HILL: Okay, I understand.

11 MS. MYERS: -- look at the level of undue impact.

12 BZA CHAIR HILL: Okay, thanks. All right.

13 Mr. Cross, can you hear me? The discussions that you were
14 having there with Mr. Belak and his group, right. So what,
15 I mean, you guys wanted two more weeks, or whatever, you
16 wanted a postponement to continue to discuss what, and I'm
17 just curious now. I'm not trying to get into negotiations
18 here. In fact, what is it that you guys were going to
19 discuss?

20 MR. CROSS: We were trying to, you know, provide
21 a good faith effort to try to reach some sort of compromise.
22 We had offered a reduced plan that, you know, I don't think
23 has been outright rejected, although maybe some testimony
24 earlier suggested that it has been but may be still being
25 considered.

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1 But honestly, it is, we submitted the postponement
2 with some reservations because we are not ourselves sure if
3 there is an area, is a solution that would receive the
4 support of the adjacent neighbor short of alignment with
5 their building, which would be matter of right and not
6 require relief as the Office of Planning suggested.

7 BZA CHAIR HILL: Right, the but then you, there
8 was some discussion, and I'm just trying to understand.
9 There was some discussion about you not going back as far is
10 what I heard at one point from somebody, and then that would
11 change your program, right? Or you would still have the same
12 amount of units?

13 MR. CROSS: The same amount of units. It would
14 change our gross floor area slightly, but our overall
15 footprint as proposed would actually stay the same because
16 we were only suggesting to inset the corner of those second
17 and third floors, those floors which are fully above the
18 existing fence.

19 BZA CHAIR HILL: Okay, and then, but then you
20 would have a different design?

21 MR. CROSS: There would be a slight design change.
22 Yes, sir.

23 BZA CHAIR HILL: All right. Okay. Okay, does the
24 Board have any questions for any of the witnesses that are
25 here? Mr. Freeman, you had a comment?

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1 MR. FREEMAN: We've worked with Mr. Cross over the
2 last few weeks to further develop the shading studies and the
3 design, and the shade studies that he's given you are 2D.
4 He's developed 3D shape studies as well as view impacts.

5 So when, if there's question about the ten-foot
6 extension in those pictures that Mr. Belak has represented,
7 Mr. Cross has given us that, has given us additional drawings
8 and additional information.

9 Those drawings have not been uploaded and have not
10 been presented to you and I think those also help represent
11 the impact that is happening on 1937 from 1933. So I would
12 respectfully ask that those be uploaded and be put into the
13 record as well.

14 BZA CHAIR HILL: I got you because it's a
15 primitive, if my fellow Board members need anything else.
16 I mean, we're looking at the difference between the 10 feet
17 and the additional, well, the additional therapy, right?

18 And so, you know, I think there's a bunch of
19 shadows there. I don't need anything else at this point.
20 I mean, what I'm more interested in is that if you guys
21 actually changed the design, we would have to look at the
22 design again, right? And so that's what I'm kind of, like,
23 struggling with here.

24 MR. FREEMAN: Well, and if I may, Chairman, we
25 also spoke with the ANC representative. The Truesdell was

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1 not a part of the April 19 presentation that Mr. Cross
2 presented to them.

3 And as far as I understand, any support that the
4 ANC has provided has not been put onto paper and made
5 official. And so she also was at the meeting that we had on
6 May 9th, and emailed all of us together and agreed that a
7 postponement would be in the best, in the benefit of this
8 process because I believe there may have been some, some
9 procedures that were out of, out of place.

10 BZA CHAIR HILL: Okay, I don't know, okay, that's
11 okay. I don't have, I don't have an official report. You're
12 correct on that. I have an email from a commissioner as to
13 what the vote was. I'm assuming the vote is correct.

14 Like, I don't think the person would lie, but I
15 don't have an official thing. So nonetheless, I'm trying to
16 figure out what we're going to do here. So that's the, okay.
17 So does the Board have any, and I'm going to keep the
18 witnesses around. Like, you guys can stick around.

19 I'm just going to kind of let you leave the
20 hearing room in a second. Does the Board have any questions
21 for the witnesses? Okay, all right. Thank you guys. I'm
22 going to, you may or may not be back but I'm going to, and
23 it was nice to see you all. Thanks for your participation.
24 And Mr. Young, if you can put them in the waiting room,
25 please?

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1 MR. BELAK: Thank you, Mr. Chairman.

2 BZA CHAIR HILL: Thank you. Okay, this may have
3 been helpful. I guess it did, like we got through a majority
4 of it. But now Dr. Imamura, you have to come back on the
5 25th, you know?

6 And so, I think what I would suggest is we go
7 ahead and have a limited scope hearing on any kind of
8 discussions that may happen with that building next door.
9 I don't know whether or not it affects the decision that the
10 Board might have or whether or not it, again, changes the
11 mind of where the Board may or may not be on this particular
12 case.

13 However, if they want a little bit more time to
14 see if they can work together, then what I would suggest is
15 giving them a couple of weeks and then leaving the record
16 open for any changes in design, and also leaving the record
17 open for an official letter from the ANC.

18 Did I lose, I didn't mean to kick out, no, Mr.
19 Young, I just meant to kick out the witnesses, not the
20 applicant. If you can put the applicant back in. Thanks.
21 Mr. Cross, can you hear me?

22 Okay, so this one, I would suggest I'm looking at
23 my Board members. So we'll bring them back on the 25th for
24 a limited scope hearing on just the discussions that may or
25 may not take place with the adjacent neighbor.

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1 If there is a design change, leave the record open
2 for a design change, and then also leave the record open for
3 anything that might come from the ANC. Does my fellow Board
4 members have any comments or any additional items?

5 VICE CHAIRPERSON JOHN: So, so in term, in terms
6 of comments, I don't need any additional items, but I'm
7 looking at Exhibit 53 and looking at the relationship of 1937
8 2nd Street to 1933 2nd Street as it exists now.

9 And 1937 is towering over 1933. So there will be
10 some impact to 1937, but, you know, 10 foot is allowed, a 10
11 foot extension is allowed as a matter of right on that side.
12 So I would be interested to see if the parties can, you know,
13 make any changes that they both can accept, but just looking
14 at this photograph, a ten foot extension is allowed as a
15 matter of right on that side. So, just an observation,

16 BZA CHAIR HILL: No, thanks, Vice Chair John. So
17 you don't need anything?

18 VICE CHAIRPERSON JOHN: I don't really need
19 anything, no.

20 BZA CHAIR HILL: Okay, okay. Does anybody else
21 need anything? Okay. Then Mr. Moy, let's go ahead and do
22 this. Let's bring them back for a continued hearing.
23 Continuing on 525.

24 Okay, 525 continue hearing. On just the items
25 that we spoke about, which is that the discussion with the

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1 adjacent neighbor and any changes, Mr. Cross, do you have any
2 questions on what I just said?

3 MR. CROSS: No, I understand it.

4 BZA CHAIR HILL: Okay. All right, then we'll come
5 back, Mr. Moy. Is that good? I'm sorry, Mr. Moy, you want
6 to give them a date?

7 MR. MOY: Yes, I was going to ask why not to give
8 them a deadline for filings as well as whether or not you
9 wanted a supplemental report from the Office of Planning.

10 BZA CHAIR HILL: I don't think we need a
11 supplemental unless the Office of Planning wants to provide
12 one. I don't, unless they see, I don't think there'll be any
13 differences for their view.

14 MR. MOY: Okay, then I would suggest,
15 Mr. Chairman, that the filings that you're suggesting whether
16 the applicant, if the applicant were to file any design
17 changes, and as long as you're opening the record for any
18 further documentation or a letter from the ANC.

19 Then those materials can be submitted into the
20 record. As I suppose, I mean, today's May 11th already so
21 that gives the applicant time. Maybe Friday May the 20th?
22 Or do you want to split that over to the following Monday?

23 BZA CHAIR HILL: Well, I got the sample for Mr.
24 Cross quick on the 20th so that sounds like that's okay,
25 right?

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1 MR. CROSS: Friday the 20th will work for us.

2 BZA CHAIR HILL: Okay, and so --

3 MR. CROSS: Thank you.

4 BZA CHAIR HILL: -- we'll have submissions on
5 Friday the 20th. We don't need responses from anybody. What
6 we're leaving the record open for, what we're leaving the
7 record open for, again, is any negotiations you might have,
8 Mr. Cross, with the adjacent neighbor.

9 And I guess I'll leave the record open if the
10 adjacent neighbor wants to submit something to the record
11 again as well based upon the discussions. I mean, hopefully
12 you guys come to an agreement and, you know, there's nothing
13 for them to object to. But we'll see what happens on May
14 20th. Okay, Mr. Cross? Sorry, Vice Chair John?

15 VICE CHAIRPERSON JOHN: Mr. Chairman, would this
16 be a limited scope hearing?

17 BZA CHAIR HILL: I was going to do a limited scope
18 hearing just on that or we can just go to a decision. It's
19 up to you guys.

20 VICE CHAIRPERSON JOHN: I defer to the rest of the
21 Board but unless there's a new design, then we could just go
22 to decision.

23 BZA CHAIR HILL: Okay, do you guys decide then?
24 I see Dr. Imamura nodding with decision, I guess. Okay, Mr.
25 Smith?

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1 MEMBER SMITH: I agree with limited scope.

2 BZA CHAIR HILL: Mr. Blake? Okay, so we'll decide
3 mister, I mean, we are going to have a decision hearing on
4 525. Okay? And then hopefully we get something on the 20th.
5 All right, is that it for you guys? Okay, thanks, Mr. Cross.

6 VICE CHAIRPERSON JOHN: Thank you.

7 BZA CHAIR HILL: Okay, I want to let you all know
8 I am, I am earning my lunch money today, okay? As all you,
9 as you are as well. All right, Mr. Moy, do you want to call
10 in our next one?

11 VICE CHAIRPERSON JOHN: Is this our last case
12 before lunch, Mr. Chairman? Just inquiring.

13 BZA CHAIR HILL: Yes, no, that's right. I think
14 it is then.

15 VICE CHAIRPERSON JOHN: Okay. Thank you.

16 BZA CHAIR HILL: Okay, okay. You all are going
17 to have like a big donor. I mean, I'm having like, I'm
18 having like two big Dunkin Donuts before this starts and so
19 that carries me like, you know. I'm advertising. All
20 right, Mr. Moy.

21 MR. MOY: All right, I'm sorry, sir. I was, I was
22 multi-tasking a little bit. Okay, so the case before the
23 Board now is application number 207064 4001 7th Street
24 Northeast for NE, LLC.

25 This is, this is a self-certified application

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1 pursuant to Subtitle X, Section 901.2 for a special exception
2 under Subtitle U of Section 421. This would permit new
3 residential development.

4 This is a, would be for a seven unit apartment
5 house. The property is located in the RA-1 zone at 4001 7th
6 Street Northeast Square 3817 Lot 11. And let's see, there
7 are motions because there's a late filing from the applicant.

8 This is the 21-day dead requirement for filing
9 supplementals into the record. And let's see, what else do
10 we have? And the app, which includes from the applicant a
11 untimely filing for their affidavit of posting, all right?

12 And finally, Mr. Chairman, late last night there
13 was an attempted entry by the ANC 5B. It was an email
14 correspondence that I believe was an attempt to clarify their
15 remarked statement statements in their ANC report. So if the
16 Board wishes to see those statements from the ANC, then you
17 would have to allow that into the record.

18 BZA CHAIR HILL: Okay. All right, unless the
19 Board has any issues, I'd like to allow everything into the
20 record. And if you have an issue, please raise your hand.
21 All right, Mr. Moore, if you can, please ask the staff to
22 drop those into the record and we can keep a lookout for him.
23 Mr. Cross, if you can hear me, if you can introduce yourself
24 for the record?

25 MR. CROSS: Sure. My name is Michael Cross, the

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1 architect responsible for this projects. I'm joined here by
2 project designer agreement Garima Gupta.

3 BZA CHAIR HILL: Okay. Well, let's see who we
4 need to hear from, Mr. Cross. Mr. Cross, between you and
5 Mr. Sullivan, you guys have got the whole day today. Let's
6 see, why don't you, Mr. Cross, walk us through your client's
7 application? And why I believe they're meeting the criteria
8 for us to grant the relief requested. I don't see a
9 PowerPoint. Is there something you want us to pull up?

10 MR. CROSS: Yes, you can pull up Exhibit 26A.

11 BZA CHAIR HILL: I guess, Mr. Cross if you can
12 also speak to like the DDOT items?

13 MR. CROSS: Sure. Okay, fantastic. So, this
14 project, this project is proposing, is a renovation of an
15 existing four unit structure being converted to a seven unit
16 structure with three stories, a limited third story addition
17 is being proposed.

18 We're proposing six two-bedroom units and one
19 one-bedroom unit. This is, we're seeking special relief for
20 this project due to the RA-1 zoning requirements that require
21 any new development or development related to the expansion
22 of an existing structure to receive special exception relief.
23 Next slide, please.

24 The project's located on the intersection of 7th
25 and Randolph. It is a corner lot with a total land area of

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1 roughly 4,500 square feet. And we're proposing to largely
2 maintain the existing footprint, which is roughly 40 percent
3 lot occupancy. The remaining 60 percent would be used as
4 green cover pavers, window wells and parking. Next slide,
5 please.

6 The project requires only one parking space.
7 However, we are proposing to provide four parking spaces.
8 The project as well connected to public transportation within
9 a half mile of the red line, as well as served by nearby bus
10 lines.

11 There's dedicated trash space then at the rear of
12 the property, and the trash will be collected by a private
13 collection service at intervals to meet the building's
14 demand. Next slide, please.

15 The cellar floor shown here has two-bedroom units,
16 one located in the front, one located in the rear. The
17 cellar of this building is already dug out, but we will be
18 underpinning it for additional head height. And we're
19 proposing to keep the existing foundation walls. Next slide.

20 This is the first floor. In this layout we also
21 have, well this floor is typical of both the first floor and
22 second floor where we have two two-bedroom units. All units
23 are afforded with increased natural light and air through
24 windows on three sides and every unit will have access to
25 outdoor space. The units here are proposed to 750 to 850

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1 square feet. Next slide. Next slide.

2 The third floor is a partial third story addition
3 here being added over the existing two story building. This
4 is where the autonomous seventh unit is located. That unit
5 has its own private roof deck. Next slide. Next slide.

6 The exterior is proposed for main, with the
7 existing brick front and side facing 7th and Randolph Street
8 with some siding on the rear towards the alley. Prior to
9 gaining to the ANC, prior to gaining the AMT, ANC support,
10 we received feedback from the SMD and revised our design
11 accordingly.

12 We are now showing that we are going to maintain
13 the existing mansard roof, which is found on the properties.
14 We are also keeping the existing brick on the front and side
15 as noted before.

16 And while our client considers, continues to
17 consider maintaining the front stoop and stairs and railings,
18 we're not proposing to maintain those items at the time. We
19 appreciate your time and welcome any questions that you might
20 have.

21 BZA CHAIR HILL: Okay, does the Board have any
22 questions of the applicant?

23 COMMISSIONER IMAMURA: Mr. Chair?

24 BZA CHAIR HILL: Sure, Dr. Imamura?

25 COMMISSIONER IMAMURA: So Mr. Cross, just a quick

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1 question. As I kind of go through your floor plans here, the
2 patios for the cellar unit one and two that are on grade, I'm
3 looking at units four.

4 Now it looks like they have, there are two
5 windows. One in the master bedroom and one in the living
6 room kitchen that look out onto those two patios. Is that
7 right?

8 MR. CROSS: Yes, sir. They are at slightly
9 different elevations. But yes, there would be some
10 visibility from the above grade units to that side yard in
11 very much the same way as any unit would have with visibility
12 of a rear yard patio.

13 COMMISSIONER IMAMURA: All right, was there any
14 thought consideration given to at least moving or relocating
15 those window units into another position?

16 MR. CROSS: Yes, it had not been considered
17 previously. Again, this situation is not all that atypical
18 for visibility within a development, but obviously it's a
19 duly noted.

20 COMMISSIONER IMAMURA: What is the grade change,
21 I guess, or the elevation change from the patio to the
22 window? Because it's not so much, it's not only just the
23 unit looking out, but it's also who's on the patio looking
24 in. Just a ballpark.

25 MR. CROSS: Yes, I think it's, I think it's only

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1 a couple of feet.

2 COMMISSIONER IMAMURA: Okay. You know, I was just
3 thinking if there's any way to kind of, we'll look at that,
4 and reposition that but that's just my question, so.

5 MR. CROSS: Okay.

6 COMMISSIONER IMAMURA: Nothing further, Mr. Chair.

7 BZA CHAIR HILL: Thank you. Mr. Blake?

8 MEMBER BLAKE: Yes, Mr. Cross, could you talk a
9 little bit about, I think that this building has building
10 restriction lines on both 7th and Randolph. Can you talk a
11 little bit about how you are doing the patios and how that
12 relates to the public space or the exact encroachment on
13 public space, I guess my question is.

14 MR. CROSS: Yes, you're exactly right. As noted
15 in the DDOT report, there are building restriction lines on
16 both street facing lot lines for this project. That is one
17 of the reasons that we are largely maintaining the existing
18 footprint as it already conforms with those building
19 restriction lines.

20 The proposed projections into public space are
21 limited to lead walks, stoops, window wells and in the case
22 of these two patios, some paving, and fences, I think, is so
23 what they call a fence is less than 42 inches, which are all
24 permissible elements under the public space guidelines.

25 MEMBER BLAKE: Thank you. Now, is that going to

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1 be pervious? What was the surface going to be like in those
2 areas?

3 MR. CROSS: I don't know if it's been determined
4 at this time, but it is likely to be some sort of paver
5 system. Whether it's pervious or not, I don't know.

6 MEMBER BLAKE: Thank you, sir.

7 BZA CHAIR HILL: Anyone else? Vice Chair John?

8 VICE CHAIRPERSON JOHN: I asked my entire
9 question. Thank you, Mr. Smith. Did you, did you see DDOT
10 comments about combining the multiple lead walks? I don't
11 know if you already addressed it in the architectural plans.

12 MR. CROSS: Not to comment but it has not been
13 addressed in the plans to date.

14 VICE CHAIRPERSON JOHN: Okay. All right, thank
15 you.

16 BZA CHAIR HILL: All right, anyone else? I'm
17 going to turn to the Office of Planning.

18 MS. ELLIOTT: Sorry, it was taking a minute.
19 Okay, there we go. Good afternoon. Mr. Chairman, I'm
20 Brandice Elliott representing the Office of Planning for BZA
21 Case 20706.

22 We've reviewed the application provided to us
23 which included the site plan, landscape plan, grading plan,
24 and also building elevations and found that it met the
25 special exemption criteria for a new residential development

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1 in the RA-1 zone.

2 So we are recommending approval of the relief
3 that's been requested. In terms of the public space and any
4 DDOT issues, we would expect that the applicant would
5 continue to work with DDOT to resolve any of those issues
6 related to the patio or the walkways, but that that would
7 happen with public space. So if there any questions, I'm
8 happy to answer them.

9 BZA CHAIR HILL: Does anybody have questions for
10 the Office of Planning? Does the applicant have any
11 questions for the Office of Planning? Mr. Young, is there
12 anyone here wishing to speak? Okay.

13 All right, I'm going to go ahead and close the
14 hearing and the record unless the Board has any questions,
15 but if so, please raise your hand. All right. All right,
16 thank you, Mr. Cross.

17 Okay, after hearing the presentation, I would
18 agree with the argument that the applicant has made as to how
19 they're meeting the criteria to grant the relief requested
20 under the regulations.

21 I like, I kind of liked the question they
22 encountered with that. I like the design and how they kept
23 the mansard roof and so I think that it is an interesting
24 design.

25 But regardless of what I feel about the design,

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1 I think they're meeting the criteria within the regulations.
2 I would also agree with the analysis that was provided by the
3 Office of Planning and also the, and I'm trying to see here
4 where, I think, the latest items that came into the record.

5 One second here. And I want to thank Commissioner
6 Costello for the clarification of the report as to the ANC's
7 recommendations. It took time for the commissioner read that
8 out, and I appreciate it. So I'm going to be voting in favor
9 of the application. Mr. Smith, you everything you'd like to
10 add?

11 MEMBER SMITH: I don't have anything to add. I
12 agree with your assessment of this cases, and I also agree
13 with assessment for the reasons why this was especially, the
14 special section material is that grant the special exception.
15 So we'll be voting in support of that, thank you.

16 BZA CHAIR HILL: Thank you. Mr. Blake?

17 MEMBER BLAKE: We voting in favor of the
18 application. I do think it meets the requirements of U 21
19 and the general standards. I would say this, I looked at the
20 original design and I do think this is a significant
21 improvement over that with regard to the mansard roof.

22 I did know that in the SMDs comments talked a
23 little bit about the front, well I guess the porch or the
24 awning. Maybe that would be something that the applicant
25 could also consider in looking at. But otherwise, I thought

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1 that was a good design and I think it's a nice property and
2 I'll be supporting the application.

3 BZA CHAIR HILL: Thank you. Dr. Imamura?

4 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
5 I'm in agreement, mostly with Board member Blake and Board
6 member Smith. I think the design, that it meets the special
7 exception.

8 The design, however, I don't think there's a whole
9 lot of expression on any of the elevations. But as Board
10 Member Blake did say, it is an improvement over the original
11 design. So with that, I think I certainly understand the
12 intent of the design and the architect and I'm ready to vote
13 in favor.

14 BZA CHAIR HILL: Thank you. Vice Chair John?

15 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.
16 I think as we, as revised, this application is
17 straightforward, and I want to commend the applicant for
18 working with the ANC to come up with the improved design and
19 I agree with OP's analysis of how the application meets the
20 criteria for relief and I will be voting in support.

21 BZA CHAIR HILL: Thank you. I'd like to thank all
22 of my colleagues. I'm going to make a motion to approve
23 application number 20706 as captioned and read by the
24 secretary and ask for a second. Ms. John?

25 VICE CHAIRPERSON JOHN: Second.

1 BZA CHAIR HILL: The is made and seconded, Mr. Moy
2 could you take a roll call?

3 MR. MOY: When I call your name, if you would
4 please respond with a yes, no, abstain to the motion made by
5 Chairman Hill to approve the application for the relief
6 requested. This motion was seconded by Vice Chair John.

7 Zoning Commissioner Dr. Imamura?

8 COMMISSIONER IMAMURA: Yes.

9 MR. MOY: Mr. Smith? Mr. Blake?

10 MEMBER BLAKE: Yes.

11 MR. MOY: Vice Chair John?

12 MEMBER BLAKE: Yes.

13 MR. MOY: Chairman Hill? Then staff is going to
14 record the vote as five to zero to zero and this is on the
15 motion by Chairman Hill to approve. The motion was seconded
16 by Vice Chair John in support.

17 Also in support the motion to approve, Zoning
18 Commissioner Dr. Imamura, Mr. Smith, Mr. Blake, of course
19 Vice Chair John and Chairman Hill. The motion carries on a
20 vote of five to zero to zero.

21 BZA CHAIR HILL: Okay, thank you. Okay, do you
22 all want to do like 45 minutes? Okay, all right. So let's
23 come back at 1:30. Thank you.

24 (Whereupon, the above-entitled matter went off the
25 record at 12:45 p.m. and resumed at 1:36 p.m.)

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1 BZA CHAIR HILL: All right, Mr. Moy. You can call
2 us back in and call our first case, when you get a chance.

3 MR. MOY: Thank you, Mr. Chairman. The Board has
4 returned to the Public Hearing session after a relatively
5 quick lunch recess, and the time is at or about 1:36 p.m.
6 The next case as before the Board is Application No. 20707
7 of Daniela Gross and Eric Teran, T-E-R-A-N. This is a self-
8 certified application, pursuant to Subtitle X, Section 901.2,
9 for a special exception under Subtitle E, Sections 205.5, and
10 Subtitle E, Section 5201, from the rear addition requirements
11 of Subtitle E, Section 205.4. The property is in the RF-1
12 Zone at 1146 16th Street, Northeast, Square 4076, Lot 196,
13 and that's all they're going to have for the Board.

14 BZA CHAIR HILL: Great. Mr. Teran, can you hear
15 me? And if so, could you introduce yourself for the record,
16 please?

17 MR. TERAN: Sure. My name is Eric Teran, and I'm
18 the architect, and I'm actually the homeowner this time as
19 well.

20 BZA CHAIR HILL: Well, Mr. Teran, that's
21 interesting. Well, welcome. Let's see, Mr. Teran, if you
22 want to --- you know the drill. If you want to go ahead and
23 walk us through the application and why you believe you're
24 meeting the criteria for us to grant the relief requested,
25 I am pulling up the record right now. And you can begin

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1 whenever you like.

2 MR. TERAN: Okay. If Mr. Young could pull up
3 Exhibit --- I think I said it was 19, start with the plans.

4 BZA CHAIR HILL: Mr. Teran, can you tell us ---
5 I --- did you get an ANC letter?

6 MR. TERAN: For this? No. Well, we went last
7 night. I wasn't here in our April meeting. And so, we did
8 go last night, and we did get approved unanimously. And I
9 don't know if they had time to write the letter, though.

10 BZA CHAIR HILL: I doubt that. If you went last
11 night, they didn't have time to write the letter. But you're
12 testifying you went last night, and they approved?

13 MR. TERAN: Correct.

14 BZA CHAIR HILL: Okay. I'm sorry, Mr. Teran?

15 MR. TERAN: I was going to say we finished around
16 10:30 last night, so it was pretty late.

17 BZA CHAIR HILL: Okay. Let's see. All right.
18 Yeah. If you can just go ahead and walk us through your
19 application, then.

20 MR. TERAN: Sure. Next line, please. So this is
21 --- we're on the corner of 16th Street and Meigs Place at Lot
22 196. We are proposing to go past the ten feet by about four
23 foot, eleven and a half inches.

24 BZA CHAIR HILL: My sorry, Mr. Teran. Which
25 exhibit are you in again?

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1 PARTICIPANT: R19.

2 BZA CHAIR HILL: Got it. Okay. Great. Thank
3 you.

4 MR. TERAN: And we're on the second page on the
5 site plan. And so, we extend that four foot, eleven and a
6 half inches past the ten feet, and then we created a dog-leg
7 to lessen the massing. And we'll see that a little bit later
8 in the 3-D drawings. And then, the dog-leg goes back another
9 six feet. Here, a thing to notice is that we are the same
10 massing as the four corner houses, Lot 254, 234, and the one
11 right across the street, so I think it does really fit the
12 character on this Meigs Place, right here on the corner.

13 Next, please. We are proposing to turn the
14 single-family house into two units. One unit will be the
15 first floor and the basement, which would contain four
16 bedrooms. And I know, in this Board, this is a --- for them,
17 it's --- they are looking for --- what is it? -- family-size
18 housing. Next, please. And upper unit would be the second
19 and third floor, and this would have five bedrooms, one
20 bedroom on the third --- second floor and the other four at
21 the top.

22 And you can see here, also, the --- where we're
23 doing the dog-leg and how that helps reduce the massing.
24 Next slide, please. That's just the roof plan. Next,
25 please. And elevations, I have some 3-D renderings that will

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1 --- you can tell better, so we won't spend too much time
2 here. Next, please. This is an elevation along Meigs, and
3 you can see the additional feet that we're asking for. And
4 also, we are lower than the maximum allowed by a few feet.

5

6 Next, please. And this is the residence that's
7 to the south of us. Luckily, we are to the north, and you'll
8 see in the sun study that we are not affecting anybody with
9 sun or light. And here, you can also see a little bit better
10 where we're adding the ten feet and what we're asking for the
11 extension. I think, go to the next exhibit to the 3-D
12 drawings. I think it's number 23. Have you go to the next
13 page. So this is at the corner of 16th and Meigs. You can
14 see we're doing the extra third floor, which is new.

15 And we're having parapet for a roof deck. We're
16 all --- we're, as I mentioned, we're about four feet under
17 the allowed height limit. Basically, everything that you see
18 in white for the first two floors was what's there now, and
19 we're proposing an addition on the back and a third floor.
20 Next slide, please. This is on 16th Street, just different
21 perspective. Next, please. And this is from the back. I
22 think this is the one that really helps with a dog-leg to
23 reduce that massing with the neighbor.

24 You can see there's really --- since this is on
25 a north side, we're never casting any additional shadows to

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1 any of the houses. And we are --- there are some trees on
2 the lot. There's three of them, and we are going to do
3 everything we can to protect them. We definitely don't want
4 to get rid of them. Next, please. Just along Meigs. I just
5 have one last idea. Then, Exhibit 21, please. Just to look
6 at the sun studies quickly. So on the right is the matter
7 of right, and the left is the proposed. I believe the first
8 three slides are the summer solstice. This is at 9 a.m. So
9 we're creating a little more shadow on our own yard. Next,
10 please.

11 BZA CHAIR HILL: Which exhibit are these, then,
12 Mr. Teran?

13 MR. TERAN: This one's number 21.

14 BZA CHAIR HILL: Okay. Sorry.

15 MR. TERAN: Same thing here, again. Summer
16 solstice at 12. We're just creating a little bit more shadow
17 on the sidewalk and our own property. Next, please. And
18 lastly, you can see it's the same thing, our property, a
19 little bit on the sidewalk. Let's go to the next slide,
20 which would be the winter solstice, where, here, we do create
21 a little bit more shadow, but once again, it's our yard and
22 the street. Next, please. Same situation.

23 And last slide, please. Same thing again. So,
24 you see, we do comply with light, air, shading. There's no
25 issues with any of the property itself. We believe we still

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1 are within the character of the neighborhood. And there was
2 one more thing I wanted to say, but I forgot. But I'm happy
3 to answer any questions.

4 BZA CHAIR HILL: Okay. Thank you, Mr. Teran. Mr.
5 Blake. Mr. Blake, you're either breaking up or on mute.

6 MEMBER BLAKE: I think I'm good now. What's the
7 square footage on those units? You said they were five
8 bedrooms, just curious to know what the square footage is and
9 what the existing square footage is of the building, just to
10 get a sense of the change.

11 MR. TERAN: Yeah. The existing is about --- I
12 think overall it's 800 and, I want to say, 50 square feet,
13 two stories, so about 425 on each floor. We will be doing
14 a new basement, so we're doubling that. Each unit will be,
15 let's see, about 1500 square feet, so each floor will be
16 about 750, I want to say it was, off the top of my head.

17 MEMBER BLAKE: Okay. Thank you.

18 MR. TERAN: Mm-hmm.

19 BZA CHAIR HILL: Dr. Imamura.

20 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
21 Mr. Teran, you had mentioned that --- it looks like there are
22 three really healthy trees in the backyard. You said you're
23 going to do everything you can to retain them. Can you
24 elaborate on what everything means?

25 MR. TERAN: Well, definitely, there are certain

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1 zones that you can't build too close to the trees. They're
2 not heritage trees yet. Hopefully, they will be one day.
3 But we will be having no work zone or not even people could
4 walk through. I know for better protection you could put a
5 chain link fence up there around it. So I had --- I forgot
6 who the gentleman --- I believe it was a gentleman from ---
7 how's it --- someone with the DDOT forestry that we were ---
8 we had a site meeting set up, but we haven't been able to
9 schedule or coordinate our counters yet.

10 COMMISSIONER IMAMURA: Okay. I think I heard you
11 say that you're going to expand the foundation, right, a bit,
12 right, which may encroach on the critical root zones for
13 those trees. So I would encourage you to do everything you
14 can to protect those critical root zones.

15 MR. TERAN: Definitely.

16 COMMISSIONER IMAMURA: As well as your laydown
17 space and things like that. You know that 80 percent of
18 those roots are within the first 3 feet of the soil, so just
19 be real mindful of that.

20 MR. TERAN: Yeah. I think --- so, originally, we
21 had --- actually, our first design, when we went to the ANC,
22 we had actually asked for an --- it was an additional seven
23 feet, and then we reduced it. And so, I think the closest
24 we are now to the tree --- I want to say it's about 14 feet.
25 So I know that definitely helped by pushing it back.

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1 COMMISSIONER IMAMURA: Great. All right. Thank
2 you, Mr. Teran. That's all I have, Mr. Chairman.

3 BZA CHAIR HILL: Anyone else for the applicant?
4 All right. Good. Chairman of the Office of Planning.

5 MS. THOMAS: Good afternoon, Mr. Chairman, members
6 of the Board. Karen Thomas for the Office of Planning, and
7 the Office of Planning is recommending approval to permit the
8 addition greater than the ten feet. We believe the applicant
9 made adjustments to step the addition away from the rear wall
10 of the abutting property. So as it is a corner lot and the
11 massing was reduced, we are asking the applicant to work with
12 urban forestry to protect those trees that you referenced.
13 And with that, I will rest on the record of our report.
14 Thank you.

15 BZA CHAIR HILL: All right. Does anyone have any
16 questions for the Office of Planning? Does the applicant
17 have any questions for the Office of Planning? Mr. Young,
18 is there anyone here wishing to speak?

19 MR. YOUNG: We do not.

20 BZA CHAIR HILL: Okay. All right, Mr. Teran. Do
21 you have anything --- Mr. Teran, can you tell me how the ANC
22 meeting went? I guess, they --- you have the same massing,
23 basically, on those four corners, so no one really had a
24 whole lot of concerns about --- I'm curious, like concerning
25 of the massing or the design. Now, that whole block is

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1 probably going to change. Are you going to live there? Is
2 that what you said, Mr. Teran?

3 MR. TERAN: So it's going to be an investment
4 property for now. So, hopefully, we can hold it for a while,
5 give it our kids, or maybe go live in the city one day. But
6 the first time we went to the Zoning Committee and ANC, it
7 was about in February. And that's when we did propose seven
8 extra feet, and that's when nobody liked it. Or they liked
9 the design, but it was too big. So then, that's when we
10 reduced it. And when we went yesterday, nobody really
11 complained at the ANC.

12 We did get two letters of people that were against
13 it. One was one of the other buildings on the corner. He
14 just didn't like that it was going to be bigger for his view
15 out the back. And the other one, I think, it was about three
16 houses down. They just didn't want a bigger building, I
17 guess. But we did get letters of support. One was an
18 adjacent neighbor and, then, two across the street,
19 immediately across the street. But there really wasn't any
20 objection yesterday when we presented the revised plans.

21 BZA CHAIR HILL: Okay. Interesting. Okay.
22 Great. All right. Does anybody have any further questions
23 of anyone? All right. I'm going to close the hearing on the
24 record. Mr. Young, if you could please excuse everyone.

25 BZA CHAIR HILL: It's funny. These ten feet

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1 beyond --- the ten --- beyond the ten feet rule, I always
2 think it's a little bit --- I don't know. It's just
3 interesting. I know that, Vice Chair John, we've had this
4 discussion before about how these things play out. In this
5 particular case, I will, again, agree with the Office of
6 Planning. I guess I always think it's interesting that that
7 is changing the block, and, so --- there was another one
8 that was similar to what --- this reminds me of another case
9 that we're still deciding on.

10 But, in this particular case, I will agree with
11 the Office of Planning's analysis. I would also agree that
12 --- with the argument that the applicant is making in terms
13 of how they're meeting the criteria for us to grant the
14 requested relief. I thought that --- I don't know. I was
15 just a little challenged, I guess, on that it was a departure
16 from some --- so much of a departure of the block. But I
17 guess that whole block is going to change that way.

18 And I know that maybe some of my other fellow
19 board members have more of an understanding as to how the
20 block is going to change than sometimes I do because it also
21 just -- the first one is always the first one. So I'm going
22 to be, however, voting in approval. Mr. Smith, do you have
23 anything you'd like to add to the discussion?

24 MEMBER SMITH: I have nothing to add. I agree
25 completely what you're saying. Traditionally (audio

1 interference) but there's (audio interference). But as you
2 stated, the thought will change. We've seen a lot of
3 redevelopment before us in the Trinidad neighborhood. And
4 we believe that the design and the scale and bulk of this
5 proposal is largely in keeping with the intent of the zoning
6 regulations to stair step and respect some of that character
7 for it to be a gradual change in the neighborhood and the
8 character, so I would, then, also support the application.

9 BZA CHAIR HILL: Thank you. Mr. Blake.

10 MEMBER BLAKE: Sure. I'll be voting in favor of
11 the application. I believe the applicant has meet the burden
12 of proof to be granted relief for rear yard requirements.
13 I look at some of the concerns expressed in those two letters
14 of opposition, and I can certainly appreciate the concerns
15 about the size of the addition. But --- we said, the
16 neighborhood's going to change a lot, and these are very
17 small houses on very small lots. We talked a little bit
18 earlier about this very small footprint of what it exists
19 today, and the ability to create --- but they are in RF-1
20 zones, which all for flats.

21 And so, this conversion really is what it would
22 take, and this much mass is what it would take, to create two
23 reasonably sized units. Essentially, you created two homes
24 from this one small home. And likely, something will happen,
25 going forward on that block. And so --- but even though it's

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1 a very small lot, and the extension takes about 21 feet, it's
2 still within the lot occupancy and minimum rear yard
3 requirements. And the massing, again, as he pointed out, is
4 consistent with the other corner --- little corner building.

5 So the studies --- the shadow studies show that
6 there's really no impact on light and air, and you have a
7 nice 16-foot alley towards the rear. And that orientation
8 also does support the limited impact on privacy as well.
9 Anyway, all that said and done, I think it is a contemporary
10 design, but it is the wave of the future. I give great
11 weight to the Office of Planning report. DDOT has no
12 objection. And we understand where the ANC is. And we do,
13 again, acknowledge the letters of report from the adjacent
14 neighbor, so I will be voting in favor of this application.

15 BZA CHAIR HILL: Thank you, Mr. Blake. Dr.
16 Imamura.

17 COMMISSIONER IMAMURA: Chairman, I'm in agreement
18 with everything that Board Member Blake expressed. I also
19 want to underscore or emphasis the letters in opposition.
20 I certainly appreciate and understand their position. And
21 while this may not be the outcome that they had hoped for,
22 I would say that there are similar structures within the
23 immediate vicinity that reflect the same sort of
24 architectural style and design. So while this might be the
25 first on that particular block, there are others in the

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1 neighborhood there that are similar in scale and style. So
2 I'm prepared to vote in favor.

3 BZA CHAIR HILL: Thank you. Vice Chair John.

4 VICE CHAIR JOHN: Thank you, Mr. Chairman. I am
5 also in support of the application. I thought the Office of
6 Planning did a good job in analyzing how the application
7 meets the criteria for relief. And I would note, in
8 particular, that, even with the 21-foot addition, there is
9 almost 29 feet of rear yard, and this is a corner lot and
10 with no windows on the rear wall next to the abutting
11 properties. So, in terms of light and air and privacy, I
12 think, even though this is an addition that's a little bit
13 larger, I think in this case I would be able to support the
14 application. So I --- that's it, Mr. Chairman.

15 BZA CHAIR HILL: Thank you, Vice Chair John. And
16 also, we're going to go ahead and allow the ANC information
17 into the record. When --- Mr. Moy, if you could allow that
18 into the record, when you get a chance. And that being said,
19 I'm going to go ahead and make a motion to approve
20 Application No. 20707 as caption read by a secretary. And
21 ask for a second, Ms. John?

22 VICE CHAIR JOHN: Second.

23 BZA CHAIR HILL: The motion being made in second.
24 Mr. Moy, if you could take a roll call, please.

25 MR. MOY: So, when I call your name, if you would

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1 please respond with a yes, no, or abstain to the motion made
2 by Chairman Hill to approve the application for the relief
3 requested. The motion to approve was seconded by Vice Chair
4 John. Zoning Commissioner Dr. Imamura.

5 COMMISSIONER IMAMURA: Yes.

6 MR. MOY: Mr. Smith.

7 MEMBER SMITH: Yes.

8 MR. MOY: Mr. Blake.

9 MEMBER BLAKE: Yes.

10 MR. MOY: Vice Chair John.

11 VICE CHAIR JOHN: Yes.

12 MR. MOY: Chairman Hill

13 BZA CHAIR HILL: Yes.

14 MR. MOY: Staff would record the vote as 5-0-0.

15 And this is on the motion made by Chairman Hill to approve
16 the application. The motion to approve was seconded by Vice
17 Chair John, who is also in support of the motion as well as
18 Zoning Commissioner Dr. Imamura, Mr. Smith, Mr. Blake, Vice
19 Chair John, and Chairman Hill. So the motion carries on a
20 vote of five to zero to zero.

21 BZA CHAIR HILL: Thank you, Mr. Moy. Mr. Moy, you
22 can call our next one, when you get a chance.

23 MR. MOY: Case before the Board is Application No.
24 20711 of 2628 MLK, LLC. This is a self-certified
25 application, pursuant to Subtitle X, Section 901.2, for a

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1 special exception, under Subtitle U, Section 421, to permit
2 new residential development. This is a 10-unit apartment
3 house. This is located in the RA-1 zone at 2628 Martin
4 Luther King, Jr. Avenue, Southeast, Square 585 --- 5868, Lot
5 1059. And I think that's it. Thank you, sir.

6 BZA CHAIR HILL: Okay. Great. Thank you. Ms.
7 Wilson, if you can hear me, can you introduce yourself for
8 the record?

9 MS. WILSON: Hi. Alex Wilson, from Sullivan &
10 Barros, on behalf of the applicant in this case.

11 BZA CHAIR HILL: Okay. Great. Ms. Wilson, if you
12 want to go ahead and walk us through your application and
13 also why you believe your client is meeting the relief
14 require --- I'm sorry --- the criteria for us to grant the
15 relief requested. And you can begin whenever you like.

16 MS. WILSON: Great. Thank you so much. Mr.
17 Young, could you pull up the presentation, when you have a
18 moment. So we are seeking relief, pursuant to U-421 -- next
19 slide, please --- for a new development in the RA-1 zone.
20 We are razing the existing, single-family dwelling and
21 proposing a 10-unit apartment building. The building itself
22 meets all development standards. The Office of Planning is
23 recommending approval. We attended two ANC meetings. One
24 was virtual, and one was in person.

25 But we did not receive a vote or a report because

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1 there was not a quorum at either of those meetings. But I
2 did want to note that we did present twice to the ANC in this
3 case. DDOT has no objection. Although, they did have a
4 number of conditions and requests. Those conditions are on
5 the next slide, if you could please go to that. I'm not
6 going to read all of this off, but we updated the plans so
7 that they complied with DDOT's requests and adjusted a
8 sidewalk, adjusted the driveway, put more details on the
9 plans regarding the bike room.

10 And then, we do agree to the one condition that
11 OP had in their report. Next slide, please. In terms of the
12 general special exception requirements, the project meets the
13 requirements as the applicant is proposing a new multi-family
14 building in a multi-family zone. And there are a number of
15 other larger apartment buildings in the area, and the
16 proposed building is conforming with all development
17 standards of the RA-1 zone.

18 Next slide, please. With respect to the specific
19 requirements, all DC public students are --- have a
20 guaranteed right to enroll in their in-boundary schools, and
21 the in-boundary schools have capacity. There are adequate
22 public streets, recreation, and other services available to
23 accommodate these new residents. And the applicant has
24 provided all relevant materials and sufficient information
25 for the Office of Planning to recommend approval.

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1 Next slide, please. And with that, we'll turn it
2 over to our architect, Adam Crain, to briefly walk through
3 the plans.

4 MR. CRAIN: Crain with 2Ply. I'm the project
5 architect. Maybe we'll start off one slide forward, that
6 would be page number 7, with some 3-D renderings overview.
7 Just take a look at the exterior of the building. Next slide
8 would also have some other angles. You can see on the left-
9 hand side there we've got a just a curb cut we intend to
10 reuse, and I think we're widening it slightly as a drive out
11 to get to the parking that's going to be at the back and
12 front view there on the right-hand side.

13 Next slide should be showing the existing
14 conditions of the site plan. There's a house that'll be
15 razed there, some photos on the left, you can see -- may have
16 been attached at some point in the past, but it's a stand-
17 alone now. Next slide will be the compost site plan. You
18 can see on the top there that curb cut and dry valve,
19 bringing the cars to the back with seven parking places and
20 trash towards the rear. We've got this building fully
21 detached with walkways for pedestrians from the sidewalk in
22 front, all the way back to the parking with several entrances
23 noted.

24 Next slide would be an overview of the plans.
25 Cellar has three levels, first floor three levels. And those

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1 three first-floor units have their bedrooms on the second
2 floor above. And then, we've got four units that are also
3 bi-level between the second and third floor. I would note
4 that all of these are family-sized units of three and four
5 bedrooms, per the client's request. We do have a bike room
6 there at the cellar level towards the back. I think DDOT
7 made a note of that, but we're complying with that with four
8 bike spaces.

9 We can skip through some of the next slides.
10 Those are just more detailed plans. I think we can go to the
11 elevations, which would be slide 17. I just use this to
12 highlight our intention to have --- we try and provide as
13 many front doors to occupants as we can in minimized shared
14 space with the vestibule. I think it's a little more private
15 to have your own door access, so we try and provide those at
16 all the cellar units and all the first-floor units as well.

17
18 I think we can go to slide number 22. And this
19 is really just to illustrate the bedroom and --- I'm sorry --
20 the number of bedrooms next. We've got 1, 2, 3, 4 --- we
21 have five four-bedrooms. The other five are three bedrooms.
22 We are doing an IZ unit. That's number eight, which is a
23 three bedroom. Unit 8 is at the second and third floor.
24 That's also one of the units that'll have rooftop access.
25 I didn't mention that, so the upper units --- all four units

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1 of those will have private roof terraces.

2 BZA CHAIR HILL: And the IZ unit's going to have
3 rooftop access?

4 MR. CRAIN: It is. Unit 8. Unit 8 will have it,
5 rooftop access.

6 BZA CHAIR HILL: Great.

7 MR. CRAIN: The remainder of the slides are really
8 just materials to comply with some of the Office of Planning
9 requests, so I think I can turn it back over to Alex to
10 continue.

11 MS. WILSON: Thank you, Adam. I have nothing more
12 to add, but we're happy to answer any questions.

13 BZA CHAIR HILL: I mean -- while I applause ---
14 oh, I'm sorry. Let me let ask mine real quick. Mr. Crain,
15 again, how did you guys determine which one was going to be
16 the IZ unit?

17 MR. CRAIN: Well, if you can bring back up slide
18 number 22, but I'm also just happy to explain it.

19 BZA CHAIR HILL: I'm looking at it. You can just
20 explain it.

21 MR. CRAIN: Okay. We've got the calculations
22 there that show that we need a minimum IZ-required space of
23 1,370 square feet. And so, Unit 8 is four square feet over
24 that. So --- and I thought it was pretty nice to have
25 rooftop access in an upper unit.

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1 BZA CHAIR HILL: That's great. So that's how it
2 worked. Interesting. Okay. Anybody have a question? Vice
3 Chair John? And then, I'll get to everybody else.

4 VICE CHAIR JOHN: Yes. Yes. This is for Mr.
5 Crain. Is it about 60 percent of the --- is the IZ unit
6 about 60 percent of the AMI? What's the ---

7 MR. CRAIN: No. This is actually 80 percent AMI.
8 If --- I believe these --- actually, I'll be honest. I'm not
9 sure these are going to be rental. If it's rental, it'd have
10 to be 60 percent. But, if it's ownership, it can be 80
11 percent. But there is an option with ownership units to take
12 a 20 percent reduction, if you go to 60 percent. But we're
13 not doing that. We're doing 80 percent.

14 VICE CHAIR JOHN: Okay. And how much do you think
15 these apartments would market at?

16 MR. CRAIN: I have no idea. That's above my pay
17 grade. That's an owner question.

18 VICE CHAIR JOHN: I'm just trying to figure out
19 what 80 percent means in today's --- under today's
20 conditions.

21 MR. CRAIN: Yeah. Alex may be able to help.

22 MS. WILSON: Yeah. I can pull up an answer after
23 Dr. Imamura's question.

24 VICE CHAIR JOHN: Okay.

25 MS. WILSON: They're set by DHCD in the 2021 price

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1 schedule. I think they're coming out with the 2022 price
2 schedule soon, but it's not based on the market-rate units
3 in your building. It's just based on a maximum price that's
4 set by DHCD. So it's available online.

5 VICE CHAIR JOHN: Okay. Thank you.

6 BZA CHAIR HILL: And then, Mr. Crain, I just
7 didn't hear what you said about the 60 versus the 80 again
8 for me to understand.

9 MR. CRAIN: So when --- part of our permit
10 submission, we've got a very thorough IZ application form
11 that we go through several rounds of reviews with DHCD and
12 Zoning. If it's an ownership unit --- so let me back up.
13 If it's a rental unit, it's required to be 60 percent. If
14 it's an ownership unit, typically it's 80 percent, but you
15 can do a 20 percent reduction on the square footage
16 requirement towards that --- toward IZ, if you choose to go
17 from 80 to 60 percent, for ownership only.

18 BZA CHAIR HILL: Interesting. Okay. Great.
19 That's a 20 percent reduction to go 20 percent down. Okay.
20 All right. Dr. Imamura?

21 COMMISSIONER IMAMURA: Right. Mr. Crain, it's not
22 that I have a particular question, per se, other than just
23 two comments. One, the four square feet over, I guess, would
24 be classified as a happy accident, but I'm sure you may want
25 to pitch it as a intentional design decision, so good for

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1 you. And I just want to applaud that it has rooftop access.
2 I'd like to think you all may set a precedent for the bar for
3 other projects that follow that have kind of access to
4 outdoor space for other IZ units.

5 So just want to applaud that effort and that
6 design decision. Otherwise, I don't have any further
7 questions. I think the design reflects good architecture,
8 and I have nothing further to add.

9 MR. CRAIN: Thank you, Dr. Imamura.

10 BZA CHAIR HILL: Mr. Blake?

11 MEMBER BLAKE: Just one for the applicant, Ms.
12 Wilson, Mr. Crain. I was noticing that --- one thought about
13 your community outreach. We haven't --- obviously, the ANC
14 wasn't able to chime in, but you did something kind of
15 interesting here in adding the additional parking spaces,
16 which is something we've noticed a lot of neighborhoods that
17 really, really appreciate it. Can you talk a little bit
18 about, in your community outreach, some of the issues that
19 came up and some of the things you did to address those
20 issues?

21 MR. CRAIN: You want me to start, Alex, or do you
22 want to?

23 MS. WILSON: At the ANC meeting --- we had this
24 planned even before we did community outreach, just
25 anticipating those issues, because we have heard a lot of

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1 feedback that the communities typically want an additional
2 parking space or parking over, especially in areas where it's
3 not as close to the Metro and they have street parking like
4 this. So that was something that was done prior, but I know
5 the first --- so I attended the first meeting with Mr. Crain.

6 We didn't hear any particular feedback or make any
7 changes based on that. They seemed to like the project. And
8 then, Mr. Crain's associate went to the second ANC meeting,
9 and I don't think are any additional comments. So the plan
10 has pretty much remained the same, and it seemed to be well
11 accepted.

12 MR. CRAIN: I would also chime in and add, I'd
13 say, from doing a number of these BCA cases and the interface
14 with the ANC that's required with all of them, we've really,
15 by default, we try and get as many cars off the street as
16 possible. It's one of the most common concerns we hear with
17 the ANC. And so, just --- it's sympathetic site plan design
18 to get cars off the street. A lot of people, even though
19 they own the street parking, it's theirs. And they feel like
20 it's theirs because they've been doing it for a while.

21 So, when new developments come in, to respect
22 that, whether it's written or codified or legal or not, we
23 --- they're used to a certain way of living on a street, and
24 we try and be sympathetic to that by getting as many cars on
25 the side as we can. And, honestly, going forward, when we

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1 get into storm water and green area ratio, that's required
2 with DOE. It's part of the permit process. It lot of that's
3 going to permeable pavement anyway, so it's going to be
4 performing as if it green or not. So our goal is just to get
5 cars off the street and on-site.

6 MEMBER BLAKE: The last question I have was I ---
7 I'm going to assume that, because you want to do roof access,
8 is why you decided to go against the solar panels. Is that
9 right?

10 MR. CRAIN: So I don't think we've gotten that
11 fair. We do have a significant area --- So I'm not sure if
12 you still got the slide, but the planned south area is a
13 green roof area, and that green roof area right now is
14 allocated towards either actual green roof or solar panels.
15 I would say, in all our projects that are getting over 10,000
16 square feet, we're actually required to have solar panels now
17 with the recent energy code --- or green code changes. It's
18 likely there'll be some green up there, and there'll be some
19 solar as well.

20 MEMBER BLAKE: Thank you.

21 MR. CRAIN: Sure.

22 BZA CHAIR HILL: Anyone else? All right. Going
23 to turn to the Office of Planning.

24 MR. JESICK: Thank you, Mr. Chairman, and members
25 of the Board. My name is Matt Jesick, and I'll be presenting

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1 OP's testimony in this case. And the Office of Planning is
2 recommending approval of the application. We felt that the
3 application met the relevant criteria of U-421. We did have
4 one condition of approval in our report, and we agreed to
5 that condition with the applicant. The exhibits noted in the
6 condition should be updated because the applicant submitted
7 a updated set of plans.

8 So, instead of 18B, 18C, and 19A, the exhibits
9 should be 18B, 18C, and 22A, just wanted to note that for the
10 Board. But with that, I'm happy to take any questions.
11 Thank you.

12 BZA CHAIR HILL: Mr. Crain, Ms. Wilson, you are
13 understanding the exhibits that Mr. Jesick is citing? For
14 the record, you're both nodding your head yes.

15 MS. WILSON: Yes.

16 MR. CRAIN: Yes.

17 BZA CHAIR HILL: Let's see. Anybody have any
18 questions for the Office of Planning? Okay. Mr. Young, is
19 anyone here wishing to speak?

20 Okay. All right. Ms. Wilson, is there anything
21 you'd like to add at the end?

22 MS. WILSON: Thank you, all, for your time.

23 BZA CHAIR HILL: Okay. Thank you. All right, Mr.
24 Young, if you could please excuse everyone. Thank you, all,
25 very much. I would agree with the argument that the

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1 applicant is making as well as the analysis that the Office
2 of Planning is providing on how they're meeting the criteria
3 to us to grant the relief requested. I would also be --- the
4 testimony that the applicant provided that the ANC has voted
5 in favor --- and actually, in less, anyway. Mr. Moy, can you
6 hear me?

7 MR. MOY: Yes, sir, I can hear you.

8 BZA CHAIR HILL: If we can leave the record open
9 for the ANC report.

10 MR. MOY: Yes, sir.

11 BZA CHAIR HILL: If they ---if you could reach out
12 to them, that would be helpful.

13 MR. MOY: We will do that.

14 VICE CHAIR JOHN: Mr. Chairman, I believe Ms.
15 Wilson said there was no quorum at any of the meetings.

16 BZA CHAIR HILL: Oh, I'm sorry. That's right.
17 I'm sorry. Oh, then maybe I'm getting confused. I
18 apologize. Okay, Mr. Moy, so forget about what I said. So,
19 regardless of that, I also would --- I continue to agree with
20 the applicant's argument and also am pleased about the design
21 and that the IZ unit, even if it was a happy accident being
22 four feet over the requirement, they get roof access. So I'm
23 going to be voting in favor of the application. Mr. Smith,
24 do you have anything to add?

25 MEMBER SMITH: No. I don't have anything to add.

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1 I do appreciate the analysis and the analysis provided by OP
2 in their staff report. I commend the applicant for going
3 above and beyond the minimum parking requirement because they
4 are correct. We typically hear at these hearings from AFCs
5 or abutting neighbors' concerns about parking, so I'm happy
6 to see that the applicant has provided some additional
7 parking for, really, what sounds like may have been some
8 concerns from ANC. So, then, I'll support the application
9 with OP's recommended condition, regarding construction
10 projects.

11 BZA CHAIR HILL: Thank you. I would also to
12 include OP's recommended condition. Thank you. And, let's
13 see, Mr. Blake?

14 MEMBER BLAKE: Yes. I would agree with the
15 comments you guys have made up to this point. I'll be voting
16 in favor of the request of relief. The project conforms with
17 provisions of U-421, and it meets the general standards as
18 well. I give great weight to the Office of Planning report,
19 and I have no objections. Again, I'll be voting in favor of
20 this relief.

21 BZA CHAIR HILL: Thank you. Dr. Imamura?

22 COMMISSIONER IMAMURA: Chairman, I'm in agreement
23 with everything that's said before me. Well, I'm prepared
24 to vote in favor.

25 BZA CHAIR HILL: Thank you. Vice Chair John?

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1 VICE CHAIR JOHN: Thank you, Mr. Chairman. I'm
2 also in agreement with the comments. I am really
3 appreciative of the two-level IZ unit and that the applicant
4 has added additional parking and done that consciously. So
5 I think that that helps to mitigate the potential impacts
6 from lack of parking. And it would be great if other
7 developers did the same, if possible. So I'm in support.

8 BZA CHAIR HILL: Thank you. Thank you. All
9 right, I got to make a motion to Application No. 20711 as
10 caption read by secretary and ask for a second. Ms. John?

11 VICE CHAIR JOHN: Second.

12 BZA CHAIR HILL: Motion made and seconded. Mr.
13 Moy, take a roll call.

14 MR. MOY: Roll call, Mr. Chairman. Are you
15 including the OP condition in your motion or not?

16 BZA CHAIR HILL: Yes, I am. I'm sorry. I
17 neglected to state that.

18 MR. MOY: Okay. So, when I call your name, if you
19 would please respond a yes, no, or abstain to the motion made
20 by Chairman Hill to approve the application for the relief
21 being requested along with the OP condition as he has stated.
22 The motion to approve was seconded by Vice Chair John.
23 Zoning Commissioner Dr. Imamura?

24 COMMISSIONER IMAMURA: Yes.

25 MR. MOY: Mr. Smith?

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1 MEMBER SMITH: Yes.

2 MR. MOY: Mr. Blake?

3 MEMBER BLAKE: Yes.

4 MR. MOY: Vice Chair John?

5 VICE CHAIR JOHN: Yes.

6 MR. MOY: Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MR. MOY: Then staff would record the vote as 5-0-
9 0, and this is on the motion made by Chairman Hill. The
10 motion to approve was seconded by Vice Chair John, also in
11 support, as well as support from Zone Commissioner Dr.
12 Imamura, Mr. Smith, Mr. Blake, Vice Chair John, and Chairman
13 Hill. Motion carries on a vote 5-0-0.

14 BZA CHAIR HILL: Okay. All right. Mr. Moy, you
15 can call our next, when you get a chance.

16 MR. MOY: Okay. Let's see. The case next before
17 the Board is Application No. 20712 of 2505 Wisconsin Avenue
18 1, LLC, and 2505 Wisconsin 2, LLC. This is an application
19 for --- that is pursuant to Subtitle X, Section 1002, for two
20 Variances. One is the Use Variance from the Use provisions
21 of Subtitle U, Section 201, that would expand a non-
22 conforming hotel use. The second is an Area Variance from
23 the penthouse height requirements of Subtitle D, Section
24 703.3 and pursuant to Subtitle X, Section 901.2 for special
25 exceptions under Subtitle C, Section 1506.1 from the

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1 penthouse setback, requirements of Subtitle C1504.1.

2 The property's located in the R-12 zone at 2505
3 Wisconsin Avenue, Northwest, Square 1935, Lot 45. Mr.
4 Chairman, there's also a request for expert status to a
5 Dominique Giordano in architecture and design. He's
6 currently not in the witness book. Of course, Shane Dettman
7 is already in the witness book. That's been granted status
8 from the Board previously. And finally, because these
9 documents were submitted late, the 21 day for supplemental
10 filings from the applicant. It's the PowerPoint, submission,
11 and a revised self-certification and a request to waive these
12 deadlines. That's it.

13 BZA CHAIR HILL: Okay. Thanks. All right.
14 Unless the Board has any issues and, if so, please raise your
15 hand. I'm going to allow everything into the record. Could
16 the applicant --- I don't know who's going to speak first ---
17 introduce themselves, please, if you can hear me?

18 MS. BLOOMFIELD: Yes. Good afternoon, Chairman
19 Hill. This is Jessica Bloomfield, with the law firm of
20 Holland & Knight.

21 BZA CHAIR HILL: Okay. Great, Ms. Bloomfield.
22 Welcome. Let's see. Okay, Ms. Bloomfield. If you --- you
23 got a lot of stuff to talk us through actually. And so, if
24 you could just --- well, first of all, who's the expert
25 status again? It was Mr. Giordano?

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1 MS. BLOOMFIELD: Yeah. Giordano, Nick Giordano
2 is here. He's available to answer any questions, but we're
3 not presenting him as part of our direct, so we can qualify
4 him now, if you'd like to. Or I don't know if we really need
5 to at this point.

6 (Simultaneous speaking.)

7 BZA CHAIR HILL: Right. Where is --- which
8 exhibit, do you know, is his resume?

9 MS. BLOOMFIELD: Thirteen.

10 BZA CHAIR HILL: Thirteen. Thanks. Give me a
11 second.

12 MS. BLOOMFIELD: My understanding is that he has
13 been accepted by the Board before, but he may not be in what
14 you're now calling your book.

15 BZA CHAIR HILL: Okay. Okay. I'm just going to
16 --- I'm just going through this, so I don't have to go
17 through this again is why I'm doing this. Okay. I don't
18 have any issues with Mr. Giordano being added to our book as
19 an expert in architecture. And if anybody does, please raise
20 their hand. Seeing none. Okay, Mr. Giordano. We're going
21 to go ahead and add you in our book. I don't know whether
22 you're going to need to testify or not. We'll see how that
23 goes.

Ms. Bloomfield, if you want to go ahead
24 and walk us through your client's application and why you
25 believe you're meeting all of the different things that

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1 you're asking for, and, I guess, you can begin whenever you
2 like. There's the PowerPoint, Mr. Moy, if you can drop it
3 into the record as soon as the staff can, so that we can all
4 look at it at the same time. And, Ms. Bloomfield, you can,
5 again, begin whenever you like.

6 MS. BLOOMFIELD: Can someone please also pull up
7 the PowerPoint, so we can --- there we go. Thank you, Mr.
8 Young. Great. Again, for the record, my name is Jessica
9 Bloomfield. I am here with Matt Wexler, representing the
10 applicant, and Shane Dettman, our expert in land use and
11 zoning. The application is for property located at 2505
12 Wisconsin Avenue, Northwest, which is improved with the
13 Glover Park Hotel. And if you flip to the next slide, you
14 can see we're located --- we are located on Wisconsin Avenue.

15 We in that --- we're currently in the R-12 zone.
16 The existing hotel building was constructed in the 1960s.
17 It is non-conforming as to use and to structure. Go to the
18 next slide, please. Another aerial. The request --- and Mr.
19 Moy did a good summary of it --- is to make four primary
20 modifications to the existing building. The first is to
21 relocate the existing outdoor, summer garden use, eating and
22 drinking establishment from the ground floor of the property
23 to the roof of the existing building.

24 The second is to expand the footprint of the
25 building's existing mechanical penthouse. The expanded

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1 penthouse would include storage, restrooms, and additional
2 mechanical space only. The third renovation would be to
3 construct a penthouse stair tower for egress on the roof.
4 And fourth, and finally, we would be constructing a new glass
5 guard rail the new rooftop area. The proposal is simply to
6 relocate the summer garden. It would --- doing so would not
7 increase the intensity of use from that currently permitted
8 at the site, and it is in direct response to many years of
9 community engagement.

10 And we're actually proud to be here today with
11 support from the surrounding community, both affected ANCs
12 and the Office of Planning. Before I quickly go through the
13 drawings, I'm going to turn it over to Matt Wexler to give
14 a brief introduction on the proposal and to go over the
15 engagement we've had with the community.

16 MR. WEXLER: Okay. Thank you. Good afternoon ---

17 VICE CHAIR JOHN: Mr. Chairman. Mr. Chairman.

18 BZA CHAIR HILL: Yes, Vice Chair John. Make a
19 suggestion? Can we use the term, eating and drinking
20 establishment, in describing what's happening? Every time
21 I hear this term, summer garden, I'm thinking of an outdoor
22 garden. So, please.

23 MS. BLOOMFIELD: Absolutely. So the term, summer
24 garden, is actually ABRA term. It means that an eating and
25 drinking establishment basically outside on private property.

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1 But we will use the term, eating and drinking establishment.

2 VICE CHAIR JOHN: Yes. We're not before ABRA, and
3 I have no idea what that is. And I keep thinking of this
4 lovely garden with seats --

5 (Simultaneous speaking.)

6 MS. BLOOMFIELD: Okay. Thank you.

7 VICE CHAIR JOHN: Thank you.

8 MR. WEXLER: Well, our objective is to create a
9 lovely rooftop garden and eating and drinking establishment.
10 And as Jessica said, I'm so pleased to be here this afternoon
11 on behalf of the ownership team of the Glover Park Hotel.
12 We began outreach and negotiations with the surrounding
13 members of the hotel back in the summer of 2015. And here
14 we are in early 2022, after having a very comprehensive
15 agreement with the immediate neighbors of the Georgetown
16 Heights Condominium Association as well as the Massachusetts
17 Avenue Heights Citizen Association in conjunction and
18 collaboration with property owners across the alley to the
19 immediate west of the property as well as across Davis to the
20 immediate north of the property.

21 And those discussions have resulted in, as I
22 mentioned, a very comprehensive agreement, which not only
23 provides support for this application but also provides a
24 real mechanism and, again, in collaboration with the
25 immediate neighbors to have an ongoing group that will

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1 continue to meet and discuss and be able to make any or
2 perfect any changes in the future from an operational
3 perspective so that this summer garden and rooftop eating and
4 drinking establishment will not have adverse impacts on the
5 community.

6 But that's it for me. We're very pleased to be
7 here after all this time, and we look forward to making this
8 happen.

9 MS. BLOOMFIELD: Can you go to the next slide,
10 please? There's some images of the existing hotel building.
11 It's been in operation for at least 50 years. And to the
12 next slide, please. I've gone through this. These are the
13 four physical elements that we're proposing to change to the
14 building that results in the areas of zoning relief that we
15 will go through in just a minute. Next slide, please.
16 Great. Thank you.

17 This is a slide showing the existing site plan.
18 And on the right of the screen, which is south, that's where
19 the existing eating and drinking establishment is located.
20 It's highlighted in gray. There's those two trees in front
21 of it, along Wisconsin Avenue. Wisconsin is to the south.
22 And if you go to the next slide, this is the proposed site
23 plan. And the eating and drinking establishment is not there
24 anymore. And what -- I can't tell if you can read it on the
25 screen or not --- but, basically, in that area, the ground

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1 level will be used to more safely manage parking, valet
2 operations, deliveries to the hotel.

3 There's not sufficient space on the property for
4 all the vehicles that are accessing the property, so that
5 space will be redefined for better vehicular operational use.
6 And as you can see, the landscaping and plantings adjacent
7 to that area will be maintained and improved as part of the
8 proposal. You can go to the next slide, please. This is a
9 plan of the existing roof that is the --- there's a single
10 mechanical penthouse shown in the center of the building.
11 And so, that's what's there now.

12 And if you go to the next slide, that's what we're
13 proposing to do. This is shows the expanded penthouse in the
14 center. We are only adding storage, restrooms, and more
15 mechanical space to the penthouse. What we're moving to the
16 roof is all exterior. The eating and drinking establishment
17 is in that area that is striped. So that's the proposal,
18 really. This plan also shows the new stair tower, which I
19 mentioned previously, to the right --- on the right-hand side
20 of the page, which is to the south, southern portion of the
21 building. You can see it on that screen.

22 And then if you go to the next slide, please.
23 This is an elevation, and it's showing the new glass railing,
24 which we are providing on the building, based on specific ---
25 the specific request of the community. They requested this

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1 railing along the entire perimeter of the new eating and
2 drinking establishment --- the existing eating and drinking
3 establishment that has been relocated to the roof. And it's
4 glass, and so it's not going to have any real visual
5 impacts, and it's going to help to reduce sound transmission
6 as well.

7 And so, with that, I'm going to turn it over to
8 Shane Dettman. He's going to go through, in detail, how we
9 meet the standards of relief under our zoning application.

10 MR. DETTMAN: The next slide. Here we are. So
11 again, good afternoon. My testimony this afternoon will
12 summarize the manner in which the applicant satisfies the
13 burden of proof for the three areas of zoning relief being
14 requested for the proposed relocation of an existing eating
15 and drinking establishment, again, which is currently located
16 on the ground level to the roof level of the existing
17 legally-nonconforming hotel that's on the subject property.
18 As well as the related improvements to the rooftop that are
19 commensurate with the proposed relocation of the eating and
20 drinking establishment.

21 As Ms. Bloomfield summarized at the outset of our
22 presentation, the existing hotel was constructed in the 1960s
23 in accordance with at the time, our 5C zoning, which
24 permitted a hotel as a matter of right. During construction
25 of the hotel the site was actually down-zoned to our 1B, and

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1 at that time the existing hotel became a legally-
2 nonconforming structure devoted to a legally-nonconforming
3 use. Since then the hotel has been in continuous operation
4 since it was originally opened.

5 The three areas of relief that are listed on the
6 slide before you that are being requested today include use
7 variance from Subtitle U201.1 to allow relocation of the
8 existing eating and drinking establishment from the ground
9 level to the roof level of the existing hotel to allow the
10 expansion of the existing penthouse footprint, to include
11 upgraded mechanical space to work and restrooms, and also to
12 construct a new roof level egress stair. We're also
13 requesting an area variance from the penthouse height
14 requirement under D703.3 to accommodate upgraded elevator
15 mechanical equipment that's needed to access the proposed
16 roof level eating and drinking establishment. And finally,
17 a special exception from the penthouse setback requirement
18 under C 1504.1 to allow a new 8-foot glass guardrail.

19 As Ms. Bloomfield mentioned, the relief requested
20 is in direct response to the applicant's engagement with the
21 immediate property owners and neighbors, that occurred over
22 a number of years to address various issues related to the
23 existing location of the eating and drinking establishment.
24 This includes issues relating to noise, light, parking,
25 deliveries, overall site circulation.

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1 Getting into the technical part of the relief, to
2 prevail in a variance request, an applicant must satisfy a
3 three-pronged test. The technical language from Subtitle X,
4 Section 1001 is provided on this slide, but generally
5 speaking, to obtain the requested variances in this case, the
6 applicant must demonstrate the subject property possesses
7 some exceptional situation or condition that would give rise
8 to practical difficulties in the case of the area variance,
9 or an undue hardship in the case of the use variance, upon
10 the property owner if the zoning regulations were strictly
11 applied. And finally, such variance relief can be granted
12 without causing substantial detriment to the public good and
13 without substantially repairing the intent, purpose and
14 integrity of the zoning regulations.

15 Next slide. With respect to the use variance,
16 while this type of relief is customarily sought when a
17 property owner is seeking to establish a new use on a subject
18 property that's not permitted or expressly prohibited in a
19 zone, it's important to note that that's not what's occurring
20 in this case. Instead, the use, the eating and drinking
21 establishment, is already established on the subject
22 property. It exists at the ground level as a legally-
23 nonconforming use, and the applicant is simply proposing to
24 relocate it to the roof in order to advance the commitments
25 made to the neighbors as set forth in the agreements that are

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1 included in the case record.

2 And I think that's notable in a couple respects
3 as we approach review of the use variants. First, I think
4 it informs consideration of the severity of the variance
5 requested, which is one of the factors the Board may take
6 into consideration when evaluating a variance request. The
7 eating and drinking establishment is not new. It is a
8 nonconforming use, it's an existing nonconforming use that
9 is just being relocated to a more favorable location on the
10 property. Secondly, I think that's an important point to
11 note because I think it informs consideration of the effect
12 that the use variance would have on the overall zone plan,
13 which is another factor, as you know, the Board may take into
14 consideration, and especially when considered together with
15 the very unique zoning history of the subject property.

16 With that context, I think the applicant fully
17 satisfies the three prongs of the variance test. The
18 property has an exceptional zoning history. The existing
19 building was constructed in the 1960s as a matter of right
20 under R5C zoning. The use, building height, and penthouse
21 height were all conforming at the time of construction. And
22 near the end of construction the property was downzoned to
23 low density residential, and has existed and operated as a
24 legally-nonconforming structure in use since that time.

25 The existing eating and drinking establishment is

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1 also currently legally-nonconforming. And as a result of the
2 unique zoning history that rendered the site nonconforming,
3 the applicant is extremely hindered in its ability to address
4 concerns expressed by the community without first having to
5 obtain the relief that's being sought today. Should the
6 regulations be strictly applied, the inability to relocate
7 the eating and drinking establishment would prevent the
8 applicant's ability to, again, implement the measures and
9 commitments requested by the community under the agreements
10 that are included in the record.

11 It would also be unable to bring the property
12 further into conformance with what I believe the purposes of
13 the zoning regulations and the zoning acts are intended to
14 achieve. That includes creating conditions that are
15 favorable to the protection of property, and also to promote
16 safety in the general welfare. Finally, it also hinders the
17 applicant's ability to carry out necessary building upgrades
18 and improvements to remain competitive in the market post-
19 COVID.

20 With respect to the area variance, the practical
21 difficulties that arise is that if the regulations were
22 strictly applied, the rooftop and the overall building cannot
23 be reasonably used for a conforming R1B use or purpose. I
24 think the relocation of the eating and drinking establishment
25 from the ground level to the roof is a very appropriate use

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1 given the long-standing use of the property as a hotel. If
2 you look at the uses that are permitted as a matter of right
3 under the R1B zone, certainly you can't put the roof to one
4 of those types of uses given the existing improvements that
5 are on the property.

6 Finally, the strict application of the regulations
7 would create an inability to accommodate the upgraded
8 elevator and other mechanical equipment that's necessary to
9 access the proposed eating and drinking establishment on the
10 roof. With respect to the third prong, I think the use
11 variance and the area variance can be granted without causing
12 substantial detriment to the public good or substantially
13 impairing the zone plan.

14 It is important to note that this is merely a
15 relocation of the existing eating and drinking establishment.
16 There's no change in the intensity of use, the bulk of the
17 building or the height of the building, or any kind of
18 physical change on the property. It's responsive to
19 neighbors' interests in mitigating issues related to noise,
20 light, trash and circulation. It is going to result in
21 improved aesthetics, parking, valet and delivery operations
22 at the ground level as were shown in the proposed ground
23 level site plan. The expanded penthouse footprint meets all
24 setback requirements and is lower than the existing penthouse
25 that is currently on the property.

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1 And finally, the glass wall guardrail will have
2 no visual impact, and it will actually increase privacy by
3 keeping occupants of the new rooftop eating and drinking
4 establishment further away from the edge of the roof. Next
5 slide.

6 Quickly turning our attention to the requested
7 special exception, the requested special exception is subject
8 to the general special exception criteria of Subtitle X,
9 Chapter 9, as well as any special conditions that are
10 required under the penthouse regulations. With respect to
11 harmony with the general purpose and intent of the zoning
12 regulations, this particular requirement will be met as the
13 required relief will create conditions that are favorable to
14 the protection of property and promote safety in the general
15 welfare by the ability to construct the proposed 8-foot glass
16 guardrail wall.

17 The extent of the setback is also de minimis; it's
18 only two feet, and that's only because the 8-foot guardrail
19 is actually sitting on top of the proposed new rooftop deck,
20 which sits two feet above the roof due to structural
21 considerations of the existing roof. The special exception
22 will not tend to affect adversely the use of neighboring
23 property in accordance with the zoning regulations. In fact,
24 it's going to improve the conditions that are currently
25 existing on the site. There will be no adverse visual

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1 impacts. The proposed 8-foot wall guardrail will minimize
2 sound transmission, and again, will increase privacy.

3 Next slide. Finally, with respect to the specific
4 criteria for the special exception under Subtitle C, section
5 1506, as the Board knows, there's a number of items that are
6 listed there and the applicant has to show that it is
7 consistent with one of those particular factors. The
8 applicant's demonstration of reasonable effort has been made
9 for the housing for mechanical equipment, stairway, elevator
10 penthouses, will be in compliance with the required setback.
11 As Ms. Bloomfield noted, the expanded footprint of the
12 existing penthouse to accommodate the storage, the restrooms,
13 and the additional mechanical equipment, and the standalone
14 egress stair, all meet the required setbacks, it's just
15 limited to the two-foot of the glass guardrail.

16 In terms of the applicant's demonstration of at
17 least one of the following factors, we believe that we fully
18 satisfy the factor relating to that the relief requested
19 would result in a penthouse or roof structure that is
20 visually less intrusive. The proposed guardrail will be set
21 back eight feet from the edge of the roof, and thus will not
22 appear as an extension of the building wall. And finally,
23 the visibility of the glass wall guardrail will be minimal
24 due to the material that it is made of, the setback, and the
25 height of the existing building.

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1 With that, Mr. Chairman, that concludes my
2 presentation. And I'm happy to answer any questions.

3 MS. BLOOMFIELD: Thank you, Shane. I would close
4 that presentation by just saying a couple of things. We have
5 met with -- there are actually two ANCs that are considered
6 affected ANCs in this case, ANC 3B and 3C. We have letters
7 from both of them in the record that support the approval of
8 this application. We also have a letter for the Office of
9 Planning report, which recommends approval of the application
10 with no conditions, and we do have a letter from DDOT that
11 identifies no opposition to the request, which is how they
12 identify their support, I suppose.

13 So based on the presentation you heard, and
14 including Shane's very detailed explanation of how we meet
15 the use and the area variances on the special exception, we
16 would submit that the application meets the standards of
17 review and that we respectfully request your support of the
18 application this afternoon. And that concludes our direct
19 presentation. Thank you.

20 BZA CHAIR HILL: Okay, does the Board have
21 questions of the applicant?

22 Sure, Mr. Smith.

23 MEMBER SMITH: I do, I have one question. You
24 talked about the support and communication that you've had.
25 Just looking at it from the federal standpoint, you are

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1 located fairly close to the Naval Observatory. Do you have
2 any conversations where representatives, the Secret Service,
3 or --

4 MR. WEXLER: Yes, we have. In fact, we've toured
5 the Secret Service through the hotel, as well as brought the
6 Secret Service up to the rooftop, and the Secret Service did
7 not have any formal comments that it sought to submit into
8 the record. But from what the representative told us at the
9 site, that there weren't any issues that were identified
10 during that site visit, but we're going to continue to work
11 with the Secret Service in the future if there are any
12 issues. And the Secret Service is well aware of the hotel.

13 MEMBER SMITH: Okay, thank you for that. The next
14 question I have is, Mr. Dettman, you spoke to the NAHCA
15 agreement. Could you elaborate more on that? Is it an
16 agreement that came about as a result of the hotel requesting
17 or proposing to put in a summer garden? Or was this some
18 kind of agreement or discussion prior to that with the
19 community regarding noise or anything with activities at the
20 hotel in general?

21 MR. DETTMAN: Sure. And I believe a copy of, it's
22 called the mock-up agreement, is in the record. So that
23 agreement is a direct result of engagement of the applicant
24 with the community regarding the relocation of the eating and
25 drinking establishment to the roof. And within that

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1 agreement you will see certain commitments that have been
2 made and agreed upon that talk about the surrounding glass
3 wall, hours of operation, number of occupants per building
4 code. You will actually see that per that agreement and the
5 building code, the intensity of use will actually decrease
6 from what currently exists at the ground level. So yes, it
7 is a direct result of this proposal.

8 In terms of what all went into drafting that, I
9 would turn it over to Mr. Wexler.

10 MR. WEXLER: Sure. Just to add one brief comment
11 to that, and I'm happy to answer any further questions
12 specifically, as well, about kind of the genesis of the
13 agreement, but we've had conversations with MAHCA, the
14 Massachusetts Avenue Heights Citizens Association, as well
15 as other members of the community, both to the immediate
16 south and Global Park neighborhood, and the immediate
17 neighbors, for a number of years even predating the MAHCA
18 agreement's starting point.

19 So what we began talking about in 2015 was really
20 as a result of several years of conversations about how, not
21 only the hotel could be further improved, but could really
22 be a better asset and amenity to the community, as well as
23 respond to very direct and specific concerns about the
24 impacts of the outdoor eating and drinking establishment on
25 the ground level. What we call the summer garden, that kind

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1 of spill over into the immediate community at night, and
2 relocating that to the roof, as we've said and demonstrated,
3 will hopefully lessen that impact.

4 MEMBER SMITH: Thank you for that. And I think
5 I have one more question, Mr. Dettman, if you'll just return
6 to your presentation about how it meets the criteria. So
7 this question about practical difficulty. What is the
8 seating capacity of the existing ground floor restaurant?

9 MS. BLOOMFIELD: I can answer that. It's 54 seats
10 in the existing ground floor restaurant, with standing room
11 for 150 people, so that's a total of 204 occupants.

12 MEMBER SMITH: Okay, and just getting to this
13 practical difficulty because you speak to bringing the
14 property further into conformance with the purpose of the
15 zone regulations. I do admit this is zoned residential and
16 not commercial, and I do respect that the Office of Planning
17 can't seem to find a record of it being zoned commercially,
18 but I'll set that to the side.

19 What is the capacity of the rooftop summer garden?
20 The seating capacity?

21 MR. DETTMAN: Under the construction code it would
22 be 150 people total.

23 MS. BLOOMFIELD: So that's reduced from 204,
24 correct? To 150 on a regular basis on the roof.

25 MEMBER SMITH: Okay. And I had one more question

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1 about that glass wall. For the glass enclosure that you're
2 proposing to place up there, would that repel sound in any
3 way, shape or form?

4 MR. WEXLER: Yes. Yes.

5 MEMBER SMITH: Okay. Okay. That's all the
6 questions I had for now, Mr. Chairman.

7 BZA CHAIR HILL: Thank you, Mr. Smith. Next,
8 Chair John.

9 VICE CHAIR JOHN: Just one question, maybe two.
10 So could the rooftop be used as a seating area without having
11 an eating and drinking establishment with, you know, a lovely
12 garden? Isn't that one use that could be put to the rooftop?

13 MR. DETTMAN: Board Member John, I think that
14 even the establishment of a seating area that was kind of an
15 amenity space that was associated with the hotel, based upon
16 the guidance provided by the zoning administrator when we
17 were discussing the areas of relief that would be necessary,
18 that would also require BZA relief. Because it's
19 establishing or extending a portion of the nonconforming
20 hotel use to a portion of the building that's not currently
21 devoted to that use, which is exactly why we have to request
22 the use variance in this situation.

23 VICE CHAIR JOHN: So it could exist without being
24 used for any sort of occupancy, right? I mean, you don't
25 have to have a restaurant and you don't have to make use of

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1 the rooftop. I mean, you're expanding a nonconforming use
2 to an area where it didn't exist before.

3 Here's the difficulty I'm having. Saying that the
4 exceptional condition is the existing nonconformity would fit
5 all kinds of situations that the Board has seen. So that by
6 itself is very hard to get me to where you'd like to go.

7 MR. DETTMAN: I think the exception condition
8 really is not necessarily the nonconforming status. The
9 nonconforming status is a result of the unique zoning history
10 of the site, which the Board can look at zoning history as
11 a factor that created uniqueness.

12 I don't know that I would totally agree that we're
13 expanding a nonconforming use. We're actually just
14 relocating a use that's already on the site to a more
15 favorable use, certainly more favorable with respect to what
16 the neighbors would prefer to see on the site. To use the
17 roof just as a seating issue would not resolve any of the
18 issues that are occurring at the ground level because then
19 at the end of the day you'd have a nice seating area on the
20 roof of the hotel, and you'd still have an eating and
21 drinking establishment creating those tensions, I'll call
22 them, at the ground level in terms of noise and light and
23 circulation.

24 I think here, the intensity of the use on the site
25 is not changing at all. The gross floor area and the bulk

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1 of the building is not changing at all. We really are just
2 sort of picking up part of the nonconforming use that
3 currently exists at the ground level and we're putting it on
4 top of the building, and per the discussions with the zoning
5 administrator, the zoning administrator found that to be
6 falling within the realm of a use variance.

7 VICE CHAIR JOHN: Right, so we agree it would need
8 a use variance. I am just trying to get to the exceptional
9 condition. But I'm willing to hear from the Office of
10 Planning before I ask anymore questions.

11 BZA CHAIR HILL: Okay. Anyone else? Okay, I have
12 a comment just because I'm curious. So how did this kind of
13 come about? I mean in 2015, I don't know if there's a new
14 own -- I'm just curious now. I know the eating and drinking
15 establishment, and that thing's been there forever. And so
16 how did this -- I'm just curious. And then we can discuss
17 whether or not you're meeting the criteria.

18 How did it kind of come about that you wanted to
19 help the community and move the thing on the rooftop? I mean
20 the view is better, but I mean, I'm just curious how it kind
21 of came about.

22 MR. WEXLER: Sure. So the initial discussions
23 with the community about potentially making modifications to
24 the hotel and improving the hotel began back in 2013/2014,
25 and the hotel did submit some plans to the community that

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1 were kind of as a result of some of that, the efforts that
2 were made to look at renovations to the property.

3 And in 2015 we all paused those plans so that we
4 could have really a more comprehensive dialogue about not
5 only what else would happen at the hotel in terms of, from
6 an operational perspective, not only as a result of the
7 relocation of the existing summer garden to the rooftop, but
8 really surrounding the rest of the property, given again, its
9 uniqueness in the residential zone.

10 BZA CHAIR HILL: Okay, thanks Mr. Giordano. Did
11 the property change hands in 2014?

12 MR. WEXLER: The property had changed hands in
13 2012, in fact, late in 2012.

14 BZA CHAIR HILL: Okay, it's with the same owners
15 that had it in 2012?

16 MR. WEXLER: It's with a different owner today,
17 and that was after a pause in 2020. The hotel was closed for
18 most of 2020, beginning in March, due to COVID, of course.
19 And so all of these efforts really just were put on hold
20 given the situation.

21 BZA CHAIR HILL: I got it, I was just trying to
22 understand programmatically why it was getting moved because
23 it had been there for such a long time. And so somebody had
24 had to make the decision to try to move it onto the roof, and
25 I find it difficult to believe that it was to try to help the

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1 community. So I don't mind, I'm just saying that I was
2 curious as to how this kind of came about.

3 MR. WEXLER: But in fact, in 2013 and 2014, when
4 some of those conversations began, a lot of the questions
5 that I received from community members and ANC commissioners.
6 You know, you have this roof and it's a tall building, and
7 in an area with single-family homes surrounding it. It would
8 be wonderful to be able to take advantage of it and relocate
9 what is considered kind of a noxious use at the ground level.
10 So it really was as a result of a lot of those types of
11 conversations.

12 BZA CHAIR HILL: Okay, okay. All right, I'm
13 entering the Office of Planning, please. Oh sorry, Mr.
14 Smith.

15 MEMBER SMITH: Yeah, I've just got a follow-up to
16 that, my question that both of you and Vice Chair John
17 raised, because I share the same concerns that she shared
18 about this question about a sectional situation for amenity
19 space that has been there for years. And given that you just
20 stated that the party that's been in ownership, that has been
21 in continuous ownership since 2012, and just stated that you
22 had discussions with the neighborhood about renovating this
23 facility. Was there some discussion during that time about
24 placing -- if the community is so concerned about noise from
25 the summer garden on the ground floor, was there some

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1 consideration to incorporating this interior to the existing
2 hotel space and not on the roof?

3 MR. WEXLER: Well, there would be no room to
4 relocate any of the existing summer garden inside of the
5 existing hotel.

6 MEMBER SMITH: Okay. Okay.

7 BZA CHAIR HILL: Mr. Blake?

8 MEMBER BLAKE: I have a question. What's the
9 contribution for the formal trust fund?

10 MS. BLOOMFIELD: It's about 52,000, back of the
11 envelope calculations.

12 MEMBER BLAKE: All right, thank you.

13 BZA CHAIR HILL: Okay, Ms. Myers, if you can hear
14 me, if you could introduce yourself for the record.

15 MS. MYERS: Myers, for the Office of Planning.
16 The Office of Planning is in support of this application, but
17 in regards to the use variance we did not agree with the
18 applicant's argument, but we did agree with different
19 arguments presented in their filings, but not in the typical
20 places.

21 So number one, Office of Planning questions the
22 zoning history on this case. And as we said in our report,
23 we could not find information backing up some of the
24 information the applicant has presented. So the Office of
25 Planning cannot say exactly what the zoning situation was,

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1 but the hotel has been on the property for over 50 years and
2 is permitted. So that is not something the Office of
3 Planning really felt the need to dig too far into because the
4 hotel exists today and there's a lot.

5 And we looked at the exceptional situation as
6 being that it is a hotel that has been on the property for
7 over 50 years, and it is in the R-12 zone. So we accepted
8 that as an exceptional situation. And regards to resulting
9 undue hardship to the owner, we looked at this as being more
10 of the challenges and safety issues related to the eating
11 and drinking establishment in its current location.

12 This type of eating and drinking establishment is
13 pretty typical ancillary use for a hotel, so we understand
14 the need for it, but in its current location, it does pose
15 a bit of challenge when it comes to the safety in its
16 location. That's an area that's drop-off/pick-up area, or
17 a drop-off area, for hotel residents or hotel users, and that
18 space is smaller than you typically would expect to see for
19 a hotel. Also, the location does present challenges when it
20 comes to causing queues on the street, vehicle queues or
21 traffic buildup.

22 So we did look at that as being hardships on the
23 owner when it comes to people using their hotel, as well as
24 on the community too. So we accepted that as the argument
25 for the undue hardship, is that the current location is a

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1 safety concern and a significant nuisance. Because they are
2 not expanding the intensity of the use, they are just
3 relocating it to the roof, we looked at that as not really
4 being increasing the use itself. And the argument about the
5 roof has a right to be used, et cetera, we didn't really
6 support that argument. We don't think that there's an
7 automatic right to have a use on the roof, but to relocate
8 the existing use that is in a poor location and relocate it
9 to the rooftop, we thought was something we could support.

10 And then when it comes to the no substantial
11 detriment to the public good, we thought that it should not
12 cause a substantial detriment to the public good, as you are
13 well aware. The applicant has worked a lot with the
14 community and the adjacent neighbors, and has set an
15 agreement which includes the hours of operation, noise
16 concerns, et cetera. We think that does address those
17 concerns.

18 However, we do note that we believe that the
19 applicant should provide evidence that the lighting will not
20 have a significant impact on the naval observatory. The
21 primary type of lighting that they are proposing is
22 uplighting, and we would recommend that they would provide
23 some kind of demonstration that this type of lighting would
24 not cause light pollution spill-over and cause issues with
25 the observatory.

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1 But this application was referred to NCPC and
2 ultimately it's something that they would, I guess, make a
3 decision. But just from our review of it, we thought that
4 that information has not been provided so it's not clear to
5 us whether or not there would be a lighting impact on the
6 observatory. Otherwise, we did not have an issue. We did
7 not make it a condition, it's just something we would note.

8 And then when it comes to the substantial
9 impairment to the integrity of the zone regulations, we
10 thought that what is being proposed meets the intent of the
11 regulations so there would not be a substantial impairment.
12 The proposal is for relocating the existing use on the site,
13 and would relieve and reduce traffic impacts and vehicular
14 safety concerns. So we thought that this would be achieving
15 a safer environment which would contribute to meeting the
16 intent and integrity of the regulations.

17 And with that, Office of Planning puts down on the
18 record of our report for anything else, but those are the few
19 things that were a little different than what the applicant
20 talked about, so I thought it was important to kind of
21 discuss that a little further with you. So here for
22 questions.

23 BZA CHAIR HILL: Thanks, Ms. Myers. All right,
24 does the Board have questions for the Office of Planning?

25 COMMISSIONER IMAMURA: Sure, thank you Mr.

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1 Chairman. I don't have a question, per se, but just a
2 statement that I appreciate OP's report. I think you applied
3 some sensibility to it, and I think it was very generous, and
4 that may be the argument by the applicant. It might not have
5 been framed in a way that addresses the issue specifically,
6 but that OP found those issues to suggest or render a
7 favorable solution. So that's my only comment, so I
8 appreciate the thoroughness of the report.

9 BZA CHAIR HILL: Mr. Blake.

10 MEMBER BLAKE: Just a quick question as far as
11 also for the applicant, if necessary. Do you have an idea
12 of when the summer garden or that establishment was started,
13 when it began operations, and would it have gotten an
14 authorization for its operation in the street, in its
15 location?

16 MS. MYERS: The history of the summer
17 garden/eating establishment, the applicant does.

18 MR. WEXLER: I don't know it's history either, but
19 it dates back a number of decades, probably from the 1990s.

20 MEMBER BLAKE: Okay, so it would have been
21 created, a nonconforming, it would have been created somehow
22 in the context of the existing zoning regulations for 1958
23 then. What would be the trail to tell me how that was
24 created? I don't suspect when they built the building they
25 had a bar in the driveway.

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1 MR. DETTMAN: I think we don't know. I think and
2 it's been touched upon a couple times here, relative to both
3 eating and drinking establishment that currently exists, and
4 the building itself, I think that the fact that -- and we
5 certainly have done our due diligence and scoured OZ's
6 records. There is simply no record here, just as the Office
7 of Planning hasn't found either. I think that in and of
8 itself is extremely unique.

9 How the heck did a 90-foot building land in an R-
10 1B zone? But it's there, it's been there since the 1960s and
11 we actually have the Certificate of Occupancy at Exhibit 11
12 that says it's zoned at 5C, but we can't find the record of
13 the site being zoned at a 5C. Again, I think that this kind
14 really kind of goes back to Board Member John's questions
15 about uniqueness and the fact that there is simply no zoning
16 record for this site being zoned R5C, but we have a C -- of
17 OZ saying R5C, so therefore we have a legally nonconforming
18 use that can remain in existence.

19 And what we're trying to do is rectify some issues
20 that have been raised by the community by simply relocating,
21 not establishing a brand new use that's prohibited or not
22 permitted in the zone, but just relocating it to another
23 portion of the existing structure.

24 MR. WEXLER: And to add to that briefly just from
25 a practical consideration perspective, the history of this

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1 property, there are some kind of questions and unknowns. And
2 that's really one of the primary reasons why these
3 conversations with community members had been going on for
4 a number of years, because they too wondered how this came
5 to be, and how collaboratively we can improve it for
6 everybody's benefit.

7 MEMBER BLAKE: Okay, yeah, I think I understand
8 how the hotel got there. That was very logical. What I
9 couldn't understand was how the summer garden got in the
10 parking lot. That was my question. And you did answer it.
11 Thank you.

12 BZA CHAIR HILL: Okay, anyone else?

13 VICE CHAIR JOHN: I have one last question for the
14 applicant. So I think I read that there is an existing
15 penthouse there, right?

16 MS. BLOOMFIELD: It's an existing mechanical.

17 VICE CHAIR JOHN: Oh, it's just mechanical.

18 MS. BLOOMFIELD: Yeah.

19 VICE CHAIR JOHN: You're expanding it for this
20 purpose. Okay, thank you.

21 BZA CHAIR HILL: Okay, does the applicant have any
22 questions for the Office of Planning?

23 MS. BLOOMFIELD: No. Thank you.

24 BZA CHAIR HILL: Mr. Young, is there anyone here
25 wishing to speak? Ms. Bloomfield, do you have anything that

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1 you'd like to add at the end?

2 MS. BLOOMFIELD: The only thing I would add is
3 that we are in agreement with the Office of Planning that
4 lighting on the roof will be downlit so that it will not
5 shine into the residence neighborhood, and leave it at that.
6 We appreciate that comment and we agree. It's actually, in
7 the mock-up agreement includes a section on lighting and
8 we've agreed with that already with the community.

9 BZA CHAIR HILL: Okay, thanks. That helps me when
10 I was going to ask, the mock-up agreement, you all have
11 agreed to all of the terms in that agreement that is in your
12 Exhibit 16, beginning on page 12, correct?

13 MR. WEXLER: Yes.

14 BZA CHAIR HILL: Okay, because I don't know if
15 we're going to include all of those. We might end up
16 referencing that agreement if we get to a yes on this because
17 some of it isn't necessarily within our purview, but it will
18 be, regardless, it's been agreed to by the applicant and is
19 in the record and will be referenced in the order, if we get
20 to that point.

21 All right, so then does anybody have anything else
22 before I close the hearing? Okay, I'll close the hearing and
23 the record. Thank you all very much.

24 Okay, so that summer garden eating and drinking
25 establishment has been there forever, and that hotel was

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1 where all the flight attendants used to go for a long time,
2 and like be there, whatever. Anyway, so just letting you
3 know.

4 Okay, as far as the standards, I mean, I guess
5 I'll agree with the Office of Planning. I mean, number one
6 it sounds like there's a lot of different things going on as
7 to how they're getting to number one. And I don't have any
8 problems with number three, as far as the public good. And
9 I guess I'll agree with the Office of Planning, or the
10 applicant with the practical difficulties and the undue
11 hardships. I mean, I do think that it is a nonconformity
12 that's in the parking lot. It's been in the parking lot
13 forever. And I can understand, just on a community
14 standpoint I totally understand why they want to move that
15 thing out of the parking lot and put it onto the roof, right?
16 And the roof view is going to be outstanding, it sits on the
17 top of that hill.

18 But regardless, I will agree with the applicant
19 and the Office of Planning in how they're meeting the
20 criteria for us to grant the relief requested. I think it's
21 a little bit of a stretch in certain places. However, I will
22 agree with that. And I will also agree that the ANC, well,
23 that the ANC is a support, I would again reference the mock-
24 up agreement because I think, and it's in Exhibit 16 on page
25 12, because I think it is pretty well-written and I don't

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1 want to have to dissect it as to what parts of it are for
2 conditions that we could actually uphold.

3 So that all being said, I'm looking at the
4 applicant's PowerPoint, I will, and that deed I had no
5 objections, I will be voting in favor. So I'm going to turn
6 to Mr. Smith next.

7 MEMBER SMITH: I'll be honest with you, I'm torn
8 on this particular case. And, you know, there's been a
9 couple of special exception criteria, but this question about
10 does it meet the variance criteria, I am completely torn on.
11 The last two zones, those are things that are detrimental to
12 the public good or substantial endangerment to the office
13 zone plan, on one hand I can get that this is an amenity for
14 the community and an amenity for the hotel, but an amenity
15 is not necessary for the operation of the facility.

16 On one hand, the moving of this particular
17 facility from ground floor could address some traffic
18 concerns and noise concerns, but again, this property is
19 zoned residential, and immediately abuts residential to the
20 east. So it seems to me we're trading one negative impact.
21 Where it's currently located is a longer street in a
22 commercial area, to move an eating and drinking establishment
23 to the rooftop in a residential zone adjacent to residential
24 properties. So I'm not prepared to say that it would be a
25 detriment to the public good to move it to the roof.

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1 I completely am not sold in any argument on the
2 practical difficulty or an undue hardship. Again, this is
3 an amenity. This is an amenity that's not necessary for the
4 operation of the hotel. So it can continue to exist in its
5 current nonconforming form on the ground floor. I'm not sold
6 on the argument that there's an extraordinary situation for
7 them to move a nonconforming restaurant to the rooftop of a
8 property that is zoned residential. I think this is one of
9 those situations where the regulations can be an enemy of the
10 good. And in this particular situation I'm struggling with
11 how this request before us meets the variance tests.

12 To me, it seems more appropriate to rezone the
13 property. I get that's a whole different animal that has to
14 go through the zoning commission, but to me, that's the more
15 correct way to handle this type of problem. So right now,
16 currently I'm not sold that it meets the variance criteria.
17 I would love to hear more from my fellow board members on
18 this, but right now I can't support it.

19 BZA CHAIR HILL: Okay, well we'll keep going
20 around the table here and see where we get. But again, just
21 to make some comment again, that nonconformity is, as you
22 said, that even commonsense would dictate, as far as the
23 noise goes, I mean it's a pretty high up building. Right,
24 I mean it's way up there now as far as it being less of a
25 burden to the neighborhood. But I understand what you're

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1 saying.

2 Let's see, Mr. Blake.

3 MEMBER BLAKE: Sure, Chairman Hill. I agree that
4 the applicant meets the standards for the special exception,
5 but then are set back. I also agree with the area variance.
6 I struggle a great deal with the use variance, because as
7 Board Member Smith pointed out, first of all, there is a
8 question in my mind about the exceptional condition. The
9 second issue is I did struggle with the undue hardship as
10 well. And I think that the Office of Planning did a good job
11 to piece together a rational undue hardship from the
12 application.

13 But this is a very weak use variance, and as Board
14 Member Smith pointed out, this is a very practical and
15 logical thing to do from the perspective of the hotel.
16 However that garden that's been there forever has gotten
17 where it was, it shouldn't be there, and it would be more
18 practical and prudent to have it on the rooftop like most
19 other hotels do, and it's a very swank amenity. But it is
20 definitely a nonconforming activity, and it's a very, very
21 weak variance test.

22 So I'm going to be undecided for the moment and
23 I'm going to wait to hear what other people have to say. But
24 I know from a practical standpoint this makes a lot of sense.
25 But I do struggle with the letter of the law in reading this

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1 and the quality of the variance element.

2 BZA CHAIR HILL: Okay. I love it, I'm going to
3 say something after each person just because I can. So,
4 right, I think that the safety issue, even again, I'm going
5 to go back through the argument here that the person has,
6 it's in the parking lot, right? And so it's been in the
7 parking lot for 50 years, and so they're trying to move it
8 up to the roof. All right, but I got you, okay, I'm going
9 to go with Dr. Imamura who maybe can make a better argument
10 than I can.

11 COMMISSIONER IMAMURA: All right, thank you, Mr.
12 Chairman. Yeah, this is a really interesting case. I
13 certainly understand and appreciate Board Member Smith's
14 comments, and Board Member Blake's comments. To me, this is
15 really clear that the hotel is trying to tailor, right, this
16 is a very profitable endeavor to move this eating and
17 drinking establishment from the parking lot to a much better
18 view on the rooftop. Fully get that.

19 And they're leveraging sort of the community's
20 issues to make that argument in that case, right? And to
21 your comment, Mr. Chairman, and to what Board Member Blake
22 shared that the practicality of it, it makes sense. I think
23 the traffic issue, sort of the stacking and vehicle
24 circulation issues and driving safety, maybe with
25 pedestrians, that I'm willing to buy off on.

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1 And I would say that this is where we all know
2 that zoning is an imperfect science or art and sometimes you
3 have to apply sensibility and make it a judgment call. And
4 I certainly appreciate, again, OP's report to kind of parse
5 out and look for an argument that would justify these special
6 exceptions. So with that I am ready and willing to vote in
7 favor of the applicant.

8 BZA CHAIR HILL: Okay. And as far as moving up
9 the hotel and the hotel making a lot of money, like COVID
10 killed the hotel for however long it was.

11 So Vice Chair John?

12 VICE CHAIR JOHN: Thank you, Mr. Chairman. So
13 this is a difficult case for me because I appreciate
14 completely what the applicant is trying to do. At the same
15 time, we have had situations, I can think of one, where a new
16 restaurant in a residential area close to an MU-zoned
17 district wanted to create an eating and drinking
18 establishment. And we said no, but the facts were a little
19 different in that case.

20 Okay, what's different here is that this is an
21 existing nonconformity, which by itself is not exceptional.
22 That kind of nonconformity is a dime a dozen in this city.
23 What's probably different about this one is that it's an
24 eating and drinking establishment in a parking lot, and that
25 is being very generous. So maybe that could be unique. So

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1 as I read the applicant's burden of proof, and I didn't get
2 there. And then I read the Office of Planning's attempt to
3 piece together an exceptional condition, I thought that I
4 could understand that argument that the Office of Planning
5 was making, which is that the eating and drinking
6 establishment is in a very bad location creating traffic
7 hazards on the street and all of those adverse impacts.

8 So if I lump that together I kind of sort of came
9 up, and I mean, kind of sort of, came up with an exceptional
10 condition. And so I could get to the practical difficulty
11 from there, and so I am leaning more towards approving the
12 use variance even though the other two criteria, I think, can
13 be easily met, or can be met. So I'm leaning towards
14 approval even though this is not the strongest variance case
15 that I've looked at.

16 But on balance, I am going to give great weight
17 to the Office of Planning's analysis of how the applicant
18 meets the criteria for a variance based on the situation with
19 the restaurant in the parking lot.

20 BZA CHAIR HILL: Okay, thank you, Vice Chair John,
21 and also when you say great weight, like great weight to the
22 ANC, but we're the ones that have to determine whether or not
23 we think they're meeting the criteria. So I'll make a motion
24 and see what happens. I need to get a second. I'll make a
25 motion to approve the application.

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1 VICE CHAIR JOHN: May I, Mr. Chairman?

2 BZA CHAIR HILL: Sure, go on.

3 VICE CHAIR JOHN: Would we want to see if any of
4 the board members have given any additional thought? Not to
5 put them on the stand, but --

6 BZA CHAIR HILL: Does anybody have anything they'd
7 like to add before I make a motion?

8 MEMBER BLAKE: I'd like to add one quick thought.

9 BZA CHAIR HILL: Sure.

10 MEMBER BLAKE: I understand what you're saying in
11 terms of the parking, the facility, and it's interesting that
12 in the long history of it being there that I didn't hear any
13 comment about incidents that have taken place down there such
14 as someone getting hit by a car or some problem taking place,
15 which would have definitely supported the argument that it's
16 dangerous to have it down there. But for it to exist for so
17 long without incident, and we don't have, again, clear
18 information about that, it doesn't necessarily mean to me
19 that it is as problematic as it sounds. So I understand that
20 and I appreciate that thought. That was my thought there in
21 response to that.

22 BZA CHAIR HILL: I was laughing, I don't want to
23 argue against myself. Like that thing is kind of tucked away
24 a little bit, and also when you walk up by it, it just seems
25 like another commercial thing as you're walking by. But Mr.

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1 Smith had his hand up?

2 MEMBER SMITH: Yeah, to expand that. I understand
3 the Office of Planning's approach to raising security
4 concerns, but there are other, you know I mean, I share Board
5 Member Blake's opinion on that. We didn't hear that there
6 were security concerns. This issue of queuing that was
7 raised, but I also claim again, we don't have proof of that.

8 But all of these can be easily addressed at this
9 current location. And I didn't hear that the hotel had said,
10 attempted to even explore some of those different
11 opportunities, given that they stated on the record that they
12 have been engaging with the community to renovate and
13 reorient this building. This particular space can be
14 reoriented in a way that does not lend itself to having
15 pedestrian walk-ups through that. From that sidewalk they
16 could tie the sidewalk board away from the pick-up and drop-
17 off. I feel like they could put up some security barriers.

18 There's ways to address those concerns that were
19 raised by the applicant and presented by the Office of
20 Planning, so to me the entire argument was a fairly weak
21 argument for variance, given that this is an amenity space.
22 And my opinion really hasn't changed on it, so we'll see
23 where things go.

24 BZA CHAIR HILL: Okay. As we continue to
25 deliberate, and you all can tell me if you have anything

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1 else, my thoughts again, as even Mr. Smith was saying, is
2 that, well, I've been in situations where I'm kind of on the
3 fence as to how I feel the argument is going. And I think
4 that, again, this isn't the strongest argument, but I think
5 that it is one that has been made and that the community
6 would like to see happen, and that the Office of Planning
7 agrees that the analysis has taken place, and the applicant
8 has gone through years of whatever it's gone through to get
9 to this point.

10 So definitely we are charged with whatever we believe
11 the situation to be, also taking into account the
12 recommendations of the Office of Planning, the ANC and the
13 deliberations that the applicant has put forward. So does
14 anybody have anything else to say before I make a motion and
15 see what happens? Okay.

16 I'm going to make a motion that we approve
17 Application #20712 as captioned read by the Secretary, and
18 asking for the second from somebody.

19 VICE CHAIR JOHN: Second.

20 BZA CHAIR HILL: Okay. I got a second from Ms.
21 John. Okay, and I got a motion, a second. Mr. Moy, want to
22 do a roll-call?

23 MR. MOY: Yeah, I'm going to do a little switch-up
24 than I normally do in my routine. When I call your name, if
25 you would please respond with a yes, no, abstain, to the

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1 motion made by Chairman Hill to approve the application for
2 the zoning relief that's being requested. And this motion
3 was second by Vice Chair John.

4 Vice Chair John?

5 VICE CHAIR JOHN: Yes.

6 MR. MOY: Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MR. MOY: Zoning Commissioner Dr. Imamura?

9 COMMISSIONER IMAMURA: Yes.

10 MR. MOY: Mr. Blake? Mr. Smith?

11 MEMBER SMITH: No.

12 MR. MOY: Staff would record above as 3-2-0, and
13 this is on the motion made by Chairman Hill to approve the
14 application for the roof requested. The motion to approve
15 was seconded by Vice Chair John. In support of the motion
16 to approve are Zoning Commissioner Dr. Imamura, Vice Chair
17 John and Chairman Hill. Opposed to the motion, to deny the
18 motion, would be Mr. Smith and Mr. Blake. Motions carries
19 3-2-0.

20 BZA CHAIR HILL: Okay. Do you guys want to do the
21 last one, or do you want to take a break before you do the
22 last one?

23 VICE CHAIR JOHN: I thought that was the last one.

24 BZA CHAIR HILL: No, we've got one more.

25 MEMBER SMITH: Let's do the last one.

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1 BZA CHAIR HILL: Okay, you all going to take one
2 more? All right, Mr. Moy, call our last one.

3 VICE CHAIR JOHN: Did I miss a case?

4 BZA CHAIR HILL: Mr. Moy, you're on mute. Oh,
5 sorry, Mr. Moy, I didn't see it. You're unmuted.

6 MR. MOY: It's okay because I miscounted the
7 digits on this application. You didn't get to hear that.
8 So anyway, so this is Application #20717 of Wesley Hallman
9 and Silvana Rubino-Hallman. And this is a self-certified
10 application pursuant to Subtitle F, Section 901.2. This is
11 for a special exception under Subtitle E, Section 5201 from
12 the lot occupancy requirements of Subtitle E, Section 30441
13 and the property is located in the RF-1 zone at 634 East
14 Capitol Street NE, Square 861, Lot 804.

15 There is a motion from the applicant to accept an
16 untimely filing and I think it relates to a written agreement
17 with Mr. Chairman. I can go into that if you need, but
18 that's it from me.

19 BZA CHAIR HILL: Okay, great, thank you.

20 Is it Mr. Boyette?

21 MR. BOYETTE: Yes.

22 BZA CHAIR HILL: Okay, Mr. Boyette, could you
23 introduce yourself for the record, please?

24 MR. BOYETTE: My name is Joseph Boyette. I am an
25 architect at Old City Design Studio.

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1 BZA CHAIR HILL: Okay, Mr. Boyette, what is it
2 that you're trying to get into the record?

3 MR. BOYETTE: We had a signed letter of support
4 from a neighbor who has solar panels on his roof, but the
5 Office of Planning thought it prudent for me to get an
6 agreement concerning those solar panels pursuant to Subtitle
7 E-206.3, that he would agree to any loss of power to his
8 solar panels even though my solar study showed no loss of
9 sunlight to his solar panels.

10 BZA CHAIR HILL: Okay, and you've already
11 submitted that?

12 MR. BOYETTE: Yes.

13 BZA CHAIR HILL: Okay. All right, Mr. Moy, unless
14 the Board has any issues, and if so, please speak up, go
15 ahead and add that into the record, Mr. Moy, and we can take
16 a look at it.

17 All right, Mr. Boyette, are you choosing not to
18 use your camera, which is fine, I just want to know.

19 MR. BOYETTE: Sorry, I am happy to use my camera.

20 BZA CHAIR HILL: Okay, great, perfect, thank you.
21 All right, Mr. Boyette, if you want to go ahead and walk us
22 through your client's application and why you believe you're
23 meeting the criteria for us to grant the relief requested,
24 and you can begin whenever you like.

25 MR. BOYETTE: Okay, if Mr. Young could bring up

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1 Exhibit 21, the lot occupancy diagram. And while he's doing
2 that I will say that the project has been supported by the
3 Historic Preservation Review Board, ANC-6C and the Capitol
4 Hill Restoration Society. There is no impact to the property
5 to the west. I will go into more detail on that.

6 The property to the east, the owners of that
7 property have signed a letter of support and they have also
8 signed an agreement concerning the solar panels that we just
9 mentioned. The current lot occupancy is 66.1 percent. And
10 we are requesting 69.6 percent. Currently that lot occupancy
11 is taken up by a building, an existing building that's on the
12 basement level and an existing addition that's on the first
13 level only. This addition will be two stories.

14 If Mr. Young could bring up Exhibit 5, and switch
15 to Sheet G-2.

16 BZA CHAIR HILL: If you can zoom, if you can make
17 that a little bigger, Mr. Young, when you get a chance.
18 Sorry.

19 MR. BOYETTE: That's great right there. The
20 property is located on the north side of the 600 block of
21 East Capitol Street NE. There is a through alley mid-block
22 running north/south up and down the page, and a dead-end
23 alley that runs behind the subject property and all those
24 residences. Almost every home on the alley has a two-story
25 detached garage, which forms a two-story wall at the edge of

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1 the alley on both sides of the alley.

2 The exception to that is the neighbor just to the
3 east. So if you could scroll down to the lower part of that
4 page. The existing home is a three-story plus basement brick
5 residence. There is an existing one-story elevated frame
6 structure on the rear of the house that holds the kitchen and
7 a powder room. It's not original to the home and it's in
8 disrepair, and it will be removed along with the deck.

9 And then if you could switch to G-3, the addition,
10 the proposal is a two-story plus basement addition on the
11 back of the home that extends lot line to lot line, and is
12 20 foot, 5 inches deep. the building to the west, 632, is
13 a three-story plus basement apartment building with ten
14 units. The building extends over 47 feet beyond the existing
15 rear wall of the subject property, the original home, and
16 once the addition is put on, it will still project 21 feet,
17 1 inch beyond the proposed addition.

18 On the east side, there is a three-story plus
19 cellar single-family residence that has a two-story dogleg
20 addition off the back. And that dogleg sits about 4 feet 8
21 inches off the property line. That's the one with the solar
22 panels on the roof. Once the proposed addition is built --
23 the proposed addition only goes 2 feet 11 inches past the
24 existing addition, and so when the addition is put on the
25 neighbor will still go 23 feet beyond the proposed addition.

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1 There are no windows along the side of the addition along the
2 neighbor's dogleg, so there's no loss of privacy there.

3 Mr. Young, if you can switch to the next slide we
4 can look at a couple photographs. So the top row is the
5 front of the residence. There's no change to that. The
6 middle row is looking back. I'm not sure if the Board wants
7 you to zoom in on that. It's probably worth zooming in on
8 that middle row. So you're looking at, on that middle row,
9 you're looking at a three-story brick wall that's to the west
10 of the subject property. And then you're looking at the back
11 of the existing residence, a small addition off the back, and
12 then on the left hand side you're looking at the two-story
13 dogleg addition of the neighbor to the east. And on the
14 right photo you're looking back at that two-story garage on
15 the alley.

16 Then if you could scroll down for me. We can see
17 the view from the alley, so generally, on the left slide,
18 that is the only view you have of the rear of the home. So
19 that's the existing three-story rear home, so you can see
20 that a two-story addition on that will be barely visible even
21 from this one vantage point in the alley because there are
22 these two-story garages. And while this property does not
23 have a two-story garage, they do have, I think, a 9 foot wall
24 there that shields the rear yard. And then on the right side
25 you can see that whole row of two-story garages that go down

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1 on that side.

2 I don't know that it's worth going through the
3 plan except to show you the balconies that we are proposing
4 off the facade. So if we could scroll through until we get
5 to sheet A-1. That's it. So this is the first floor
6 addition and there is a balcony that has access to the
7 backyard down to grade that extends basically lot line to lot
8 line. Next slide. On the second floor --

9 PARTICIPANT: Mr. Boyette, I'm sorry, which
10 exhibit are you in?

11 MR. BOYETTE: His says Exhibit 12, but online I
12 found it to be Exhibit 5.

13 PARTICIPANT: Yeah, okay, great. Thanks.

14 MR. BOYETTE: The second floor has a balcony that
15 steps back three feet off each property line. I'm bringing
16 up the balconies because of lot occupancy because that does
17 take up a couple percentage points of the lot occupancy, and
18 also for privacy.

19 And then on the next level, level three, if you
20 could switch to the next slide, there is a roof terrace on
21 top of the proposed addition. And we are holding that back
22 three feet off the property line on the east side so as not
23 to shade those solar panels, and so as not to have a privacy
24 issue with the neighbor. And then on the next slide there
25 is a terrace on the roof as well, and that is also going to

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1 be set back three feet from the neighbor to the east.

2 BZA CHAIR HILL: Okay, Mr. Boyette, let me do
3 this. I've got your slides pulled up. Why don't I just drop
4 out of there if you want to drop that, slide that, let me see
5 if my colleagues have any questions for you before we turn
6 to the Office of Planning.

7 Does anybody have any questions for Mr. Boyette?
8 All right, I'm going to turn to the Office of Planning.

9 MS. ELLIOTT: Good afternoon, members of the
10 Board. I'm Brandice Elliott, representing the Office of
11 Planning for BZA Case 20717. The applicant has requested lot
12 occupancy relief to go up to 69.6 percent. We did provide
13 an analysis in our report against the special exception
14 criteria for the relief, and we are recommending approval.
15 I will stand on the record of our report, but I'm happy to
16 answer any questions you have.

17 BZA CHAIR HILL: Okay, does anybody have any
18 questions for the Office of Planning? All right, Mr. Young,
19 is there anyone here who wishes to speak?

20 MR. YOUNG: We do not.

21 BZA CHAIR HILL: Okay, Mr. Blake, is there
22 anything you would like to add at the end? I'm sorry, did
23 you say no, shake your head?

24 MS. ELLIOTT: Thank you for your time.

25 BZA CHAIR HILL: Okay, great. All right, I'm

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1 going to go ahead and close the hearing of the record.

2 Mr. Young, if you could please excuse the
3 applicant.

4 Okay, I thought this was pretty straightforward.
5 That building to their left side or whatever side it is, it's
6 basically all the way to the end of there, what they're
7 trying to do even. And so I didn't think there was going to
8 be any issues on that side, obviously. And the other side
9 I wasn't concerned about. And then we have CHRIS, C-H-R-I-S
10 that is, that was also in support, as well as the ANC in
11 support, as well as DDOT.

12 But I would agree with the analysis the Office of
13 Planning has provided for us, and that also it's good that
14 the applicant did get something concerning the solar issues
15 or at least clarity on those. And I will be voting in favor.

16 Mr. Smith, do you have anything you'd like to add?

17 MEMBER SMITH: Nothing I would like to add. I
18 agree with your analysis and OP's analysis on this case. To
19 me it seems fairly straightforward given the scope of what
20 the applicant proposes, and like you said, the two homes on
21 each side of this property, they go all the way back to the
22 alley so I agree with, again, OP's analysis and support the
23 application.

24 BZA CHAIR HILL: Okay, great, thank you, Mr.
25 Smith.

1 Mr. Blake?

2 MEMBER BLAKE: Yes, I too would be in support of
3 the application. I think it meets the criteria for approval.
4 I agree with your observations and that of Mr. Smith as well.

5 BZA CHAIR HILL: Thank you. Dr. Imamura?

6 COMMISSIONER IMAMURA: I would vote in support.
7 Nothing further.

8 BZA CHAIR HILL: Vice Chair John?

9 VICE CHAIR JOHN: I'm in support, Mr. Chairman.
10 I was struck by the fact that the two adjacent properties are
11 so much longer than this property. And that's even after the
12 extension. But more importantly, there's a 64 foot real yard
13 remaining after the addition, so in terms of light and air
14 and privacy, I do not see an issue, and I will be voting in
15 support. And I also agree with OP's analysis and
16 recommendation.

17 BZA CHAIR HILL: Thank you. All right, I'm going
18 to make a motion to approve Application #20717 as captioned
19 and read by the secretary, and ask for a second. Ms. John?

20 VICE CHAIR JOHN: Second.

21 BZA CHAIR HILL: The motion has been made and
22 seconded. Mr. Moy, why don't you take a roll-call.

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

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1 as requested. This motion was seconded by Vice Chair John.

2 Zoning Commissioner Dr. Imamura?

3 COMMISSIONER IMAMURA: Yes.

4 MR. MOY: Mr. Smith? Mr. Blake?

5 MEMBER BLAKE: Yes.

6 MR. MOY: Vice Chair John? Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MR. MOY: Staff would record the vote as 5-0-0 and
9 this is on the motion made by Chairman Hill to approve. The
10 motion was seconded by Vice Chair John. Also supporting the
11 motion to be approved, Zoning Commissioner Dr. Imamura, Mr.
12 Smith, Mr. Blake, Vice Chair John, and Chairman Hill. Motion
13 carries on a vote of 5-0-0.

14 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.
15 Mr. Moy, do we have anything else before the Board?

16 MR. MOY: There's nothing from the staff, sir.

17 BZA CHAIR HILL: Okay. Do my colleagues have
18 anything they need to do?

19 VICE CHAIR JOHN: No.

20 BZA CHAIR HILL: Okay. All right, well, this is
21 so much fun, let's do this every week. All right, we'll see
22 you next week. Bye-bye.

23 VICE CHAIR JOHN: Thank you, thank you.

24 (Whereupon, the above-entitled matter went off the
25 record at 3:43 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 05-11-22

Place: teleconference

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