

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 22, 2022

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:45 a.m. EST, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CARL BLAKE, Board Member
CHRISHAUN SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

PETER MAY, Commissioner
ROBERT MILLER, ZC Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
MATT JESICK
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

KARINA RICKS, Associate Director for Policy, Planning
and Sustainability

JEFF JENNINGS

The transcript constitutes the minutes from
the Regular Public Hearing held on June 22, 2022.

CONTENTS

| | |
|---|-----|
| Application No. 20449 of PD 236 Properties, LLC | 7 |
| Application No. 20612 of Demetra Weir | 18 |
| Application No. 20738 of Trin Mitra & Paromita Shah | 29 |
| Application No. 20743 of Shayleen and Robert Thorne | 35 |
| Application No. 20742 of 1252 H Street, NE, LLC | 110 |

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

9:45 a.m.

1
2
3 CHAIR HILL: Good morning, ladies and gentlemen.
4 Board of Zoning Adjustment. Today is 6/22/2022. The public
5 hearing will please come to order. My name is Fred Hill,
6 Chairperson of District of Columbia Board of Zoning
7 Adjustment. Joining me today is Carl Blake and Chrishaun
8 Smith and Zoning Commissioners Peter May, Rob Miller, and
9 Anthony Hood. And we perhaps will have Vice Chair John at
10 some point today; it is uncertain.

11 Today's meeting and hearing agenda are available
12 on the Office of Zoning's website. Please be advised that
13 this proceeding is being recorded by a court reporter and
14 also webcast live via Webex and YouTube Live. The video of
15 the webcast will be available on the Office of Zoning's
16 website after today's hearing. Accordingly, everyone who is
17 listening on Webex or by telephone will be muted during the
18 hearing. Also, please be advised that we do not take any
19 public testimony at our decision meeting session.

20 If you're experiencing accessing Webex or your
21 telephone call-in, then please call our OZ Hotline number at
22 202-727-5471 to receive Webex login or call-in instructions.

23 At the conclusion of a decision meeting session,
24 I shall, in consultation with the Office of Zoning, determine
25 whether a full or summary order will be issued. A full order

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1 is required when the decision it contains is adverse to a
2 party, including an affected ANC. A full order may also be
3 needed if the Board's decision differs from the Office of
4 Planning's recommendation. Although the Board favors the use
5 of summary orders whenever possible, an applicant may not
6 request the Board to issue such an order.

7 In today's hearing session, everyone who is
8 listening on Webex or via YouTube, I'm sorry, or by telephone
9 will be muted during the hearing and only persons who have
10 signed up to participate or testify will be unmuted at the
11 appropriate time. Please state your name and home address
12 before providing oral testimony or a presentation. All
13 presentations should be limited to a summary of your most
14 important points. When you finish speaking, please mute your
15 audio so that your microphone is no longer picking up sound
16 or background noise.

17 Once again, if you're experiencing difficulties,
18 please call our OZ Hotline number at 202-727-5471. It is
19 also listed on your screen.

20 All persons planning to testify either in favor
21 or opposition should have signed up in advance. They'll be
22 called by name to testify. If this is an appeal, only
23 parties are allowed to testify by signing up to testify. All
24 participants complete the oath or affirmation, as required
25 by Subtitle Y 408.7.

1 Requests to enter evidence at the time of an
2 online virtual hearings, such as written testimony or
3 additional supporting documents, other than live video, which
4 may not be presented as part of testimony, may be allowed
5 pursuant to Subtitle Y 103.13, provided that the person has
6 made their request to enter an exhibit explain, A, how those
7 exhibits are relevant; B, the good cause justifies allowing
8 the exhibit into the record, including an explanation of why
9 the requester did not file the exhibit prior, pursuant to Y
10 206, and how the proposed exhibit should not unreasonably
11 prejudice any parties. The order of procedures for special
12 exception and variances are pursuant to Y 409.

13 At the conclusion of each case, an individual who
14 is unable to testify because of technical issues may file a
15 request for leave to file a written version of the planned
16 testimony to the record within 24 hours following the
17 conclusion of public testimony in the hearing. If additional
18 written testimony is accepted, the parties will be allowed
19 a reasonable time to respond, as determined by the Board.
20 The Board will then make its decision at the next meeting
21 session but no earlier than 48 hours after the hearing.
22 Moreover, the Board may request additional specific
23 information for the record. The Board and the staff will
24 specify at the end of the hearing exactly where it's expected
25 and the date a person must submit the evidence to the Office

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1 of Zoning. No other information shall be accepted by the
2 Board.

3 Finally, the District of Columbia Administrative
4 Procedure Act requires that the public hearing on each case
5 be held in the open before the public. However, pursuant to
6 Section 405(b) and 406 of the Act, the Board may, consistent
7 with its rules and procedures and the Act, enter into closed
8 meetings on the case for purposes of seeking legal counsel
9 on a case pursuant to D.C. Official Code Section 2-575(b)(4)
10 and/or deliberate on a case pursuant to D.C. Official Code
11 Section 2-575(b)(13), but only after filing the necessary
12 public notice of an emergency closed meeting after taking a
13 roll call vote.

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

15 MR. MOY: Good morning, Mr. Chairman, members of
16 the Board. As always, there are specific preliminary matters
17 to specific cases that I think that's handled by the Board
18 when I call that case.

19 Other than that, I don't have any other
20 announcements for the Board, except for one, and it pertains
21 to a case that is on today's docket. And that case is
22 Application No. 20449 of PD 236 Properties, LLC. The staff
23 learned yesterday that the applicant was called into the
24 hospital for medical, for a medical emergency, and I suspect
25 he is still in the hospital. And, yesterday, he filed an

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1 email correspondence that, because of that reason, he would
2 not be able to be at today's hearing.

3 So I can allow that into the record, if you'll
4 allow me to do that. It's only two or three sentences to
5 what I have just conveyed to the Board.

6 CHAIR HILL: Okay.

7 MR. MOY: Other than that, though, just also to
8 let you know -- I didn't mean to interrupt, Mr. Chairman, but
9 my understanding from the staff is the ANC commissioner is
10 also on the line, if you wish to hear from him.

11 CHAIR HILL: Okay, all right. So I don't know if
12 we normally hear from commissioners during preliminary
13 matters, but I know what I'm going to end up suggesting to
14 the Board. But go ahead, Mr. Moy, and let the commissioner
15 in, since you mentioned that the commissioner is on the line.

16 MR. MOY: I believe he's there.

17 CHAIR HILL: Commissioner, can you hear me?

18 COMMISSIONER ECKENWILER: Mr. Chairman, how about
19 now?

20 CHAIR HILL: Yes, can you hear me?

21 COMMISSIONER ECKENWILER: Yes. Thank you very
22 much.

23 CHAIR HILL: Could you introduce yourself for the
24 record, Commissioner?

25 COMMISSIONER ECKENWILER: Sure. Mark Eckenwiler,

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1 Vice Chair, ANC 6-C, on behalf of the ANC.

2 CHAIR HILL: Okay. Commissioner Eckenwiler, I
3 guess you know that this applicant is in the hospital. You
4 had a comment that you'd like to make.

5 COMMISSIONER ECKENWILER: I do, Mr. Chairman.
6 And, you know, obviously, under normal circumstances, I would
7 be happy to have this, you know, put over for future hearing,
8 but this is, it comes to the Board in a very, very unusual
9 posture, and I'd like to suggest that the appropriate thing
10 is for the Board to simply set this case for decision. And
11 I'm happy to explain why, if you care to hear it.

12 CHAIR HILL: Yes. Commissioner Eckenwiler, I
13 appreciate it. I can't set something for decision without
14 actually hearing the case, and it's not even actually my
15 case. I mean, Vice Chair John is actually doing this, so
16 there's really nothing I can do about that.

17 COMMISSIONER ECKENWILER: With respect, with
18 respect, Mr. Chairman, this case has already been through two
19 full hearings, and this is the one that you denied
20 postponement on a week ago because it had been eight months
21 since the applicant had filed anything. So it's ripe for
22 decision, and that's why I say this is a very unusual
23 posture.

24 CHAIR HILL: Okay. I appreciate it. I mean,
25 you're welcome to -- I mean, Commissioner Eckenwiler, to

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1 begin with, as I said, normally, during preliminary matters,
2 we don't bring people in. But since you guys are a pretty
3 active ANC, and I appreciate, actually, the input that you
4 all do give, and I know your ANC well now. So I'm happy, I
5 mean you're getting an opportunity to voice your opinion
6 right now before the Board, and I can also go ahead and give
7 my opinion after that and then we'll just see what the Board
8 has to say.

9 But so what you're proposing is you'd like to go
10 ahead and put it on for a decision at some point in time, and
11 that's your proposal.

12 COMMISSIONER ECKENWILER: That's correct, Mr.
13 Chairman. This case was heard initially in July of last
14 year. Revisions were made, and it came back to the Board for
15 a full hearing on October 6th. The Board thereafter twice
16 requested from the applicants in the memo that was filed
17 after the October hearing and then after the December 1st
18 emergency continuance, the Board asked for specific
19 information from the applicant. That information was never
20 filed.

21 And so the case has now been heard from both sides
22 and there's been this lengthy wait. Everything that needs
23 to be before the Board is before the Board.

24 Now, I should point out the applicant did file,
25 apparently late Monday evening, some additional materials.

1 I'm at the beach today, so I have not looked at that. And,
2 you know, there's a question about whether or not those
3 should be admitted. There's not even a motion from the
4 applicant to admit those.

5 But on the record, as it stands, apart from those
6 11th hour filings, the case is ripe for decision.

7 CHAIR HILL: Okay, all right, Commissioner. Well,
8 I appreciate your, I mean, Commissioner, thankfully, I'm also
9 just one vote. So I went ahead and you had an opportunity
10 to give your opinion there. Does the Board have any
11 questions for the Commissioner while he's on?

12 MEMBER BLAKE: Commissioner, just to be clear, you
13 did not have an opportunity to review the additional
14 information that they've submitted. They've not passed that
15 by you at all, correct?

16 COMMISSIONER ECKENWILER: I noticed it Monday
17 evening while I was here on vacation. I have not had a
18 chance to look at it and, frankly, the things that I noticed
19 Monday evening apparently have now been superseded by a new
20 filing.

21 So no, Mr. Blake, I have not had an opportunity
22 to review them substantively at all, and I would not find it,
23 I would not suggest that it's appropriate for the Board to
24 admit them into the record.

25 CHAIR HILL: Okay. Anybody else got a question?

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1 All right, Commissioner. Well, I hope the weather is nice
2 and you enjoy your day. Okay. Thanks, Commissioner
3 Eckenwiler.

4 CHAIR HILL: All right. Mr. Young, if you could
5 please excuse the commissioner. Okay. I haven't, like, this
6 is my problem with this one, I'm not really on this. This
7 is Vice Chair John's case. You all have been the ones who
8 have been dealing with this. I totally hear the ANC's
9 frustration, and it sounds very well founded in terms of
10 their frustration. But at the same time, I don't know what
11 to do as far as like, you know, if the applicant is in the
12 hospital, the applicant is in the hospital. I can't do
13 anything about that. The applicant is not here, right.

14 So I can't hear the case today for sure, so then
15 it has to get postponed anyway, right. So the only place I
16 can postpone this thing is to, whenever I have the next
17 available slot, which I do know now is going to be, like, in
18 November, late October, something like that. And I hope you
19 two are still here because I want to read in, right. And so
20 you all can tell me what you think. My proposal, again,
21 would just be, like, to reschedule for the next slot that I
22 have and then you all will remember all this and all of the
23 trouble it has been, and then you will be able to at least
24 hear what the applicant has to say.

25 I mean, I totally get it. It sounds like this

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1 thing has completely now changed from what it was maybe even
2 before, and this applicant may be getting a little bit, you
3 know -- what's it called -- flexibility that they shouldn't
4 be getting, I don't know, in terms of just the way that this
5 is kind of playing out. But my thing would be just to take
6 it down to the next time I got a slot, and then, Vice Chair
7 John, you all can deal with it when the time comes up. I'm
8 going to see what you all have to say and then do what you
9 all think because you all have read into it more than me.

10 Mr. Smith.

11 MEMBER SMITH: No, I do agree with you we can't
12 make a decision on this today, being that the applicant is
13 in the hospital. If he's in the hospital, he's in the
14 hospital. We can't even admit the documents that were sent
15 in on Monday.

16 I do hear what the ANC is saying. We have a full
17 record on this. But, again, I don't think that we can or
18 it's wise and prudent to decide this case when the applicant
19 is not here today and is in the hospital.

20 I don't know about kicking it to the next slot.
21 I would hope that we could rule on this before our break.
22 That's my position on kicking it all the way to November,
23 being that this has been continued for well over a year,
24 we've been dealing with this for well over a year. So that's
25 my position on it. Not necessarily November but --

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1 CHAIR HILL: That's fine. We can find another
2 earlier slot for it. It just means more whenever we get it,
3 and, since I'm not on it, it's going to be at the end of the
4 day and I'm going to leave.

5 Mr. Blake.

6 MEMBER BLAKE: Yes, I agree with Mr. Smith that
7 it should be resolved sooner rather than later. This is a
8 unique circumstance and turn of events with him going into
9 the hospital and being self represented.

10 So at the end of the day, there has been some
11 additional information in the system which has not been
12 admitted. But to the extent that it was and it was
13 materially different, I believe it would be appropriate for
14 Mr. Eckenwiler to review it yet again just to determine if
15 it is now something that's palatable, given the nature of the
16 relief that's being requested, which I believe also has been
17 changed somewhat.

18 So I don't know that this is going to be resolved
19 quickly. We wouldn't know how his medical condition, how
20 long that would last, so kicking it a week or so may or may
21 not be appropriate. And I think we should just kick it down
22 the road, to be perfectly honest with you, and to the end of
23 the queue.

24 CHAIR HILL: Okay. But now I've got different
25 votes. So I don't -- well, Mr. Blake, Mr. Smith is saying,

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1 and I've got to say, and, Mr. Blake, if you don't mind, I'm
2 going to talk this through just a little bit, in that if we
3 do it the way that Mr. Smith is suggesting, at least then
4 this may get resolved in some capacity sooner rather than
5 later and we'll try to squeeze it in there before the end of
6 the break, if that's okay with you, Mr. Blake.

7 MEMBER BLAKE: Why don't we go ahead and do that.

8 CHAIR HILL: Okay. And the reason also why I
9 explained that, this is what also is confusing me about this
10 is that, I mean, I'm learning more and more about this
11 neighborhood now and that the different kinds of dynamics
12 that are at play, and it is, you know -- the thing that I
13 don't like about this, and I'm more sharing this with you
14 guys than anything else, is, like, I don't know if, you know,
15 if this application is completely being changed, I don't know
16 what is the appropriate manner to then hear the application.
17 If the plans are being changed to a point where, you know,
18 the relief requested is being changed and then if the ANC has
19 to deal with it again, I mean, I don't know, right. I'm
20 saying all that which is to say we might hear it, you guys
21 might hear it before the end of August, I'm sorry, before the
22 end of July and may decide that this should be heard, decided
23 on, and then the person has to start again, or whatever you
24 guys decide.

25 And so, Mr. Moy, can you hear me?

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1 MR. MOY: Yes, sir.

2 CHAIR HILL: When can we possibly -- I can't even
3 believe there's really not that many days before we go on
4 break, right? Like, when could this possibly happen?

5 MR. MOY: All right. I have two days for the
6 Board. The long date would be November 2nd. The short date
7 would be July 27th.

8 CHAIR HILL: How many cases -- that's our last
9 hearing before the break, right?

10 MR. MOY: Yes, sir.

11 CHAIR HILL: And how many cases we got on the
12 27th?

13 MR. MOY: Seven.

14 CHAIR HILL: Seven. Okay.

15 MR. MOY: Well, yes. Well, I have something else
16 going on, but it would result in seven cases for the day.

17 CHAIR HILL: No, that's fine. What I'm saying is
18 that's not as bad as I thought it was going to be.

19 MR. MOY: Well, this then would become the eighth
20 case; that's all I'm saying.

21 CHAIR HILL: I understand. So go ahead and let's
22 add this to the end of the day on the 27th, unless my fellow
23 Board members have an issues and, if so, please speak up.
24 Okay, cool.

25 MEMBER SMITH: I don't have any, but I would just

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1 say this for the record, if the applicant is still in the
2 hospital, we give them a month to figure out if they need to
3 find representation between now and the 27th because this
4 will get heard on the 27th.

5 CHAIR HILL: Yes. I mean, if the applicant,
6 hopefully, is listening, I mean, if they can find
7 representation, if they can do whatever they need to do,
8 because, as the applicant can probably tell, this has become
9 a very frustrating issue and a very good chance something
10 might happen on the 27th and the applicant should be ready
11 and not try to hope that something else happens.

12 So anyone else want to say something on the record
13 before we close this portion of the hearing? Mr. Moy?

14 MR. MOY: Yes, just procedural for the staff, Mr.
15 Chairman. So am I hearing then the Board is allowing the
16 revised drawings that the applicant filed on Monday to be
17 entered into the record, despite the fact that it was
18 untimely, not meeting the submission deadlines?

19 CHAIR HILL: Is that Exhibit 96? You don't know.

20 MR. MOY: Yes, they're revised drawings. I think
21 he filed it three different times.

22 CHAIR HILL: Okay. I guess everybody is going to
23 take a look at the drawings, so might as well take a look at
24 the drawings, so go ahead and let them in. And again,
25 hopefully, you guys don't need me to read in, so you all can

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1 have at it. Unless you all have an issue with that, then
2 raise your hand. Okay. Nobody is raising their hand.

3 All right, Mr. Moy. Anything else?

4 MR. MOY: No, that's it. As always, with the
5 staff, we'll keep in contact with the Office of Planning in
6 the event that you would want, now it says the revised
7 drawings.

8 CHAIR HILL: Okay, all right. Mr. Moy, thank you.
9 All right. You can go ahead and close the hearing and the
10 record for this portion of the hearing for this case. Thank
11 you.

12 (Whereupon, the above-entitled matter went off the
13 record at 10:05 a.m. and then went back on the record at
14 10:40 a.m.)

15 CHAIR HILL: All right, Mr. Moy. If you want to
16 call our first case, please.

17 MR. MOY: Okay. I'm going to -- okay. The Board
18 has returned to its public hearing session after a very brief
19 recess, and the time is at or about 10:40 a.m. in the
20 morning, well, this in the morning, of course.

21 So the next case is Application No. 20612 of
22 Demetria, D-E-M-E-T-R-I-A, Weir, W-E-I-R. And this is an
23 application, a self-certified application pursuant to
24 Subtitle X, Section 901.2, for special exceptions under
25 Subtitle E, Section 5201, from the lot occupancy requirements

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1 of Subtitle E, Section 304.1, rear yard addition, rather rear
2 addition requirements, Subtitle E, Section 205.4, and
3 pursuant to Subtitle E, Section 206.4, from the rooftop
4 architectural requirements of Subtitle E, Section 206.1.
5 Property located in the RF-1 zone at 647 16th Street, N.E.,
6 Square 4540, Lot 293.

7 And this is a continued hearing. The Board last
8 heard this at its May 4th public hearing.

9 In preliminary matters, Mr. Chairman, ANC 6-A is
10 requesting a postponement until after their meeting on July
11 14, and I believe in their ANC filing they seem to suggest
12 that the applicant had agreed to the postponement.

13 CHAIR HILL: Okay, all right. Let's see. Who is
14 here from the applicant? If so, could they please speak up?

15 MR. YOUNG: I do not see the applicant here.

16 CHAIR HILL: Okay. Well, that's interesting. Is
17 the ANC commissioner here?

18 MR. GREENFIELD: This is Brad Greenfield. I'm
19 representing ANC 6-A. Commissioner Sondra Phillips-Gilbert
20 is also on the line, and this is her SMD.

21 CHAIR HILL: Okay, great. All right. Well,
22 welcome, Commissioners, plural.

23 MR. GREENFIELD: Just to note, I am not actually
24 a commissioner. I'm just a volunteer, and I head their
25 zoning committee.

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1 CHAIR HILL: Okay, great. All right. Well,
2 congratulations to you and thank you for serving the ANC
3 then.

4 Commissioner Gilbert, can you hear me?

5 COMMISSIONER GILBERT: Yes, I can.

6 CHAIR HILL: Okay. So, Mr. Young, the applicant
7 is not here?

8 MR. MOY: My understanding, Mr. Chairman, is the
9 applicant is either running behind or having difficulties
10 signing in. It's one of the two.

11 CHAIR HILL: Okay, all right. Commissioner
12 Gilbert, it sounds as though this is going to get postponed
13 because I, A, don't have the applicant. Do you know what,
14 have you had correspondence with the applicant and do you
15 know when you guys were thinking maybe of coming back to the
16 BZA?

17 COMMISSIONER GILBERT: Brad Greenfield, our chair,
18 can speak to all of that.

19 CHAIR HILL: Okay. Mr. Greenfield.

20 MR. GREENFIELD: Yes. We requested a postponement
21 until after the ANC's July meeting. That would be July --

22 CHAIR HILL: It said 14th on your paperwork.

23 MR. GREENFIELD: Yes, thank you. I will say when
24 we initially posed this idea in our previous ANC meeting, the
25 applicant agreed to it. Since then, she has voiced

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1 opposition to postponing, but that was our request was to
2 postpone until after July 14th.

3 CHAIR HILL: Okay. Well, I'm trying to think
4 where -- do I got -- all right. Well, first of all, okay,
5 Mr. Moy, when was this filed; do you know?

6 MR. MOY: Yes. Well, I can tell you, like, at the
7 moment, the first original scheduled hearing was February the
8 4th, so it was probably filed about a month and a half prior
9 to that.

10 CHAIR HILL: February the 4th of 2021. No, 2022.

11 MR. MOY: Yes.

12 CHAIR HILL: Okay.

13 MR. MOY: I was going to suggest, if you want to
14 hear from the applicant, it says Mr. Greenfield has mentioned
15 that she is now opposed to postponement, then I would just
16 remove to the next case and we come back to this when the
17 applicant returns to the hearing or not return but comes to
18 the hearing. That's a possibility.

19 CHAIR HILL: Okay. I mean, I think -- oh, gosh.
20 All right. Is this self -- I mean, not self cert, is this
21 self represented? They don't have an attorney as far as you
22 know, right?

23 Is anyone here from the applicant? Is the
24 architect on? Is anyone on? Okay, all right..

25 MR. YOUNG: I don't see anyone.

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1 CHAIR HILL: Commissioners, Mr. Greenfield, can
2 you hear me?

3 MR. GREENFIELD: Yes.

4 CHAIR HILL: I mean, honestly, this will probably
5 at least get postponed until after your 14th. I mean, do you
6 know, Mr. Greenfield, has the applicant not approached you
7 yet? I mean, why did it take this long, do you know, to get
8 to where, I mean, if this thing got filed in, you know,
9 February, have they not tried to reach out to you before and
10 get this process moving?

11 MR. GREENFIELD: Oh, we actually scheduled them
12 four different times in this year, and each time they did not
13 show up.

14 CHAIR HILL: They did not show up for your
15 meeting.

16 MR. GREENFIELD: Correct. The only time they
17 showed up was after we submitted a letter of opposition and
18 the previous time in May that it came before BZA, and the BZA
19 said you got to go back and talk to the ANC. That's when we
20 actually got attendance at our ANC.

21 Part of what the BZA asked for in that meeting
22 was a sun study. That's the first time we've seen the sun
23 study, and, after that sun study, we recommended that she
24 talk to the neighbor at 649 because it showed an impact on
25 that neighbor, and that neighbor is opposed. And at that

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1 point, that's when we asked for the postponement so we could
2 go through a formal process of making a recommendation.

3 CHAIR HILL: Got it. Do you know which, is this
4 the neighbor that's to the left if you're facing the front
5 door?

6 MR. GREENFIELD: Yes, that's --

7 CHAIR HILL: Okay, all right. Well, I'm
8 definitely in favor of postponing this now. I don't know
9 exactly what's happening because the applicant hasn't had an
10 opportunity to speak, but if they are not coming to the
11 zoning -- I mean, Mr. Greenfield, you run the, and I forget
12 what it is, it's the zoning whatever --

13 MR. GREENFIELD: The zoning committee, yes.

14 CHAIR HILL: The zoning committee. Thank you.
15 So, right, you all do it like everybody else. You go to the
16 zoning committee first, and then the zoning committee makes
17 a recommendation to the ANC, and then the ANC hears it,
18 correct?

19 MR. GREENFIELD: Correct.

20 CHAIR HILL: Okay. Mr. Blake, you had your hand
21 up?

22 MEMBER BLAKE: Yes, I was going to just try to get
23 clarity on the issues or concerns that the ANC had at this
24 point, given the fact that the shadow study was observed and
25 certainly evaluated by the Office of Planning and we have in

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1 front of us currently. I'm just curious to know what other
2 issues and concerns came up, and are you working with the
3 adjacent neighbor? Obviously, I think it's interesting that
4 adjacent neighbor has basically reversed their position based
5 on the conversations that they've had, so I'd be curious to
6 know exactly, if you have additional concerns you want to
7 work on and so forth.

8 MR. GREENFIELD: We do -- go ahead, Ms. Phillips.

9 COMMISSIONER GILBERT: In addition to the shade
10 study, we wanted to make sure that the neighbors saw the
11 shade study and understood the significance of its impact,
12 whether there was an impact on them or not. And they did see
13 it, and they oppose that.

14 In addition to that, there was a major, major
15 concern about the construction management. I have been
16 dealing with the applicant and the trash and the illegal
17 dumping throughout the community, moving debris that belonged
18 to her on the 649, the neighbor that is opposing the shade
19 study. We're just overwhelmed with not understanding why
20 this can't be cleaned up and resolved with.

21 At our meeting we recently had last week, the
22 applicant said that, you know, everything was cleaned up, but
23 I went the night before and took pictures. I don't know if
24 you have the current pictures where the debris is still there
25 and their trash gradually being added to that.

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1 My concern is that, if the Board supports this,
2 it's going to impact the neighbor, their quality of life, and
3 their sunlight. I'm a gardener, so I like to plant and make
4 sure I have some sun.

5 In addition to that, the concern of having to deal
6 with this developer, dealing with her construction. And she
7 doesn't visit the site, she doesn't make sure that things are
8 cleaned up, and it is very frustrating for me as the ANC
9 commissioner and I have all the community coming at me and
10 then, you know, we're dealing with rats and no fencing around
11 the property. I've been dealing with this for over a year,
12 over a year, and I just don't understand.

13 MEMBER BLAKE: They do have a construction
14 management agreement that they have written. Have you
15 reviewed that?

16 COMMISSIONER GILBERT: Yes. That's because of our
17 concern in the meeting that we had with the Board in May.
18 She did draw that up; but, however, if you draw up a new
19 contract, you're drawing up this management contract, and
20 there is debris currently on your property and you've made
21 no effort to remove that, I have no sense of trust in what
22 she is proposing now to the Board, you know.

23 MEMBER BLAKE: Okay. I have one last question.
24 Are you, do you feel that you're making progress with the
25 applicant at this point? I mean, there was an impasse at one

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1 point, but are you making progress at this point and do you
2 feel that a postponement will lead to an agreement and a
3 resolution to some of these issues?

4 COMMISSIONER GILBERT: At this point, there is no
5 progress because the last hearing we had, I believe, last
6 week, she negated her responsibilities of having the debris
7 picked up. And she also was quite upset with the neighbor
8 because they opposed the shade study. And we did ask if she
9 was willing to, like, reduce the construction or move it
10 back, and she said no. So there's really nothing else to
11 discuss here, and, like I said, we just can't get her to be
12 responsible at all. This has been ongoing for so long.

13 CHAIR HILL: Okay. Commissioner Gilbert, I'm
14 going to interrupt you because I need the applicant now to
15 be able to, like, respond or, you know, to the things that
16 are --

17 COMMISSIONER GILBERT: Yes.

18 CHAIR HILL: -- and I just haven't had a chance.
19 Are you guys around -- I mean, we're going to obviously
20 postpone this. We're not going to hear it today; they're not
21 even here yet. But I don't know if they're, like --

22 COMMISSIONER GILBERT: Well, I'm here.

23 CHAIR HILL: No, I got you, Commissioner. I'm
24 sorry. The applicant is not here.

25 COMMISSIONER GILBERT: Right, right. I know. I

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1 said I'm here if you want to hear another case and move it
2 back. I don't know what Brad's --

3 CHAIR HILL: Oh.

4 COMMISSIONER GILBERT: -- schedule is, but he is,
5 you know, our representative on that.

6 CHAIR HILL: Mr. Greenfield, I really don't know
7 if I need you, Mr. Greenfield. I've heard now, I think we've
8 heard enough, but if the commissioner is available, I can at
9 least -- I just want to have the applicant have an
10 opportunity to speak. Are you around, Mr. Greenfield, later
11 today or no?

12 MR. GREENFIELD: I am not going to be available
13 after 11:30 or noon.

14 CHAIR HILL: Okay, all right. Well, Mr. Moy, we
15 don't know where the applicant is, correct?

16 MR. MOY: All I know, Mr. Chairman, is that,
17 apparently, she's in her automobile and the reception is very
18 poor. So we're trying to catch her when the reception is
19 better at this point, so that's where I'm at. So whether
20 that takes place before or after 11:30 --

21 CHAIR HILL: Commissioner Gilbert, Commissioner
22 Gilbert --

23 COMMISSIONER GILBERT: Yes.

24 CHAIR HILL: -- are you around, it doesn't matter,
25 I don't even necessarily have to have -- we're going to

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1 postpone this, I know we're going to postpone this. Now it's
2 just a matter of whether we postpone it and try to squeeze
3 it in before the recess or whether it goes after the recess,
4 right. At least that's my opinion and let the Board raise
5 their hand, and I don't see any hands just yet.

6 So if you want to be around, I'm going to put this
7 at the end of the day again now for us just to see if the
8 applicant --

9 COMMISSIONER GILBERT: Okay. I'm here.

10 CHAIR HILL: Okay, all right. Then, Commissioner,
11 we'll have somebody reach out to you before we come back to
12 this, okay?

13 COMMISSIONER GILBERT: Okay. Thank you so much
14 for hearing our case. Thank you.

15 CHAIR HILL: Mr. Greenfield, nice to speak with
16 you. Commissioner, nice to speak with you.

17 COMMISSIONER GILBERT: Thank you.

18 CHAIR HILL: I'm going to close the hearing on the
19 record for this portion, and we'll come back at the very end
20 of the day and discuss this matter, okay?

21 COMMISSIONER GILBERT: Thank you.

22 CHAIR HILL: Thank you, Commissioner.

23 MR. GREENFIELD: Thank you.

24 CHAIR HILL: Okay, all right. So that's that one.
25 Have we done anything yet? So what's the first one? Go

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1 ahead, Mr. Moy, whatever the next one is.

2 MR. MOY: Okay. So this would be --

3 CHAIR HILL: Can I interrupt just one second?

4 MR. MOY: Of course.

5 CHAIR HILL: The docket reminded me about this
6 case. I think I remember this one before, and we can talk
7 about it when it comes back again. Commissioner May, were
8 you on this one before, that one that just previously
9 happened? No. Okay, all right.

10 Go ahead, Mr. Moy.

11 MR. MOY: All right. The next case is Application
12 No. 20738 of Trin Mitra and Paromita, P-A-R-O-M-I-T-A, Shah,
13 S-H-A-H. This is a self-certified application for special
14 exception pursuant to Subtitle E, Section 5201, and Subtitle
15 X, Section 901.2, from the lot occupancy requirements,
16 Subtitle E, Section 304.1.

17 The property is located in the RF-1 zone at 1609
18 G Street, S.E., Square 1092, Lot 18.

19 And I think that's all I have for you. Thank you.

20 CHAIR HILL: Thank you. Ms. Fowler, can you hear
21 me?

22 MS. FOWLER: Yes, I can. Hello, good morning.

23 CHAIR HILL: Hi, good morning. Could you please
24 introduce yourself for the record?

25 MS. FOWLER: Yes. I'm Jennifer Fowler. I'm with

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1 Fowler Architects. I'm the architect representing the
2 homeowner on this project.

3 CHAIR HILL: Great, thank you. Ms. Fowler, if you
4 wouldn't mind walking us through your application and why you
5 believe your client is meeting the criteria for which we can
6 grant the relief requested, and then put 15 minutes on the
7 clock just so I know where we are, and you can begin whenever
8 you'd like.

9 MS. FOWLER: Okay, great. Thank you very much.
10 So this is a request for special exception for lot occupancy
11 for a rear three-story addition and a rooftop addition. We
12 are only requesting lot occupancy of 67.8 percent. It meets
13 all the other requirements. It meets the height
14 restrictions, the setback, rear setback. And from the
15 neighbor, we're less than 10 feet back.

16 So it's a pretty simple request. We originally
17 started out with an eight-foot one deep addition. The
18 homeowners did a lot of outreach with the neighbors, and,
19 while we don't have one neighbor letter that's supported, we
20 do have the other neighbors that support it and we have a lot
21 of other support letters in the application.

22 We did reduce the size by one-foot, ten-inches,
23 to land on a six-foot three rear addition. So it's a very
24 modest addition.

25 The third floor portion of the project is a matter

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1 of right. The third floor is only 49.6 percent, so we're
2 really just looking at the two-story rear portion that
3 exceeds the occupancy. And part of the reason why such a
4 small addition is causing an occupancy issue is that the
5 property line is forward of the front porch, so they actually
6 own a chunk of their front yard, which is a little bit
7 unusual on Capitol Hill. But the front porch does count
8 towards the occupancy for that first floor level.

9 This has been widely supported. We have ANC
10 support. The Preservation Society has supported it. The
11 neighbor next door, 1607, has submitted support; and we also
12 have a solar agreement with that neighbor. So they have
13 solar panels, and we have submitted a memorandum of
14 understanding that they understand the panels impacted, and
15 they are in support of the project.

16 So with that, I will leave it open to questions.
17 Thank you.

18 CHAIR HILL: Thanks, Ms. Fowler. Does the Board
19 have any questions for the applicant?

20 ZONING COMMISSIONER MAY: One quick one. The
21 abutter on the other side, I have a letter of support. Have
22 they been contracted that you have a communication of what
23 their position is?

24 MS. FOWLER: Yes. So my client shared plans with
25 them starting last fall, and we originally had the eight-foot

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1 one deep addition. And the neighbor wasn't, she wasn't in
2 opposition but wasn't kind of opposed. They've kept the
3 communication open over all this time. They reduced the
4 addition size, and the neighbor just really didn't seem to
5 want to engage in the process, but they really did reach out
6 a lot.

7 We had an ANC meeting. They were aware of the ANC
8 meeting, and I believe our local SMD commissioner had also
9 reached out to this neighbor and talked to them. So,
10 basically, ANC determined that the homeowner has done enough,
11 you know, adequate outreach to that particular neighbor, and
12 sometimes people just don't want to sign paperwork.

13 So that's kind of where we left it with them, but
14 they are on good terms. They're very good neighbors.

15 ZONING COMMISSIONER MAY: Thank you. I appreciate
16 that.

17 MS. FOWLER: Yes, sure.

18 CHAIR HILL: Okay, great. Can I turn to the
19 Office of Planning, please?

20 MR. JESICK: Thank you, Mr. Chairman and members
21 of the Board. My name is Matt Jesick, and the Office of
22 Planning is happy to rest on the record in support of this
23 application. And I'm happy to take any questions. Thank
24 you.

25 CHAIR HILL: Thank you, Mr. Jesick. Does the

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1 Board have any questions for the Office of Planning?

2 Mr. Young, is there anyone here wishing to speak?

3 MR. YOUNG: We do not.

4 CHAIR HILL: Ms. Fowler, do you have anything to
5 add at the end?

6 MS. FOWLER: No, thank you very much. Thank you,
7 Office of Planning, for your time on the analysis.

8 CHAIR HILL: Okay, great. Thank you. Let's see.
9 All right. I'm going to go ahead and close the hearing on
10 the record. Have a nice day, Ms. Fowler.

11 Okay. I didn't have any issues with the
12 application. I thought it was relatively straightforward.
13 I'm glad that they did so much community outreach. I thought
14 that the solar agreement was something that I hadn't seen in
15 a little while, so I thought that was interesting.

16 And then I agree with the Office of Planning's
17 analysis, as well as that of the ANC and CHRS, and I will be
18 voting in favor.

19 Mr. Smith, would you like to add anything?

20 MEMBER SMITH: I have nothing to add. I agree
21 with your analysis.

22 CHAIR HILL: Commissioner May.

23 ZONING COMMISSIONER MAY: Nothing to add. I agree
24 with you.

25 CHAIR HILL: Thank you. Mr. Blake.

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1 MEMBER BLAKE: I agree with you, as well, sir, and
2 support the application.

3 CHAIR HILL: Thank you. I'm going to make a
4 motion to approve Application No. 20738 as caption read by
5 the Secretary and ask for a second. Mr. Blake.

6 MEMBER BLAKE: Second.

7 CHAIR HILL: The motion has been made and
8 seconded. Mr. Moy, if you'd take a roll call, please.

9 MR. MOY: Thank you, sir. When I call your name,
10 if you would please respond with a yes, no, abstain, to the
11 motion made by Chairman Hill to approve the application for
12 the relief being requested. The motion to approve was second
13 by Mr. Blake.

14 Zoning Commissioner Peter May.

15 ZONING COMMISSIONER MAY: Yes.

16 MR. MOY: Mr. Smith.

17 MEMBER SMITH: Yes.

18 MR. MOY: Mr. Blake.

19 MEMBER BLAKE: Yes.

20 MR. MOY: Chairman Hill.

21 CHAIR HILL: Yes.

22 MR. MOY: We have a Board member not present.
23 Staff would record the vote as 4 to 0 to 1, and this is on
24 the motion made by Chairman Hill to approve. The motion to
25 approve was second by Mr. Blake. Also in support of the

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1 motion to approve Zoning Commissioner Peter May, Mr. Smith,
2 Mr. Blake, and Chairman Hill. Motion carries, sir, on a vote
3 of 4 to 0 to 1.

4 CHAIR HILL: Thank you, Mr. Moy. You can go ahead
5 and call the next one when you get an opportunity.

6 MR. MOY: All right. The next case is Application
7 No. 20743 of Shayleen and Robert Thorne. This is an amended
8 self-certified application for special exceptions pursuant
9 to Subtitle D, Section 5201, and Subtitle X, Section 901.2.
10 This is from the side yard requirements, Subtitle D, Section
11 206.7, lot occupancy requirements, Subtitle D, Section 904.1,
12 and the pervious service requirement, Subtitle D, Section
13 908.1.

14 The property is located in the R-16 zone at 1630
15 Nicholson Street, N.W., Square 2723W, Lot 33. And let's see.
16 I think that's all I have. There are parties in opposition.

17 Thank you, sir.

18 CHAIR HILL: Okay, great. Thank you, Mr. Moy.
19 Let me just pull up the record here. All right. Mr.
20 Sullivan, can you hear me?

21 MR. SULLIVAN: Yes, I can. Thank you, Mr. Chair.
22 I'm Marty Sullivan with Sullivan & Barros on behalf of the
23 applicant.

24 CHAIR HILL: Great, thank you. Who is with you
25 here today, Mr. Sullivan?

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1 MR. SULLIVAN: So I should have Mr. and Mrs.
2 Thorne to answer any questions, but they don't have any
3 testimony, and Ellen Whitmore, the project architect.

4 CHAIR HILL: Okay, got it. Thanks. All right.
5 Ferster, can you hear me?

6 MS. FERSTER: Yes, I can. Good morning.

7 CHAIR HILL: Good morning. Could you --

8 MS. FERSTER: My name is Andrea Ferster. I
9 represent the opposing parties, Mr. Jackson and Ms. Ginsburg,
10 and I believe they are appearing on a single screen. I see
11 it noted as Maurice Jackson.

12 CHAIR HILL: Okay, great. Thanks, Ms. Ferster.
13 And then Mr. Rueda is with you; is that correct, as well?

14 MS. FERSTER: That's correct.

15 CHAIR HILL: Is there anyone else?

16 MS. FERSTER: No, that's our, that's our case.

17 CHAIR HILL: I see somebody, a Mr. Vogt, Vogt.

18 MR. SULLIVAN: Oh, so Mr. Vogt is also with Ms.
19 Whitmore, too, if there's any questions for him. He's with
20 Case, the design build firm.

21 CHAIR HILL: Okay, great. All right, Mr.
22 Sullivan. So everyone knows how this works, so if you would
23 please go ahead and walk us through your application and, in
24 particular, point out how you believe your client is meeting
25 the zoning requirements for us to grant the relief requested.

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1 And then I'm going to put 15 minutes on the clock just so I
2 know where we are, and then you can begin whenever you'd
3 like.

4 MR. SULLIVAN: Thank you, Mr. Chair, members of
5 the Board. If Mr. Young could please load the PowerPoint
6 presentation.

7 This is 1630 Nicholson Street, N.W. Second slide,
8 please. The property is located in the R-16 zone district.
9 R-16 is a single-family detached zone, but this street
10 happens to have semi-detached homes on it.

11 The applicant is proposing to construct a rear
12 addition which is an enclosed screen porch at the main level
13 of the building and also proposing to restore the garage at
14 the rear of the property. For this, we're requesting three
15 areas of relief: special exception relief from the side yard
16 requirements, from the lot occupancy requirements, and from
17 the pervious surface requirements.

18 Next slide, please. So the side yard requirement,
19 this proposed addition will extend the existing building,
20 which is semi-detached. So there's no side yard for the
21 principal building, and this will just extend that 13.08
22 feet, and that's the side yard requirement relief.

23 For lot occupancy, both lot occupancy and pervious
24 surface relief are triggered by the second part of this
25 project, which is putting a roof on top of the existing

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1 garage walls. That garage is already an impervious surface
2 on the floor of the garage; so, in fact, the action that
3 triggers the pervious surface requirement by virtue of adding
4 lot occupancy of ten percent or more does not actually
5 increase the impervious surface.

6 So next slide, please. And I'd like to turn it
7 over to Ms. Whitmore to take you through the plans. Ellen.

8 MS. WHITMORE: This sheet is showing the before
9 and after of the site plan.

10 CHAIR HILL: Ms. Whitmore, Ms. Whitmore, can you
11 hear me? Can you hear me?

12 MS. WHITMORE: Yes, I can hear you.

13 CHAIR HILL: Can you lean in a little bit maybe?
14 I can't hear you very well.

15 MS. WHITMORE: Oh, okay. Let me change a setting
16 really quick. Is that better?

17 CHAIR HILL: Yes.

18 MS. WHITMORE: Okay. So this cover sheet is
19 showing a before and after of the site plan, the left showing
20 the before. The properties are in these pairs of duplexes
21 and the garages are also paired, so we're proposing to
22 basically add the roof back on to the garage at the rear of
23 the property. On the principal dwelling, we're proposing to
24 add the screen porch along the property line and extend
25 slightly a patio that already exists as concrete.

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1 Next slide, please. This is the arial showing the
2 properties.

3 Next slide. These are plans showing the before
4 and after. The after is at the top. This is the basement
5 plan showing that there is already at the bottom of it, you
6 can see, there is already a concrete areaway going to the
7 basement level.

8 Next slide. This is showing at the top the
9 proposed screen porch. The property line is at the bottom
10 of the image, of the top image. And at the top of it, we're
11 showing a new flagstone patio, but most of that is flagstone
12 over existing concrete. There's only a small amount of new
13 impervious area proposed.

14 Next slide. This is an elevation showing the rear
15 of the screen porch. The shared property line with 1628 is
16 on the right of this image. We are proposing to have a solid
17 wall at the right side along the shared property line and
18 having a flashing that will contain any runoff from the roof
19 of this addition so that it does not fall onto the
20 neighboring property.

21 I just want to point out the way the lot floats,
22 the main floor level and, therefore, the level of the screen
23 porch floor is about seven feet off the rear yard height, so
24 the fence between us and the neighbors at seven feet really
25 is only providing privacy when you're down in the yard. When

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1 you're up at the first floor level, their deck and our
2 proposed screen porch are basically on a level.

3 Next slide, please. This is showing the other two
4 elevations on the side. So on the left is the side facing
5 away from the neighbors. On the right is the side facing the
6 neighbors with a proposed solid wall.

7 Next slide, please. These are photos showing the
8 existing conditions. On the top left are, the sort of beige
9 color is the existing rear addition that we did a couple of
10 years ago and showing the fence and the neighbor's yard. On
11 the top right, you can see the level of the deck of the
12 neighbors is pretty far out of the ground, so privacy issues
13 are impacted by the height of their deck, as well. On the
14 lower level are pictures showing the garage and the
15 neighbor's deck, but I think the next slide shows the garage
16 -- no, a few slides later.

17 Next slide, please. Here is the garage as it
18 exists. On the top left is the view from the backyard of our
19 proposed work, and it shows where the roof is missing. On
20 the top right, the structure on the right is the neighbor's
21 garage that our garage is adjacent to, and we would be
22 replicating the garage, the lines of the roof, and adding
23 garage doors. The slab and the two brick walls are already
24 there.

25 Next slide. These are plans showing the garage

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1 work. The slab will remain.

2 Next slide. Elevations of the garage. Mainly,
3 these are the two brick walls of the top two images, and the
4 lower image shows where we would build in a wood frame
5 structure and most of it is a garage door that would be in
6 the same scale and rhythm as the neighboring ones.

7 Next slide. This is the first page of a sun
8 study, and the last page is the second page of the sun study.
9 This sun study is depicting a screen porch addition by right
10 with a five-foot setback off of the shared property line.
11 As you go through the images, the impacts that are there are
12 really only in the afternoon, 3 p.m. - 5 p.m., of the top two
13 time frames. They're showing a little bit of impact of
14 shade, mostly on the building of 628, a little bit on the
15 existing deck of 628.

16 And if you switch to the last slide, you can see
17 that extending the screen porch over to the property line,
18 there are some areas in red shading that are showing the
19 difference between the base case of the five-foot setback and
20 this case that we're asking for relief. The impacts are,
21 again, mostly shading on the rear wall of the building next
22 door and a little bit on the deck. These properties face
23 south, so the impact from the screen porch are minimal
24 because everybody is facing the sun most of the day.

25 And that's the end of our slides.

1 MR. SULLIVAN: Actually, I'll take over from here,
2 if you could go to the next slide, please. I'll talk about
3 the general special exception criteria.

4 The proposal is in harmony with the general
5 purpose and intent of the zoning regulations and zoning maps
6 and will not tend to affect adversely the use of neighboring
7 property. The R-16 zone intends to promote the conversion,
8 enhancement, and stability of the low-density single-dwelling
9 unit neighborhood for housing and neighborhood-related uses.
10 And this addition is in harmony with that purpose and intent,
11 as the proposal is for the enhancement of a single-family
12 dwelling. And the applicant is only subject to the pervious
13 surface requirements because the addition of the garage roof
14 increases the lot occupancy by more than ten percent.

15 I want to stress the minor degree and nature of
16 this relief being requested. The matter of right possibility
17 for an addition could be three stories, could be 15-feet
18 higher than this. It would only be 5 feet away from the
19 property line. And it could go back about 18 feet further
20 than what's being proposed here. So the applicant is only
21 proposing what they felt they needed to enhance their
22 property and to provide some semi-outdoor recreation space.

23 Regarding the pervious surface relief, the
24 impervious surface is going to increase by about 3.7 percent.
25 And, again, that's triggered because it's over ten percent.

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1 If we remove the garage project from this, we would not need
2 lot occupancy relief or pervious surface relief, even though
3 adding the roof does not change the existing pervious
4 surface. And for lot occupancy, we're asking to go 0.1
5 percent over what is a minor deviation amount of 42 percent,
6 so it's a minor increase above the lot occupancy, as well.
7 And, again, most of that is related to adding the roof back
8 to the garage.

9 Next slide, please. Regarding the specific
10 special exception criteria, and these criteria apply to all
11 three areas of relief the same, the light available to
12 neighboring properties shall not be unduly affected. I
13 mentioned the matter of right addition possibility, which
14 would have had much more impact on the neighboring property.

15 And I'll note, for our sun study, we just showed
16 a comparison between what we're proposing on the property
17 line, as proposed, and what it would be if it was five feet
18 away. We didn't do a shadow study showing a true matter of
19 right possible addition versus what's being proposed. That
20 would obviously show zero additional impact. As it is, what
21 we're showing shows an impact that's very minor and not
22 undue.

23 The subject property and the adjacent property,
24 they run northeast-southwest, so the location of this really
25 is what allows most of the sunlight to get through,

1 regardless of this addition, and the shadow study reflects
2 that.

3 Separate from the light and air, there's been some
4 comments about views, and, of course, the Board has heard
5 this repeatedly. The views are not protected by the BZA and
6 are not considered in special exception cases.

7 Next slide, please. Privacy of use and enjoyment,
8 we think, is significantly enhanced by the construction of
9 this, including the solid wall on the side. Originally, they
10 intended to have three sides open so there could be more
11 airflow, but, for privacy concerns of the neighbor, they made
12 it a solid wall on that side adjoining the 1628 property.
13 So privacy, we think, is improved in both directions as a
14 result of this.

15 Next slide, please. So the addition and
16 structure, together with the original building, is viewed
17 from the street. It does not subsequently visually intrude
18 upon character, scale, and pattern of houses. It's a small
19 addition. Of course, it can't be seen from the front. It
20 can't really be seen from the back either because of the tree
21 cover and the garages that are back there along the alley.

22 And there's one other thing I'd like to address.
23 Ms. Whitmore, if you could talk about, the Office of Planning
24 has asked for us to attempt to provide some more pervious
25 pavers to increase the pervious surface amount. And if you

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1 can explain if the applicant investigated that and why that's
2 not part of this proposal.

3 MS. WHITMORE: Sure. If you could go back to the
4 slide that is the first page of the images, maybe number four
5 or five. Sorry. The first of the plans. One more, two
6 more. Sorry. The site plan, back to the site plan, a little
7 earlier in the presentation. I apologize. There.

8 So the additional impervious area that we're
9 adding falls in two places. One of them is on either side
10 of the stepped areaway that exists now, which if you look on
11 the left side there you can see the areaway steps that go
12 down to the basement stick out into the backyard a bit. Our
13 proposed screen porch covers a little bit of the grass area
14 on either side of that step-down areaway.

15 We are also proposing to extend a patio that's on
16 the side of the house on the left side as you're looking at
17 this slide. You can see that in the image it kind of aligns
18 with the back of the screen porch. There are, between these
19 areas, maybe a hundred square feet of additional impervious
20 cover. We're not proposing any other extensions of slabs or
21 impervious areas.

22 If we were to reduce the impervious area, we would
23 be taking up possibly the walkway that leads from the alley
24 to the rear of the principal dwelling and replacing that with
25 permeable pavers, but that is not an easy thing to do and it

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1 doesn't increase the permeability much more than the design
2 of the pavers would allow. Other than that, we would be,
3 again, taking up a currently existing concrete slab area.

4 CHAIR HILL: Ms. Whitmore, I'm sorry, can you
5 explain to me again, if you were going to try to do it, how
6 would you do it?

7 MS. WHITMORE: The most, I mean, the most -- one
8 way that we could do it is to take up the walkway that
9 extends from the rear of the property to the alley along the
10 side of the garage. We could take that up and replace it
11 with pavers. That might gain us a hundred square feet of
12 permeable area, depending on the percentage of permeability
13 of the paver system, though.

14 CHAIR HILL: But what about, like, gravel or
15 something? Why wouldn't you do that?

16 MS. WHITMORE: We could pull up the walkway and
17 install gravel. That is more maintenance from a landscaping
18 point of view.

19 CHAIR HILL: Got it. Okay.

20 MS. WHITMORE: We're willing to work with planning
21 staff on ideas for this. We haven't come up with an
22 alternative design to meet the square footage that they're
23 requesting.

24 CHAIR HILL: Would that make up the square
25 footage, just that walkway?

1 MS. WHITMORE: That walkway is, I mean, it would
2 help contribute. That walkway might be a hundred square feet
3 total, maybe a little more.

4 CHAIR HILL: Okay.

5 MS. WHITMORE: It's between two-and-half and
6 three-feet wide. It might be 150 square feet, looking at the
7 dimensions.

8 CHAIR HILL: Okay, great. All right. Mr.
9 Sullivan, is that it?

10 MR. SULLIVAN: Yes, that's it. Thank you.

11 CHAIR HILL: Okay. Before you pull down the deck
12 -- Mr. Young, just keep it up. If anyone wants to -- well,
13 there's a couple of things. If anybody from the Board,
14 first, wants any questions of the applicant and, if so, can
15 you just kind of speak up because I can't see everybody. I
16 can see Commissioner May. Let's do you first.

17 Commissioner, do you need the slide deck, or can
18 I drop the slide deck?

19 ZONING COMMISSIONER MAY: I don't think I need the
20 slide deck.

21 CHAIR HILL: Okay. You can drop it, Mr. Young.

22 ZONING COMMISSIONER MAY: So the first question
23 is for Mr. Sullivan. So this is an odd circumstance, right.
24 We don't have too many of those in the District. And then
25 this zone, I take it it's not allowed to have it face on-line

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1 wall or to have a party wall if you were building something;
2 is that right? Is that why we are subject to the 5C?

3 MR. SULLIVAN: Yes. If you were building
4 something new, you would be required to provide at least one
5 eight-foot -- no, I'm sorry. This is two eight-foot side
6 yards. It's a single-family detached zone.

7 But there are other circumstances in the past
8 where an existing semi-detached in this zone has been allowed
9 to be extended. It's not clear because the regulations,
10 there's kind of a hole in the regulations. It doesn't
11 really, it's not super clear, but this is the current zoning
12 administrator's determination, although he previously made
13 a determination which allowed the addition and originally had
14 this porch on it, and then the addition was built, and then
15 the porch was not built yet. When that was reapplied for,
16 there was a separate interpretation. And so that's why this
17 relief is required now.

18 ZONING COMMISSIONER MAY: Okay. Yes, it's the --
19 I guess the zoning regulations don't make it easy in this
20 circumstance, and it does sort of result in this odd
21 condition where you have an existing party wall that
22 essentially can't be extended.

23 In the process of designing this, I guess this is
24 for Ms. Whitmore, did you look at a version of the porch that
25 was actually set back five feet or set back something less

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1 than five feet? Because it seems, given the other
2 constraints on the property, you could probably do that and
3 have a porch of approximately the same size.

4 MS. WHITMORE: So when we originally designed this
5 project, it included this screen porch, and it was removed
6 for budgetary reasons. So we went ahead with permits for a
7 three-story rear addition that replicated a previous enclosed
8 sleeping porch that was also not existing at the time of the
9 purchase of the house. So we basically rebuilt that.

10 And we had planned in the future to build this
11 screen porch to the property line, so we were granted
12 permission from the Office of the Zoning Administration to
13 build the three-story addition which exists now with the
14 understanding that we would be able to have the same rule
15 apply to the screen porch. And when we went back in for the
16 screen porch permit, they changed their interpretation.

17 So as it currently stands, there is a window in
18 the way that will have to be relocated above the kitchen sink
19 because the five-foot wall setback would impact the location
20 of that window. That's not an excuse. It's something we
21 could, you know, certainly do, but we have not considered
22 this design.

23 ZONING COMMISSIONER MAY: So the answer is no
24 basically. You did not look at --

25 MS. WHITMORE: We did not look at it.

1 ZONING COMMISSIONER MAY: Because you were trying
2 to build something that you had previously designed and
3 thought was approvable.

4 MS. WHITMORE: Yes.

5 ZONING COMMISSIONER MAY: Okay. Where does the,
6 under the pervious surface question, do you have enough of
7 an understanding of the concrete, the existing concrete
8 walkway in the back to know where the water is actually
9 shedding to? Is it flowing straight out the back and into
10 the alley, or is it flowing off the sides into the yard?

11 MS. WHITMORE: The line of grade in this area
12 flows from the front yards towards the back for the alley.

13 ZONING COMMISSIONER MAY: So it's likely that that
14 water is shedding directly into the alley, as opposed to on
15 the opposite sides?

16 MS. WHITMORE: Correct. It is generally flowing
17 towards the alley. And there is a landscape area alongside
18 the fence of the other neighbor that will pick up a lot of
19 the water that would run down that direction and naturally
20 absorb rainwater, as well.

21 ZONING COMMISSIONER MAY: And from the flagstone
22 patio that would be along that side, the water probably would
23 shed into the existing lawn area.

24 MS. WHITMORE: Yes. There's lawn area on either
25 side of the concrete walkway at that area between the house

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1 and the garage.

2 ZONING COMMISSIONER MAY: Okay. Yes, it's kind
3 of hard to understand what the benefit would be to not using
4 flagstones but going to a pervious, given where the water is
5 shedding to because it's likely not going to reach the sewer
6 system.

7 And the last thing is, and this is just a general
8 comment, you know, I saw the note and you mentioned it that
9 there would be a flashing alongside the roof of the porch to
10 keep the water flowing into the gutter for this screened-in
11 porch.

12 MS. WHITMORE: Yes.

13 ZONING COMMISSIONER MAY: And I don't know how
14 you're going to detail that, but, if you're just going to put
15 a flashing up at the end of it and expect the water to flow
16 over what looked to be shingles, that's not a very good
17 detail. You probably need a built-in gutter in order to make
18 it work. And I know people don't like doing built-in
19 gutters, but we can do them and do them well and it's just,
20 you don't want to have ongoing water damage. If you wind up
21 getting approval, you don't want to have that ongoing water
22 damage if we don't property treat that addition. So that's
23 just a word of advice.

24 MS. WHITMORE: Thank you. We will make an effort
25 to detail that area sensitively so that the homeowner and the

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1 neighbor are not impacted by inevitable water.

2 ZONING COMMISSIONER MAY: Okay. That's it for my
3 questions. Thank you.

4 MS. WHITMORE: Thank you.

5 CHAIR HILL: Anyone else? Mr. Smith?

6 MEMBER SMITH: No.

7 CHAIR HILL: Mr. Blake. Did you say no? I'm
8 sorry.

9 MEMBER BLAKE: I have no questions.

10 CHAIR HILL: All right. Mr. Sullivan, you guys
11 did that side screening thing for privacy issues; is that
12 right? On the porch.

13 MR. SULLIVAN: Right. it's actually, yes, there
14 are two sides that are screened, the west and the south. But
15 the side at about 1628 is solid.

16 CHAIR HILL: All right, okay. Did you guys talk
17 with the neighbor about what that solid thing was going to
18 look like? I'm just scared.

19 MR. SULLIVAN: I don't believe that my client has
20 talked to them specifically about that.

21 CHAIR HILL: Okay, all right. Ms. Ferster, do you
22 have any questions for the applicant?

23 MS. FERSTER: I don't have any questions. Thank
24 you.

25 CHAIR HILL: Okay. Ms. Ferster, would you like

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1 to give us your presentation?

2 MS. FERSTER: Would you like that now?

3 CHAIR HILL: Yes.

4 MS. FERSTER: Okay. We have three witnesses, and
5 then, Mr. Young, if you could load Mr. Rueda's PowerPoint up.
6 Mr. Rueda is testifying in his expert capacity as a zoning
7 expert. He has been previously qualified by the Board, and
8 I ask that he be admitted as an expert, as well.

9 CHAIR HILL: Okay, great. Yes, Mr. Rueda has been
10 in with us before and we'll go ahead and do that. And, Ms.
11 Ferster, I didn't mean to pause there for a second. When you
12 asked me whether you wanted me to present now, I was just
13 trying to remember whether I had the order right in my head.
14 But, yes, so go ahead, please. We'll go this way.

15 MS. FERSTER: Okay. So the order that we would
16 like to present in would be that Mr. Rueda would go first,
17 and then my clients, Mr. Jackson and Ms. Ginsburg, will go
18 next. And as I said, they are on a single screen.

19 CHAIR HILL: Sure.

20 MS. FERSTER: So, Mr. Rueda, would you like to
21 proceed?

22 MR. RUEDA: Yes, good morning. Is this thing
23 working?

24 CHAIR HILL: Yes. You want to go ahead and
25 introduce yourself, Mr. Rueda.

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1 MR. RUEDA: Yes, good morning. My name is
2 Guillermo Rueda, and I'm happy to be here to present my
3 observations of the proposed work for you.

4 The project, obviously, has been very well
5 described at 1630 Nicholson Street. And as the OP report
6 notes, the subject line is nonconforming as to lot width and
7 area and is improved by a nonconforming structure for
8 pervious surface and side yard requirements.

9 MS. FERSTER: I'm sorry. Can I interrupt for a
10 moment? Mr. Rueda, are you able to see the slides and direct
11 Mr. Young about when you would like them advanced? Because
12 if not, I would be happy to do that.

13 MR. RUEDA: No, no, I'm fine. I'm just preparing
14 an intro, and then I'm going to go to the slides, if that's
15 okay.

16 MS. FERSTER: Okay, thank you, yes.

17 MR. RUEDA: So the application will obviously
18 increase the nonconformities of the side yard problem and
19 pervious surface problem, and it will further develop the
20 property next as to the lot occupancy limit, which, as Mr.
21 Sullivan noted, is within the flexibility of the zoning
22 administrator or at least just above.

23 The impact of the proposed work will primarily
24 affect the adjoining property belonging to Mr. Jackson and
25 Ms. Ginsburg, who are concerned about the project as it's

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1 designed. And they'll describe those impacts in more detail
2 in their testimony.

3 In addition to these impacts, the applicant's
4 chosen design, I think, is out of character in the
5 neighborhood and the desired pattern of low-density
6 development of single-family detached homes and porches. And
7 in my opinion, these impacts would be minimized and possibly
8 avoided by making a couple of modest changes to the addition,
9 two of which I think Mr. May alluded to. The application was
10 contacted and they refused to consider or even review any of
11 the changes to the design.

12 If you could advance the next slide. So I see
13 that R-16 zoning is a low-density single-family dwelling
14 neighborhood. The lot is improved by nonconforming detached
15 home. The 2013 - '14 demolition of the two-story porch was
16 removed and not existent at the time of some construction in
17 2020, which expanded the footprint of that rear porch and
18 enclosed it further forward than the small porch, as well so,
19 at that time, increasing the nonconformity, which was
20 apparently allowed.

21 So the 2022 proposed rear porch and garage
22 addition will extend further and increase the nonconformities
23 more. And as has been stated, those are the nonconforming
24 characteristics of the lot and structure. The asterisks are
25 pointing to the ones that are increased by this proposal.

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1 CHAIR HILL: Mr. Rueda, I think you guys are going
2 on very well in terms of time, so I'm not trying to, I won't
3 hold this time against you. Just to let you guys know, they
4 went about 20 minutes or so, so just to let you know.

5 MR. RUEDA: I have a short presentation that
6 follows the slides that I presented to you.

7 CHAIR HILL: Yes, no, I'm just letting you know
8 your time, whatever you guys want to do.

9 MR. RUEDA: Okay. Thank you so much. So the
10 original application submission requested relief for the side
11 yard for the one-story porch and then added the garage and
12 triggered the pervious surface and lot occupancy
13 requirements.

14 Next slide, please. So just to focus on the
15 detached single-family character, there are ample, you know,
16 there's ample guidance to prevent the expansion of
17 nonconforming land use and structures. I believe a higher
18 standard of consideration is merited when an increase to a
19 not-conforming feature can consider kind of the purpose and
20 character of this specific zoning district. I think that the
21 side yard requirements are specific for additions to
22 nonconforming structures and should be maintained, you know,
23 to no less than five feet. And, certainly, this side yard
24 requirement doesn't have to go from five to zero. Certainly,
25 there can be proposals for less than five feet and not no

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1 side yard, which, obviously, having detachment from the
2 property line would be a feature of a single-family district.

3 In this case, the loss of a side yard, the
4 distance of the principal building from property lines, has
5 an exponentially greater effect on the character of the
6 detached family neighborhoods in R-16 than the occupancy or
7 pervious surface.

8 Next slide, please. So notwithstanding the OP
9 report, the project, as designed, we think will have an undue
10 impact on the neighboring property because it does affect the
11 light and air within the home. It will have an undue impact
12 on the use and enjoyment of the property and further
13 increases the nonconformed development and neglects the
14 required pattern.

15 So, in summary, I think the neighbors would seek
16 an addition that minimizes their impact, will be in harmony
17 with the neighboring decks and gardens that all can enjoy and
18 will be consistent with the pattern of development.

19 Next slide. So looking at the rear elevation, I
20 just wanted to summarize some of the features, which
21 obviously shows how it continues this pattern of noncompliant
22 construction at the property line. I don't believe that the
23 porch width in this instance is a critical aspect to this
24 design. It does create, by virtue of how they sloped the
25 roof, a maintenance issue. And, you know, whether or not

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1 that detail is accurate or not, it relies greatly on how well
2 it's maintained over time.

3 It does require this intrusive firewall at the
4 property line. It may be considered privacy in the
5 presentation, but, under the building code, which is not
6 considered by the Board, it is a requirement in order to
7 satisfy separation between the properties. So we believe
8 that this encroaches on the windows not presented in the sun
9 studies.

10 Next slide. So just a quick concept for how
11 proposed detached porch could look. It would only reduce the
12 porch width by about two feet, so, certainly, Mr. Sullivan
13 described how the porch could go deeper potentially if they
14 wanted to recuperate that square footage, but it does seem
15 that the property was designed, you know, as witnessed by
16 where the stair location is for the areaway, it was designed
17 with the 13-foot deep porch in mind; so I'm not sure how to
18 address that. But this scheme essentially relies on pushing
19 the stair into the other side yard, which is allowed by right
20 without any relief. It does eliminate the need for a fire
21 while, and so it would still respect privacy by pulling off
22 of the property line, as the other decks in the neighborhood
23 do, and also not present such an impersonal face that
24 prevents air and light from moving through, however minimized
25 by screen it is.

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1 Next slide. Basically, it talks about the
2 noncompliance of the addition. You know, suffice it to say
3 that it is noncompliant under the regulations, even if it was
4 discussed previously with Mr. LeGrant. The project would be
5 considered, should be considered in total, so the addition
6 that was completed in 2020 should be reviewed in conjunction
7 with this screened porch, and the impact along the property
8 line is 21 feet versus the 13 stated. And we think that the
9 relevance of this speaks greater to the side yard
10 requirement, but, obviously, it's not a feature of something
11 that needs to be removed, just considered as part of this
12 relief.

13 That's my presentation. Thank you.

14 CHAIR HILL: Thank you, Mr. Rueda.

15 MS. FERSTER: So our next two witnesses will be
16 Mr. Jackson and Ms. Ginsburg, and I'll leave it to them as
17 to what order they would like to testify in.

18 MS. GINSBURG: Okay. Good morning. I'm Laura
19 Ginsburg, and this is my husband, Dr. Jackson. We live at
20 1628 Nicholson Street. We are the property which shares the
21 same structure as the Thornes.

22 First, I would like to say that this is not a
23 minor build, and this is something that is not going to just
24 affect us but it's going to affect all of the neighbors in
25 the 1600 block of Nicholson Street that have duplexes. And

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1 the neighbors, the next door neighbors on the other side of
2 the Thornes, have written letters in opposition, the family
3 on the other side of us have written letters in opposition,
4 as well as other neighbors on Montague Street, as well as the
5 other side of Nicholson.

6 I would also like to say that, as Mr. Rueda said,
7 we did reach out to the Thornes about an alternate porch
8 build. They rejected it. The Thornes have never reached out
9 to us. I don't believe that they've reached out to any of
10 the neighbors about this build at all.

11 I also want to say that the architect had said
12 that the removal of the porch was there when they bought the
13 house. That's not true. It was knocked down in 2013.

14 So we've been in our house for 25 years, and we've
15 seen the neighborhood changed. It's generational change,
16 which we welcome. When we moved in, we built a deck, and
17 you've seen many pictures of our deck. And we wanted to
18 build it out to the property line, and we were told by our
19 builder, no, you can't do that, that is not in conformity
20 with the regulations, so we complied.

21 Many of our other neighbors have since built
22 decks, they've done renovations to their home, they've
23 upgraded, and everyone has done their renovations within the
24 letter of the law, within the regulations.

25 We are a very tightknit community on Nicholson

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1 Street. We dead-end onto the park. We're very communal.
2 We're very neighborly. We talk to one another over our
3 fences. This build is going to very much negatively affect
4 that ability to talk to our neighbors, to have the same kind
5 of feel and neighborliness that we have had for decades,
6 absolutely decades.

7 So I want to say that we're not opposed to
8 building a porch or a deck, but we are opposed to it being
9 right on our property line and obstructing our airflow and
10 view, especially having a firewall right up on us. We do
11 have that five-foot leeway between our house and their
12 property. We would like them to respect that, as well, as
13 well as respect the other neighbors on the block as far as
14 their enjoyment of their homes. We are a community. It's
15 not like there's one person that is able to build something
16 at the expense of the majority of the block, and that's
17 what's happening right now. This is going to completely
18 destroy the feel of our neighborhood and the neighborliness,
19 so I really hope that you take that into consideration.

20 I also want to say I am retired from the federal
21 government. We are both senior citizens. We're not wealthy
22 people. I'm a native Washingtonian. We've had to hire a
23 lawyer and an architect to work with us to oppose this
24 proposed build. We feel like we're the ones who are being,
25 that we're the bad ones here because we're staying within the

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1 law. We built our house within the current regulations, and
2 we feel like we've been demonized because of this and many
3 of the other neighbors, as well. So I hope you take this
4 into consideration. We're wondering what's the point of
5 having regulations if they're going to be violated because
6 one individual house wants to build a structure that imposes
7 on many of the neighbors on the block.

8 Thank you.

9 MR. JACKSON: Do I go now?

10 CHAIR HILL: Yes, sure. Go ahead, Mr. Jackson.

11 MR. JACKSON: Thank you. I'm Maurice Jackson, a
12 longtime resident, a decades-long resident of Washington.
13 I've been an ANC commissioner. I was appointed by the mayor
14 to head up the inaugural African-American, D.C. African-
15 American Commission to study why gentrification is occurring
16 in D.C. and to offer remedies for it. I know the city quite
17 well.

18 We welcome the opportunity, as my wife said, to
19 give a few remarks. And, quite frankly, the experience has
20 been quite baffling to me and quite troubling. I don't like
21 to have to ask my neighbors to take a position, but I thank
22 them for doing so. We have never, as my wife said, been
23 opposed, there is not one thing anywhere. I should say,
24 though, the ANC said that I had gone down, we had gone down
25 to get the plans. I have the plans here that were sent to

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1 me by certified mail. I had the dates with June 12th, 2009.
2 We never went down one time to ask anything.

3 MS. GINSBURG: '19.

4 MR. JACKSON: 2019. What did happen, though, I
5 teach at Georgetown University. I'm often asked to go to
6 other countries and teach. I was asked to go to Qatar and
7 teach, and, to do that, we want someone in the house, so we
8 went down to the Board of Zoning to see about renting the
9 house. We decided that we would just let a Georgetown
10 student stay here. That's the only time that we didn't.

11 We certainly encourage the neighbors to fix the
12 house. When they moved in, I think they got it in
13 foreclosure, they did one build. The initial person asked
14 me to sign a waiver, and I wouldn't sign it. I couldn't
15 because I didn't know, I didn't know. No one is going to
16 sign their house; we didn't. But they decided then on
17 another build, on the second build. We were glad. We were
18 glad because the roof was falling in. The deck, as my wife
19 said, the porch was falling down. We planted trees in the
20 back there. We encouraged it. And so I'm particularly
21 worried that someone would demonize me we have concerns about
22 the structure.

23 Case did send a letter, and I have it here. And
24 the letter basically was saying about the scope of the work.
25 I see he was asked whether the proposed work would not impact

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1 on the use or stability of the structural support of the
2 party wall at the property line. I am not qualified to
3 answer that, and who would sign something that says anything
4 would not affect it. So we did not. That's all it left
5 with. Then I went off to Qatar. It's obvious that no
6 signature was needed because the work was done.

7 We encourage the fixing of the garage. We
8 encourage the fixing of the roof.

9 Now, I also have the second set. It was not one
10 set. The addition of the back porch was done on the second
11 set; so, therefore, this came October 2021. There are two
12 different sets of plans. I believe that there's been some
13 miscommunication about them saying -- one, I do believe, and
14 I should tell you this, I don't know that we focused -- we
15 were at the ANC meeting. I was so demonized. Such stories
16 were told about me being opposed. It's just not true. The
17 only thing we've ever asked for, the only thing was that I'd
18 be allowed, because I was teaching on Zoom, to have two hours
19 on Tuesday and Thursday in order to be able to teach. I was
20 disallowed that.

21 So it has been somewhat of a -- actually, the only
22 thing we've ever asked is that the wall be not put up next
23 to our house. Someone earlier in testimony spoke about pop-
24 ups. We don't want a pop-out or a pop-back. As Mr. Rueda
25 has pointed out, the only thing that's necessary is to move

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1 back away from the wall towards the other side. We
2 understand the need for privacy. We want privacy. We have
3 a neighbor right across from us who is not adjoined; they're
4 about 15 feet away. They leave their blinds open, and they
5 tell me to leave our blinds open. At night, we close them.
6 So we want that, we understand the need for privacy. I walk
7 up and down every day. I work in the backyard. My wife,
8 she's retired. She puts her life work into her yard,
9 spending time there. And this will have a big impact, and
10 for an attorney or anyone else to take out the human factor,
11 then it becomes something.

12 Lastly, we were told, and this is the ANC meeting,
13 and the statement was something to the effect that Case is
14 a \$43 million business, that they would only have the
15 concerns of the neighbors. Why should I put my life and my
16 house and my belief into what some ANC commission says about
17 the development, that it's okay.

18 We do oppose the bill as it is, and we do ask that
19 the consideration of the alternatives be given. We have
20 been, my wife has certainly, we have been loyal residents of
21 this city. We want to stay here, but such things like that
22 is one of the reasons why so many people, like myself, end
23 up leaving.

24 CHAIR HILL: Okay, thanks, Dr. Jackson. You guys
25 went to the ANC meeting, is that what you're saying, and you

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1 guys testified?

2 MR. JACKSON: Yes, sir, and I should tell you that
3 I've got only two minutes, ANC Commission. Ms. Mose, who's
4 an ANC Commissioner, and the attorneys there took about 25,
5 and I'm sorry I didn't mention this but we have 8 or 9
6 neighborhoods who wanted to testify.

7 They weren't on the schedule. I was given two
8 minutes, I was in Qatar, which means I was up at 3:00 a.m.
9 to speak. We were not given any time to speak or answer or
10 anything. And let me just say this, I have written to Ms.
11 Mose from Qatar and Egypt.

12 The Commission did respond but Ms. Mose never once
13 responded.

14 CHAIR HILL: Thanks for your service, you were an
15 ANC Commissioner so you know how the whole thing goes.

16 MR. JACKSON: I also know the ethics of it.

17 CHAIR HILL: I'm just making a comment. You know
18 that it's the two minutes and the three minutes. It's not
19 a lot of time but that's what I'm getting sometimes. Okay,
20 Ms. Ferster?

21 MS. FERSTER: Although that does conclude our
22 case, I do want to note for the record that the ANC report
23 was not filed seven days in advance as required by
24 regulations so I would ask that it be stricken from the
25 record because it was not even filed with a motion for relief

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1 to late file.

2 And I don't see the ANC here so I assume they are
3 not going to testify but I would again note that the
4 regulations do not permit them to testify if they did not
5 file their report within seven days of the hearing.

6 CHAIR HILL: That's interesting, Ms. Ferster. We
7 always let the ANC submit their reports and I can find out
8 later when we do. I know we're able to allow people to have
9 information submitted but your objection, I suppose, is
10 noted.

11 Was that it, Ms. Ferster?

12 MS. FERSTER: Yes, that is all that we have for
13 our presentation, thank you.

14 CHAIR HILL: And just one comment, Dr. Jackson,
15 what's your wife's name again? What's your last name?

16 MR. JACKSON: Laura Ginsberg.

17 CHAIR HILL: Just to let you know, the only
18 comment I want to make about zoning stuff is the reason why
19 they're here is that it's in the regulations for them to try
20 to do this and so it is within -- I'm not trying to argue
21 about it, I'm just trying to let you know it is within
22 zoning, that's why we're here.

23 And I know it's complicated, I'm just pointing
24 that out. So, let's see, does anyone have any questions for
25 the opposition?

1 Go ahead, Commissioner May.

2 ZONING COMMISSIONER MAY: Mr. Rueda, thank you for
3 your presentation, I thought that was very interesting. I
4 do have a question though. You made a comment that the porch
5 would be out of character. Can you explain to me why you
6 think that it would be out of character?

7 MR. RUEDA: Thank you. I do think that the
8 development along the property lines continue to take away
9 from the single family detached home and having the offset
10 from the property line at least maintains that separation
11 between the two properties.

12 ZONING COMMISSIONER MAY: So, it's really just
13 about those two?

14 MR. RUEDA: Sure, from the point of view that
15 obviously the regulations for the zone require two-eighths
16 width side yards and as I noted, the regulations obviously
17 contemplate non-conformities and are specific in side yards
18 to say there's a minimum requirement.

19 Obviously, it can be relieved but it does sort of
20 speak to the desire to maintain five foot in the R zone and
21 three feet in the RF zone. So, it speaks to the character
22 and density of the development.

23 ZONING COMMISSIONER MAY: I was what's going on
24 whether you were going to speak on that.

25 CHAIR HILL: You're jumping in and out,

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1 Commissioner.

2 ZONING COMMISSIONER MAY: I'm having issues with
3 my microphone. Is that better? I was surprised that you
4 didn't suggest a different roof.

5 CHAIR HILL: You're still having problems,
6 Commissioner May. Give me a second, Mr. Rueda. I don't know
7 if Commissioner May wants to call in. I can offer zero help
8 in this area.

9 MR. RUEDA: I think I understand his question.

10 CHAIR HILL: Hold on, Mr. Rueda, I want to
11 understand his question.

12 ZONING COMMISSIONER MAY: Let me try again, I'll
13 talk really loudly. I'm yelling at my computer, can you hear
14 me?

15 CHAIR HILL: It's the breaking up, it's choppy.

16 ZONING COMMISSIONER MAY: My computer has gone
17 crazy lately. I'm surprised you didn't suggest a shed roof
18 porch which would resolve the watershed problem along the
19 property line. It might actually be more architecturally
20 appropriate for this style of house.

21 Do you have any thought on that?

22 MR. RUEDA: We did propose in letter form to the
23 neighbor a shed roof but when I looked at it and felt that
24 the porch would solve more problems by being pushed over the
25 five feet. Because basically, they maintain the stair on the

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1 back facade of the property.

2 They can just push that stair over and only lose
3 two feet in a conforming condition. And if they were to have
4 asked for a three foot side yard they could have had exactly
5 the same porch they propose. So, when we did that, I guess
6 changing their design seemed less of a concern.

7 I wanted to say all you need to do is change this.
8 You can delete the wall at five feet, you can maintain your
9 hip roof if you will, and let go of the idea that we proposed
10 to them in written form of having a single shed roof.

11 ZONING COMMISSIONER MAY: Thank you.

12 MR. RUEDA: But when considered, is all I'm trying
13 to say, we just didn't --

14 ZONING COMMISSIONER MAY: Mr. Chairman, stop me
15 if you lose me but I did want to follow up on your comment
16 to Ms. Ginsberg about this proceeding and the reason for this
17 proceeding.

18 And I think there was a lot of concern about this
19 being a violation of the regulations and I just want to
20 underscore this is not a regulation of violation because what
21 they are seeking is some relief and the regulations allow for
22 that relief.

23 Furthermore, the relief that's requested here is
24 a special exception, it's not a variance, and I know that not
25 everybody does zoning all the time but we do, and a special

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1 exception presumes that a particular development is
2 appropriate for the zone subject to conditions.

3 They're not asking for the rules to be waived,
4 they are asking to build something that would be matter of
5 right more or less if they met certain conditions, that's
6 what a special exception is.

7 So, they just have to approve that their proposal
8 meets those conditions of not having an undue impact, et
9 cetera, that's all. I just want to say this to underscore
10 what the Chairman said. That's it from me, Mr. Chairman.

11 CHAIR HILL: Thanks, Commissioner May. Does
12 anybody else have any questions? Okay, I've got a question.
13 I forget now, Mr. Sullivan, let me go to the Office of
14 Planning first. Can I go to the Office of Planning, please?

15 MS. VITALE: Good afternoon, I guess we're
16 afternoon. Good afternoon, Mr. Chair and Members of the
17 Board, Elisa Vitale with the Office of Planning.

18 This is for BZA Case 20743, the Office of Planning
19 is recommending approval of the request for special exception
20 relief from the minimum side yard requirements from the lot
21 occupancy and from the previous surface requirements. In the
22 OP report we did recommend a condition related to installing
23 previous pavers.

24 I think it was helpful to hear from the
25 Applicant's architect today with respect to the extent of

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1 underlying concrete which may be difficult to remove and also
2 the drainage patterns on the property.

3 So, I think if that is not something the Applicant
4 -- given the Applicants, I don't know that condition would
5 necessarily mitigate. We had recommended it to mitigate the
6 previous surface requirement.

7 It sounds like that may not result in significant
8 litigation. So, that condition may no longer be necessary
9 for the Office of Planning to recommend approval. I'm happy
10 to run through the 5201 criteria if the Board would find that
11 helpful.

12 Otherwise, I'm available for questions and we'll
13 just stop at the recommendation.

14 CHAIR HILL: I don't need the questions at this
15 moment. I don't need you to run through the regulation at
16 this moment unless my fellow Board Members do, and if so,
17 they can go ahead and speak up. Who? Mr. Smith?

18 MS. VITALE: Certainly. It is interesting,
19 obviously, we have two mirrored rows of semi-detached in the
20 square so we have a number of properties that are not
21 detached single family homes so they are built faced on wall
22 for the shared property lines. These are matched pairs in
23 terms of the architectural style.

24 So, each one of these properties is built without
25 a sideyard so there is this established pattern of a semi-

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1 detached form which obviously puts the neighbors closer to
2 one another without that side yard along the shared property
3 line.

4 So, it's with respect to privacy, views, and
5 enjoyment. The Applicant is proposing a screened porch.
6 While this porch addition would obviously be open and have
7 views, those views would be to the existing side yard and
8 rear yard. The Applicant is maintaining a rear yard far in
9 excess of the 25 foot required rear yards.

10 We felt that open space was preserved. The
11 Applicant is proposing a solid wall along the shared property
12 line which would reduce views into the neighboring property
13 along that shared property line.

14 So, we thought that would preserve privacy or
15 improve privacy with respect to the proposed porch addition
16 and with respect to other views along the other property
17 line, there is an alley separating the subject property from
18 the adjacent properties to the south.

19 There is the side yard along the adjacent property
20 to the west, and as I stated, the following wall along the
21 people line should ensure privacy of use and enjoyment with
22 respect to the closest adjoining property that is sited along
23 the property line.

24 CHAIR HILL: Mr. Blake?

25 MEMBER BLAKE: Ms. Vitale, could you comment on

1 the extension of the existing architecture?

2 MS. VITALE: With respect to the side yard, as I
3 stated previously, the character of this portion of the
4 square, certainly as you move to the east, there are some
5 detached homes in the square facing on 16th street.

6 But in this portion of the square the character
7 is semi-detached and in this instance, we heard from the
8 attorney for the Applicants that the Zoning Administrator
9 determined that to extend that non-conformity would require
10 relief so here the Applicant is proposing to extend that
11 existing non-conforming side yard.

12 Any homeowner in one of those semi-detached homes
13 facing Nicholson or to the south would be in a similar
14 situation. They could not extend their property along that
15 shared property line without relief. You couldn't do a
16 porch, a deck that exceeds four feet above grade, you
17 couldn't do a dump-out for a larger kitchen.

18 All of these properties are non-conforming so any
19 request to extend along that shared property line would
20 require relief. It sounds like the Zoning Administrator at
21 one point did not believe that relief was necessary and would
22 allow an extension of that existing non-conformity.

23 However, in this instance, the Zoning
24 Administrator has opined and said that relief is necessary.
25 The Applicant is here requesting relief from the side yard

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1 requirement to essentially extend an existing non-conforming
2 condition of the property.

3 CHAIR HILL: Anyone else? Ms. Ferster, do you
4 have any questions of the Office of Planning?

5 MR. SULLIVAN: No questions.

6 CHAIR HILL: Mr. Sullivan, do you have any
7 questions of the Office of Planning?

8 MR. SULLIVAN: No, thank you.

9 CHAIR HILL: Mr. Young, is there anyone here
10 wishing to speak?

11 MR. YOUNG: We do.

12 CHAIR HILL: Could you please allow them in?

13 MR. THORNE: Point of information.

14 CHAIR HILL: Did someone just speak up?

15 MR. THORNE: Yes, point of information.

16 CHAIR HILL: Who spoke up?

17 MR. THORNE: Robert Thorne.

18 CHAIR HILL: Go ahead. First of all, could you
19 introduce yourself for the record?

20 MR. THORNE: Yes, my name is Robert Thorne, my
21 wife, Shayleen, and I, who's accompanying me here, we own
22 1630 Nicholson Street NW.

23 CHAIR HILL: What was your question, Mr. Thorne?

24 MR. THORNE: Point of information, is there an
25 opportunity for a rebuttal or at any point -- I see that

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1 you're asking are there any questions and I just wanted to
2 make sure that we're speaking at the appropriate time.

3 CHAIR HILL: You'll have an opportunity for
4 rebuttal at the end, as will the Applicant. That's when
5 you'll have rebuttal. Mr. Young, can you tell me who was
6 here speaking as you're letting them in?

7 MR. YOUNG: I have David Schwartzman and we had
8 two others signed up but I don't see them on so we have staff
9 reaching out to them.

10 CHAIR HILL: Mr. Schwartzman, can you hear me?
11 I can't hear you. Still can't hear you. Can you hear me?
12 If you can, give me thumbs up. So, you can hear me. You're
13 on mute. Maybe if you hit your space bar or if you click the
14 screen and then go down at the bottom it will say mute and
15 you unmute yourself.

16 MR. SCHWARTZMAN: I got it. I thought that you
17 guys have to unmute me, that was in the instructions. I'm
18 ready to give my testimony.

19 CHAIR HILL: Before you do, can you introduce
20 yourself for the record?

21 MR. SCHWARTZMAN: David Schwartzman, 1634 Montague
22 Street NW, D.C.

23 CHAIR HILL: And as a member of the public, you'll
24 have three minutes to give your testimony and you can begin
25 whenever you like.

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1 MR. SCHWARTZMAN: My name is David Schwartzman,
2 I've lived in my house at 1634 Montague Street N.W. since
3 1976. That was one year after -- actually, it was four years
4 after I started teaching at Howard University as professor
5 emeritus. So, I've lived in this house for 45 years.

6 Unlike this proposed zoning adjustment on my
7 block, many decks and small porches, none have violated the
8 five-foot separations on either side. Many of us have
9 upgraded and fixed our homes on our block but we all have
10 done in accordance with an with respect for existing
11 structures.

12 Approving this proposed zoning adjustment for this
13 build will by all appearances impede views and reduce
14 including sunlight for the neighbors on 1628 Nicholson Street
15 N.W.

16 Neighbors should be respectful of one another's
17 property and built within existing zoning regulations, given
18 the fact that the majority of the neighbors are against this
19 build as proposed.

20 I submit it is unfair and unwise for the BCA to
21 approve this proposed adjustment since it will negatively
22 impact the neighborhood character and cohesiveness.

23 I urge the DCA to reject this proposed adjustment
24 and for the owners of the proposed bill to reconsider their
25 plan with full respect to the neighbors. Thank you.

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1 CHAIR HILL: Thanks, Professor Schwartzman.
2 Does anybody have any questions for the professor and if so
3 raise your hand? Professor, what do you teach at Howard?

4 MR. SCHWARTZMAN: I taught for 39 years, I retired
5 10 years ago and I was a chair of the geology and geography
6 department and I taught environmental science and related
7 courses. I continue my research as a climate scientist, so
8 I can breathe.

9 CHAIR HILL: Thanks, Dr. Schwartzman, hopefully
10 you can help us out with some of that stuff. Professor,
11 we're going to let you go, Mr. Young, you all thought you had
12 people?

13 MR. YOUNG: We have one more, Randy Showstack, and
14 he is on the phone.

15 CHAIR HILL: Mr. Showstack, can you hear me?

16 MR. SHOWSTACK: Hello?

17 CHAIR HILL: Can you hear me?

18 MR. SHOWSTACK: Can you hear me?

19 CHAIR HILL: Mr. Showstack, can you introduce
20 yourself for the record, please?

21 MR. SHOWSTACK: Thank you very much, my name is
22 Randy Showstack, I reside at 1636 Nicholson Street N.W., a
23 few doors down from the parties related to this matter. And
24 I just want to express a few quick items.

25 CHAIR HILL: I just want to let you know you have

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1 three minutes and you can begin whenever you like.

2 MR. SHOWSTACK: It'll be much less than that.
3 First, I deeply appreciate, respect, and value the community
4 and the friendship and neighborliness of all the residents
5 of the street, including Maurice Jackson and Laura Ginsberg
6 and Rob and Shay Thorne.

7 I remain hopeful, as do other neighbors, that this
8 situation can be resolved amicably between the concerned
9 parties. I also want to point out that my wife and I sent
10 a letter to the BZA and ANC expressing our concerns about
11 this request for a zoning exemption.

12 Again, my sincere hope is this matter can be
13 mediated in a way that resolves and respects the concerns and
14 needs of the involved parties.

15 Perhaps today's current hearing could be extended
16 to provide time for the parties to engage in a clear mediated
17 discussion to resolve the situation in a truly neighborly
18 manner.

19 Thank you.

20 CHAIR HILL: Mr. Showstack, how do you say your
21 name, sir?

22 MR. SHOWSTACK: Randy Showstack, S-H-O-W-S-T-A-C-
23 K.

24 CHAIR HILL: Does anybody have any questions for
25 Mr. Showstack? I'm going to let you go, Mr. Showstack, thank

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1 you for your testimony. Does anybody have any questions for
2 anybody before I turn it over to Mr. Sullivan for rebuttal?

3 MS. FERSTER: Mr. Chairman, I want to note there's
4 one more member of the public that has been trying to get on
5 and he's been having some difficulty. Would it be possible
6 for him to be able to join? His name's Jesse Raven and would
7 it be possible for him to testify after rebuttal?

8 CHAIR HILL: How do you know? He's trying to
9 contact you?

10 MS. FERSTER: Yes.

11 CHAIR HILL: And what is it, phone? He's trying
12 to get on the website? Can you tell him to call the hotline
13 number, can I use the hotline number?

14 MS. FERSTER: He's trying to get on Zoom.

15 CHAIR HILL: Tell him to call the hotline number.
16 It's 202-725-5471. While that happens, I'm going to take a
17 quick four-minute break. You all can do what you need to do,
18 I'll come right back.

19 (Whereupon, the above-entitled matter went off
20 the record at 12:18 p.m. and resumed at 12:20
21 p.m.)

22 We're all back and I guess, Mr. Young, is it Mr.
23 Raben? Mr. Raben, could you introduce yourself for the
24 record, please? You have to unmute yourself.

25 MR. RABEN: Jesse Raben, I live on Nicholson

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1 Street, 1627 Nicholson Street.

2 CHAIR HILL: You have three minutes to give your
3 testimony and you can begin whenever you like.

4 MR. RABEN: Thanks for allowing me to testify, I'm
5 sorry I did not have a chance to do this at the lower level.
6 At the lower level it was my understanding that our ANC rep,
7 Ms. Moss, would reach out to me to discuss my thoughts and
8 my concerns.

9 Unfortunately, she didn't. We do have a ring
10 camera and she never came by or emailed us, and so I just
11 needed to get that out there.

12 If she had, though, she would have learned the
13 following and hopefully would have presented this fairly.
14 To me, this is not a family and friends issue, as stated by
15 Ms. Moss at the hearing at the ANC hearing. Rather, this is
16 an issue of zoning integrity and not setting back precedent.

17 We live on a dead-end street going into Rock Creek
18 Park. This affords us a special status. In fact, those
19 houses that single right adjacent to the park, as I know Ms.
20 Moss knows, must get a special permit to perform most types
21 of work on their house, especially any additions.

22 We all bought into the street knowing the
23 limitations but knowing the perks of being right here on the
24 park. We all enjoy the sights and sounds of the park from
25 our backyard and front yards and love this aspect of it. As

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1 neighbors, we should be working together to ensure that these
2 views and the enjoyment of the park are not limited by one
3 another.

4 In terms of precedent on our street, there are
5 going to be at least two homes for sale in the coming year.
6 So, my question is this, when the new neighbors and ask for
7 the same, will it be granted? How will you treat precedent?

8 How can you say yes to one and no to another
9 neighbor that wants to build the exact same structure that
10 will come up to the property line? Will everyone then be
11 allowed to build to the line? And what will be the reason
12 for refusing them?

13 Again, this is not an us versus them or anything
14 like that although this has I think torn our quiet little
15 street up a little bit. This is a neighborhood integrity
16 issue. One question I do have, though, is I know Case
17 building, I've seen them around for years.

18 How is it that a design build and some very smart
19 people and there's only one plan for a screened in porch?
20 How is that there's not multiple ideas all working within the
21 zoning laws. Can it be there really is only one way to do
22 this screened in porch?

23 We did a large edition on our house 16 years ago,
24 15 years ago, and we would have loved to have made it wider
25 but we didn't because we didn't want to encroach on enjoyment

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1 of property afforded to our neighbors. We wanted to follow
2 the laws and the rules.

3 Each step of the way we got our neighbors to
4 accept our work and understand what we were trying to do.
5 If adjustments had been made along the way, we would have
6 made them. And in some instances we did make them.

7 Thank you for your time.

8 CHAIR HILL: Thanks. Does anybody have any
9 questions for Mr. Raven? I'm just going to give my little
10 comment, which I know is Commissioner May is also able to do
11 better than I. What we're here for is actually what's in the
12 regulations.

13 This is zoning, these are there, this is a special
14 exception which, to quote Mr. May, and I'm going to use this
15 from now on actually, is basically almost -- I shouldn't have
16 said that -- is within the regulations as long as it adheres
17 to certain criteria, one of which is going through us and
18 also the Office of Planning has given their criteria.

19 So, I'm just trying to point out nobody is trying
20 to do something through not allowed to do. And that's all
21 I'm trying to say. But okay, I do appreciate it and I do
22 understand everything that everyone is saying about their
23 street, which by the way, we hear a lot.

24 And that's not to say that things pass or don't
25 pass. But okay, thank you for your testimony, Mr. Raben. I'm

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1 going to let Mr. Raben be excused as well as anyone else from
2 the hearing.

3 Mr. Sullivan, can you hear me?

4 MR. SULLIVAN: Yes, sir.

5 CHAIR HILL: I don't know what you guys have done
6 thus far and I know you're going to have rebuttal now and
7 everybody will get to tell us what they said or whatever.

8 But did you guys figure out how you might be --
9 and I don't know whether my other colleagues have some
10 issues, if there was some way to adjust this in some fashion
11 just as far as the party status goes with the individual.

12 And again, this is not a he said, she said, I'm
13 just curious as to if there were any other different kinds
14 of options that you all have thought about. And I don't know
15 if, Mr. Sullivan, you've been here since the beginning of
16 this project or not.

17 Do you know?

18 MR. SULLIVAN: I was going to ask that Rob and
19 Shay talk a little bit in rebuttal so they can probably
20 answer those questions if now's the time to do that.

21 CHAIR HILL: Sure, I don't know if this is
22 rebuttal or questions.

23 MR. SULLIVAN: And there's probably two parts to
24 that, the first part is other alternatives. I just want to
25 respond briefly to something that Mr. Rueda said about a

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1 proposal. I don't usually like to before the Board get into
2 the negotiations or the interactions with the neighbors
3 because it's not typically relevant.

4 But what was proposed to us was could you move
5 back five feet, which are other reliefs, and make design
6 changes? And that was the only proposal that we saw and we
7 did reject that and that was the extent of the communications
8 that I was in the middle of.

9 If there were others, Mr. and Mrs. Thorne could
10 talk about it.

11 CHAIR HILL: This is more of a question. Mr. and
12 Mrs. Thorne, did you guys have other options that you had
13 thought before in terms of just with regards to the immediate
14 neighbor?

15 MR. THORNE: We invested in our property and part
16 of that was choosing the right beyond build firm, which we
17 felt was Case, and we looked at a variety of options.

18 And there were plans that had everything included
19 and then when budget became a variable, just in terms of I
20 think we just needed to stage the project ever so slightly
21 in order to fit in everything that we wanted to have done.

22 We've been inclusive of our immediate neighbors,
23 Dr. Jackson and Mrs. Ginsberg, throughout and some of that
24 has been accepted, some of that has been rejected. And so
25 the only reason I feel a need to even rebut anything is I

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1 feel like there are some inaccuracies.

2 We have remained silent throughout this entire
3 ordeal and it's been an ordeal for us and our two children,
4 because we've had folks parading in front of our property and
5 back of our property.

6 And when folks speak being neighborly, that has
7 been somewhat a question for us because we just have not felt
8 that in all of these polls in all the neighbors and how they
9 feel, certain neighbors were not included, including us. And
10 so the folks that remain that have showed up on this call,
11 the strong allies of Dr. Ginsberg, I'm sorry Dr. Jackson and
12 Mrs. Ginsberg.

13 I don't have a problem with that. In fact, I know
14 David Schwartzman, I've even lived at David Schwartzman's
15 house. I lived in this neighborhood since 1981 so when
16 people want to talk about neighborhood, I don't have a
17 problem.

18 So, my point is that it's always been inclusive,
19 whereas I feel that has not been reciprocated. We often have
20 people working in our yard on their house without
21 consideration or notice. So, I think that's a bit of a
22 myth. We have just a few items I think that should be
23 covered, which I think are absolute effect.

24 So, we have letters in opposition, the majority
25 of them cite information which is not present. They are not

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1 making statements on fact. I noticed many of them cite that
2 there is a two-story addition, as our attorney has stated.
3 So, one story off on the main floor extension of a screened-
4 in porch.

5 We heard lack of precedence when the neighbors at
6 1632 have a screened-in porch that abuts against their fence
7 lines --

8 CHAIR HILL: Mr. Thorne?

9 MR. THORNE: Yes, sir.

10 CHAIR HILL: Some of this is rebuttal, some is new
11 testimony, I don't know, I'm just trying to get through some
12 of their concerns. Let me just go ahead and do this, Mr.
13 Thorne. Let your attorney go ahead and give any rebuttal
14 because my Board Members don't seem to have any more
15 questions.

16 So, I'd like to get to the point where we're
17 talking about this. Hold on, Mr. Smith does and Mr. Blake
18 does.

19 MEMBER SMITH: I think to get to your point which
20 you were raising to Mr. Thorne, I fully hear exactly what
21 you're saying with the testimony and some of the confusion.
22 And I think some of the confusion has been some of my other
23 Board Members have commented on some of the confusion.

24 What is before us is a special exception but we're
25 requesting to allow further zoning regulations with the

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1 special exception.

2 So, what we're saying, I'm going to reiterate,
3 that my two colleagues stated the special exception is on
4 provision with the zoning regs but the particular addition
5 is allowed for or is contemplated to be acceptable if certain
6 criteria is sufficient. So, that's the reason why you're
7 going.

8 You're not requesting a variance, it's not
9 something that was not allowed for zoning regulations. So,
10 I just want to put that out there and I understand your point
11 but I think the question that was raised by Ms. Fields is
12 there are other design considerations that may have been
13 complicated.

14 And you kind of alluded to it but there are
15 certain designs that may not help cause provisions but where
16 there are other designs that you consider that may not have
17 approached 5 feet of the side wall.

18 Ms. Ferster's comments were on a different design
19 that was cut back about 2 feet from the sheer property line
20 without any other considerations of a different design at the
21 root that would not have water run off into the neighbors'
22 garden.

23 So, that's the question of the designs and can we
24 speak to those other designs and the reason why we might not
25 have contemplated it before?

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1 MR. THORNE: Thank you, Mr. Smith, understood.
2 Plainly, we feel that our proposal is reasonable and I think
3 that's what you're speaking to. Beyond that, we have
4 received multiple variations of designs and what exactly each
5 one entails at this point, three questionnaires later, I
6 don't recall.

7 But I do know that we can decide upon a design
8 that went up to our property line and that's the truth.
9 Thank you.

10 MEMBER SMITH: That was the only question I had.
11 I just wanted to give you that clarity. If you want to
12 proceed, I think Mr. Blake had a question?

13 CHAIR HILL: Yes, Mr. Blake had a question.

14 MEMBER BLAKE: Along those lines, there seem to
15 be a couple of issues that came up that look at the style and
16 structure that there are some issues obviously with that.

17 To the extent that you could make an adjustment
18 to the roof line of the drain system, is that something
19 that's even feasible or possible at this point? I would
20 think it would be if necessary but I'm just curious as to is
21 that something that is potentially plausible to do something
22 like that at this point?

23 MS. THORNE: Can I answer that if I could?

24 CHAIR HILL: Who's talking?

25 MS. THORNE: This is Shayleen Thorne.

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1 CHAIR HILL: Ms. Thorne, can you introduce
2 yourself for the record, please?

3 MS. THORNE: Hi, I'm Shayleen Thorne, owner of
4 1630 Nicholson Street N.W. So, in terms of designs, we went
5 through several designs with the guidance of Case, design and
6 remodel, in the beginning.

7 But our original design was approved, we built
8 accordingly and we invested money to have it built a certain
9 way, which is why we have a window where it's placed. In
10 order to do a new design, we'd have to change our kitchen,
11 pay again for the replacement or repositioning of the window
12 and that is a huge inconvenience to us.

13 Given that we were already out of the home for 18-
14 plus months during the initial thing which got interceded
15 with COVID-19. And so this is why we are here asking for
16 this special exception, because we don't want to go backwards
17 and pay for something that we've already paid for.

18 We've invested and the design was presented in the
19 original design, nobody raised their hand at that point,
20 nobody has come to us to talk to us about it. No one has been
21 neighborly to say, hey, can we talk about this?

22 That has not happened, so that's why we're here.

23 CHAIR HILL: Commissioner May?

24 ZONING COMMISSIONER MAY: I just had a quick
25 question.

1 If there were an alternative design that moved
2 that law off the property line a bit but did not affect your
3 window, would you consider it if it moved three feet off the
4 line to give some breathing room between your property and
5 the property next door?

6 Would you consider that? I don't know if that's
7 a huge impact on the design work that's already been done but
8 it would avoid that extra expense of moving or replacing the
9 window.

10 MR. SULLIVAN: If I could weigh in on this
11 question, Commissioner May? We have talk about that and it's
12 not in the proposal and we're not proposing that.

13 And mainly because the reasons that Ms. Thorne
14 explained but also we don't think it would change -- it
15 safely meets the special exception criteria as to light, air,
16 and privacy now and we don't think that would make a
17 difference in that situation.

18 ZONING COMMISSIONER MAY: I am not disputing that
19 but I am asking your client a direct question because she
20 testified that the reason why this is not acceptable or why
21 they're pressing forward is because of the cost of moving the
22 window, and possibly other things.

23 I'm trying to understand if it's just about the
24 window and whether moving it three feet is feasible or
25 something like that. So, I would appreciate you giving an

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1 answer for your client.

2 MS. THORNE: No, we would not like to move forward
3 with that because it is going to cost us whatever we do.
4 Case Design is not going to do this without a cost and it's
5 very costly. Our renovation was costly and inconvenienced
6 everyone.

7 So, we are just trying to move forward and enjoy
8 home ownership for our family.

9 ZONING COMMISSIONER MAY: I'm not going to touch
10 that but I appreciate you answering honestly about that.
11 Thank you.

12 CHAIR HILL: I forget, Mr. Sullivan, there was a
13 previous design and then that design was wronged?

14 MR. SULLIVAN: No, the design involved an addition
15 that included this originally but because the construction
16 was done in stages, the addition was done by itself. The
17 addition was approved without reference to the side yard
18 requirement at all.

19 So, it was approved and no side yard relief was
20 required. And so the Thornes moved forward and constructed
21 that addition. And so that is an impediment to changing the
22 current plan.

23 And so all I'm saying is this is how we got here,
24 this is the proposal and if we were starting at the beginning
25 and no work had been done yet and the design was not already

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1 constructed, maybe there would be a different answer.

2 CHAIR HILL: What do you mean, it's already built?

3 MR. SULLIVAN: There was an addition built in 2020
4 and this rare addition went and matched the rear line of the
5 building at 1628 because they both had the sleeping porch
6 additions and they've both been reconstructed as part of the
7 principal buildings.

8 So, the neighbors' house is actually extended
9 beyond what it originally was. Also, if you count the --

10 (Simultaneous speaking)

11 CHAIR HILL: It's matched.

12 MR. SULLIVAN: The addition matched but originally
13 in the plans it had the screened porch plan as well and was
14 approved. But then that was taken off for budgeting reasons
15 and construction staging, they decided to do the addition and
16 they would do the screen porch later.

17 So, it was built in anticipation of --

18 (Simultaneous speaking)

19 CHAIR HILL: It was approved incorrectly, the
20 screen porch?

21 MR. SULLIVAN: And the addition. I don't know if
22 you call it incorrectly or it's just the current
23 interpretation of the Zoning Administrator at the time. I
24 don't think it was something that was missed. I just think
25 that's how the interpretation was.

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1 CHAIR HILL: Had it been built when it was
2 supposed to be built, it would be there now?

3 MR. SULLIVAN: It would be there now.

4 CHAIR HILL: In this form?

5 MR. SULLIVAN: Yes.

6 CHAIR HILL: With the screening?

7 MR. SULLIVAN: Not with the screening, the
8 screening was added to accommodate the neighbors' concerns
9 about privacy.

10 CHAIR HILL: I'm just saying the original plan --

11 MR. SULLIVAN: With the screened porch, yes.

12 CHAIR HILL: Had the privacy screen on that side,
13 the original design?

14 MR. SULLIVAN: No, I don't think the original
15 design did, the original design was an open screen porch.

16 CHAIR HILL: Ms. Ginsberg?

17 MS. GINSBURG: Yes, I would like to say that we
18 have copies of the original blueprints that were shared by
19 case in 2019 and there was not a porch on it. There's a door
20 that goes out on the back which indicates that something is
21 going to be built, a deck, whatever.

22 But there was no porch in the blueprints that we
23 have. We have them right here, we can share them with you.
24 We have two different designs, for the original build and the
25 other one is for the porch. So, I just want to set the

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1 record straight.

2 CHAIR HILL: I love everybody setting the record
3 straight. Does anybody have any questions? Somebody had a
4 question, Commissioner May?

5 ZONING COMMISSIONER MAY: Did Mr. Sullivan have
6 more to say in his rebuttal? We got off the strict
7 rebuttals. I'm about to turn back to Mr. Sullivan's
8 rebuttal. I haven't actually had it yet.

9 CHAIR HILL: Mr. Sullivan, do you have a rebuttal?

10 MR. SULLIVAN: What I have to say is in the
11 character of closing and so nothing, no rebuttal.

12 CHAIR HILL: Ms. Ferster, do you want to give a
13 little brief closing?

14 MS. FERSTER: No, we would rest on Mr. Rueda's
15 testimony. Though, for the record, I will remind the Board
16 Mr. Rueda did testify that we submitted a design to the
17 Applicant's Counsel and that design specifically did include
18 a flat rather than a pitched roof.

19 And I would say that he reviewed the project
20 design, he believes the design could be slightly modified
21 without unduly affecting the Applicant's goals by moving the
22 porch structure the required side feet from the side lot
23 line, and having a flat rather than a pitched roof.

24 And we did not get any response that the Applicant
25 would be willing to consider that model.

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1 CHAIR HILL: What I try to do, and I know, Mr.
2 Ferster, you know this, I try to give everybody just a little
3 bit of a conclusion so that we get a little bit of a
4 conclusion.

5 I'm going to talk with Legal in the future but if
6 you can remind me as to whether or not -- I think in the
7 regulations, the only part to get to the conclusion is the
8 Applicant and I do it just because it's helpful to the Board
9 I thought.

10 But Ms. Nagelhout, I'm going to ask you to tell
11 me later what you think. And I don't need any words from
12 you, Ms. Nagelhout, but that little pin in your bonnet there.

13 MS. NAGELHOUT: Thank you for giving me that
14 optional option. Yes, I do not have a right to a closing
15 under the regulations.

16 CHAIR HILL: I got you, Ms. Ferster. I know you
17 know and I know you've been here a lot and what I'm trying
18 to do over seven, I shouldn't say seven years, what I'm
19 trying to do as I progress is get a little better and better
20 as I go. And sometimes I'm not sure whether I get better or
21 worse.

22 I'm just asking Ms. Nagelhout to help me out a
23 little bit. Thanks, Ms. Ferster, I'm just trying to do my
24 best. Mr. Sullivan, go ahead and give your closing.

25 MR. SULLIVAN: Thank you, Mr. Chair, Members of

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1 the Board. In many cases there are two sides to the neighbor
2 interaction story and this is certainly true here, and you
3 heard from Mr. and Mrs. Thorne how concerning that was for
4 them and how this hasn't been a pleasant process for them
5 either.

6 And it's a complicated situation, how we ended up
7 where we are with this proposal. But regarding the special
8 exception criteria, the sun study, which shows no undue
9 impact, a very minor impact, is unchallenged. The privacy
10 argument is unchallenged.

11 The character, scale, and pattern is not directly
12 challenged but what we're doing is not removing a side yard
13 that exists in a detached zone. We're expanding the existing
14 non-conformity and in fact, on that point I will note that
15 it is the existing non-conformities.

16 One of the neighbors that testified has a lot of
17 that's several thousand feet larger and twice as wide and he
18 did an addition as a matter of right. This lot width is non-
19 conforming and the side yard is non-conforming.

20 Those situations don't lead to higher
21 consideration by the Board, as Mr. Rueda said he believed or
22 a special status. If that were true, it would be a variance
23 request not a special exception.

24 It's actually something that led to the need for
25 relief because of the minimum lot and because the existing

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1 wall of that building.

2 And many of the other comments from Mr. Rueda
3 related to building code items, which of course will be
4 handled by DCRA, and I'm sure with Mr. and Mrs. Thorne we'd
5 be happy to work with their neighbors on that in resolving
6 any of their concerns on the building code issues.

7 So, again, Mr. and Mrs. Thorne, are of course
8 very disappointed in the reaction of the neighbors but this
9 proposal does not objectively have undue impact and it safely
10 meets the special exception criteria.

11 As those expressed, we haven't talked about the
12 ANC. The ANC wrote very extensive report in great detail
13 going through the special exception criteria as well. So,
14 they expressed in great detail how this meets the criteria
15 as well as, of course, the Office of Planning.

16 That's all I have, thank you.

17 CHAIR HILL: I said does anyone from my board have
18 any questions before I ask everyone to leave? And also, if
19 they wouldn't mind just kind of hanging around because I
20 don't know exactly what's going to happen yet.

21 Does anyone have any questions? Okay, I'm going
22 excuse everyone, thank you all very much for coming and let's
23 see what happens. I'll wait for everybody to go. I'm the
24 only one in my office building and when the doorbell rings
25 I have to go get it.

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1 Somebody's here today. COVID-19 is slowly going
2 away, at least thinking it.

3 MEMBER SMITH: Or it's knocking at the door.

4 CHAIR HILL: That's very funny. I'm going to a
5 bench and people are like COVID-19 and I'm just like, well,
6 can you not stand right next to me when you're yelling at me?
7 I'm going to look at you guys because I'm not exactly sure
8 what to do.

9 I think that they've done a lot to work through
10 this. I too think that they meet the criteria for us to
11 grant this relief, I think the shadow study has been done,
12 I think the privacy issues or something that is being handled
13 with due to the screening.

14 I think that it could be done. A different matter
15 of right build could have been done that would be more
16 obtrusive, I don't know, whatever word you want to use to the
17 immediate neighbors.

18 The ANC did go through this pretty extensively,
19 I'm reading their letter. It's a longer letter and report
20 than we normally get from the ANC.

21 So, it's not like they just punched it, they
22 actually wrote a bunch of stuff to it so it wasn't easy for
23 them to process. I don't know whether it's worth asking, and
24 this is what I think is interesting as an architect up on the
25 Board today, which is Commissioner May.

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1 So, I don't know if there is anything at all to
2 ask them to kind of see if there's -- to me, the 5 foot
3 thing, that's ridiculous, then they're not here for any kind
4 of relief request. Then they're not here, they're doing it
5 by right.

6 I don't really understand the flashing and the
7 roof and everything and then there's two architects. Mr.
8 Smith, are you an architect? No. I don't know why I think
9 so, oh, that's right, zoning in Arlington or Alexandria or
10 whatever it was.

11 So, a foot off the line, if that says something
12 I don't know. So, anyway, I'm a little lost, I think they
13 meet the criteria, whether or not we want to them to go back
14 and talk and whether or not that really is within our
15 purview, I don't know.

16 But we've done that before because we asked people
17 to kind of work together to somehow resolve things that seem
18 to be an adverse impact. I can kind of go either way on this
19 one and I usually go Smith, Commissioner, and then Mr. Blake
20 because he's either second or not second, whatever happens.

21 So, Mr. Smith?

22 MEMBER SMITH: Our request is after the
23 Commission's.

24 CHAIR HILL: Let's hear what Mr. May has to say
25 first. I'm with you, I agree. Commissioner, what have you

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1 got?

2 ZONING COMMISSIONER MAY: I think they have made
3 the case that special exception should be granted and it's
4 sort of unfortunate. There are a lot of unfortunate things
5 about this.

6 The case, the way it played out, the way they
7 found themselves in need of relief because of varying
8 interpretations from the Zoning Administrator is an
9 unfortunate circumstance.

10 So, they headed down a path where they thought
11 they could get this approved pretty readily. Now, that would
12 have bypassed input from the next door neighbors if in fact
13 that had been built that way. That would have been an
14 unfortunate outcome because clearly, Dr. Jackson and Ms.
15 Ginsberg would have been upset.

16 That's unfortunate too. However, I think that
17 when we look at just the requirement for the special
18 exception they're not the undue impact. It seems pretty
19 clear that there are not undue impacts associated with it.

20 We can talk about losing views but views are not
21 protected. It's about light and air, it's about not making
22 changes that substantially alter the form of the
23 neighborhood.

24 I think they very clearly meet those standards.
25 I was hoping that there might be some flexibility that they

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1 could move the wall, that one wall off the property line by
2 a couple of feet.

3 I wouldn't do just a foot, I would do a couple of
4 feet because that way you can actually get in there and you
5 can paint the side of it and you can do all the maintenance
6 that you need to do on the outside of the building.

7 And you would also not have to worry about some
8 funky roof design that keeps the water flowing to the back
9 of the yard instead of off the side or into the porch, which
10 could happen if they don't drain it properly.

11 So, there's clearly no interest in doing that and
12 I don't feel like we're in a position where the impacts
13 justify sending them back to the drawing board, I just don't
14 think that's fair.

15 CHAIR HILL: I do think this does somewhat fall
16 within our purview. If this is something where there is a
17 water drainage issue that is now going to cause a problem,
18 that would be an adverse impact to the immediate neighbor,
19 right?

20 And is that something that could be at least done
21 in a way that the Board would feel comfortable with?

22 ZONING COMMISSIONER MAY: It is very possible.
23 The architects in the build or design build, they're
24 definitely capable of designing and constructing something
25 that will keep water from flowing into the neighbors'

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1 property. It's not a piece of flashing on a shingle roof.

2 That's not sufficient. What they've shown in the
3 drawings is not sufficient. They need to have some sort of
4 gutter constructed there to carry that water from the side
5 wall where it's shutting down the side of the wall. They
6 have to have something that carries that water to the back.

7 They can do it and we don't need to get into that
8 if we just have to do it. They have to design it in such a
9 way that it does it. The lift there is less to water flowing
10 into the neighbors' yard and more to the integrity of what
11 they are building.

12 If they don't build it well enough and they just
13 have a piece of flashing tacked onto the end of the shingles,
14 they're going to wind up with water for ice stands damaging
15 the porch. That's on the builder, they have a way to do it,
16 they should know how to do it.

17 I don't think that's really the issue. Back to
18 where I was. The other unfortunate thing about this is if
19 there were more open and congenial conversation between the
20 Applicant, the abutting neighbors, and many of the other
21 neighbors.

22 And much of this might have been avoided, you
23 might have come to the conclusion that, yes, the easiest
24 thing to do would be to just tweak the design of the porch
25 and move it off the wall, and they could have saved a lot of

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1 people some money because there would be less work for the
2 lawyers.

3 And the case could have probably still needed
4 relief but it could have stemmed through and it would have
5 been less work for Mr. Sullivan and no work for Ms. Ferster.
6 Not that I'm trying to keep them from getting work but I am
7 in favor of keeping people happy in their neighborhoods and
8 with their neighbors.

9 All that being said, I feel like the ANC sorted
10 this out and they came to the conclusion that the relief is
11 justified and I don't see any reason why we should be second
12 guessing that now.

13 I just lament that we didn't have a solution that
14 was making more of the neighbors happy.

15 Okay, who wants to go next, Mr. Smith?

16 MEMBER SMITH: I'll go after. I'm glad I could
17 follow Mr. May. This has always been relived. On its face
18 this request meets the special exception criteria the way
19 this special exception criteria has the special exception.
20 So, it's a lower burden of proof that they have to illustrate
21 there.

22 Those have an open front, mostly open porch, so
23 that's at the first floor level, two-story addition. I don't
24 believe that the full addition would unduly affect the light
25 in the adjacent property. Would it have some effect?

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1 Yes, I'm not opining that it wouldn't but the
2 criteria is unduly. The second would be policy joining so
3 they could probably show, not being compromised. That's
4 probably the one that this proposal most greatly affects but
5 again, it goes to this question of unduly.

6 I don't believe that if I know that this property
7 will be combined, especially that the Applicant had decided
8 to pull away a solid wall along the straight parking line to
9 address it certainly. So, that's how it would be.

10 The foundation of the structure would be in
11 character with the adjacent properties. The surrounding
12 properties, I do believe that this south officially is in
13 keeping with the character we see along Nicholson Street.

14 There are a few places here that are non-
15 conforming because the home is a single family zone. So,
16 that's the reason them we're here because these are non-
17 conforming units with the mistake. But given these are
18 duplexes, I'll give the size of the lots, I don't believe
19 this is the size or character.

20 Typical additions of this site don't even seem
21 like duplexes. So, again, on its face, it meets the
22 criteria. Do I think they could have done it a different
23 way? Yes. I would have hoped that the Applicant and the
24 neighbors would have had more dialog to come to an agreement
25 that will satisfy the parties. It could be pushed back two

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1 feet.

2 I don't buy the article that you have to use the
3 window, that window is three feet from your side property
4 line. You would not have removed that.

5 I do believe that the size of that could be cut
6 back to alleviate some of that but to force that, I'm just
7 like Mr. May, I do not believe in the scale and size of this
8 project that you're at this level that you would need to
9 mitigate more of those elements. It's unfortunate.

10 So, I will say in this case it meets the criteria
11 for us to grant this special exception.

12 CHAIR HILL: Mr. Blake?

13 MEMBER BLAKE: I think communication has been the
14 theme of the day between the parties. I do believe this case
15 could have been resolved earlier and more amicably with
16 communication between the neighbors, the Applicant, et
17 cetera.

18 All that said, I do think, and I agree with
19 Commissioner May and with Member Smith and you, Chairman,
20 that this meets the burden of proof to be granted relief as
21 it does not unduly affect the neighboring properties with
22 regards to light or privacy or neighborhood character.

23 The issue is this is a design among many possible
24 designs that we heard today. We heard you could change the
25 roof pitch, you could change the size of the structure, and

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1 in each case, everyone had an idea that said I tried this
2 one, that's stopped it so I would do it there.

3 And then the other one is I did this, I solved the
4 problem, I was done there. So, there is a level of
5 permutations that could make this more palatable but what we
6 found is it's the communication that would have allowed that
7 to take place.

8 This design is an acceptable design, it meets the
9 criteria for relief to be granted with regards to the issues
10 with light, air, and privacy and neighborhood character.
11 Certainly, by looking at the rear yard, they have a garage,
12 the neighbors have a garage.

13 The neighbors have a deck, why shouldn't they have
14 a deck? The Applicant applied with the permeable surface,
15 it makes perfectly good sense given the fact that the garage
16 is covered and it triggers something that probably -- I don't
17 know what happened to the roof in the first place but it's
18 not there and it could be replaced.

19 It's just a repair because I can tell you, the
20 house looks a lot better with it than without it prepared.
21 So, in that sense we move it. But the issue really comes
22 back to just communication and as I said, we met the
23 criteria, use and protected.

24 We talked about the issue and there was a point
25 we talked about wildlife. Obviously, that's not relevant to

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1 this discussion. The shallow space determined the impact and
2 it wasn't at the Level 1 view. And overall, I think again,
3 I did appreciate the Office of Planning's analysis, it was
4 very clearance.

5 I think DDOT has no objection. The ANC's
6 resolution was very detailed, more probably than we wanted
7 to or needed to know but I do think that it did illuminate
8 a lot and help us to better understand the situation.

9 And I agree that they have looked at this very
10 carefully and I agree that it meets the criteria. All that
11 said, I will be voting in favor of the application.

12 CHAIR HILL: Thank you. I will agree with
13 everything that my colleague said.

14 I think the only thing I would add again is that
15 I'm looking at this now as you guys have said everything, in
16 terms of what we're supposed to look at, the criteria within
17 the zoning regulations that we're supposed to look at, I
18 believe they're meeting their burden of proof.

19 And I will also rely on the analysis of the Office
20 of Planning if I reread their report just now, will rely on
21 the Office of Planning's analysis as well and then on the
22 neighborhood issues where we get this kind of sometimes.
23 We're at the very last moment. This is the last thing.

24 And so I'm going to use Commissioner May. There's
25 a couple of terms that I got from Commissioner May today but

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1 one that I'm going to use again is lament. The ANC has
2 lamented about this and it was extensive, way more than us.
3 They went and heard whoever they talked to.

4 They went and heard whoever heard talked to. They
5 wrote a very long report so I'm going to go with the ANC on
6 this one as well.

7 Even though it's disappointing that all people
8 that are in the neighborhoods and do have to live together
9 and also as myself being a very long-term D.C. resident, D.C.
10 residents have lived in the neighborhoods for a long time and
11 then change home.

12 So, I can appreciate and understand that. I'm
13 going to make a bunch of approved applications of 20743 as
14 captioned and read by the Secretary and ask for a second. Mr.
15 Blake?

16 MEMBER BLAKE: Second.

17 CHAIR HILL: Motion made and seconded, Mr. Moy,
18 I'll take a roll call.

19 MR. MOY: When I call your name, if you would
20 please respond with a yes, no, or abstain to the motion made
21 by Chairman Hill to approve the application for the relief
22 that's being requested, the motion to approve is seconded by
23 Mr. Blake. Zoning Commissioner Peter May?

24 ZONING COMMISSIONER MAY: Yes.

25 MR. MOY: Mr. Smith?

1 MEMBER SMITH: Yes.

2 MR. MOY: Mr. Blake?

3 MEMBER BLAKE: Yes.

4 MR. MOY: Chairman Hill?

5 CHAIR HILL: Yes.

6 MR. MOY: We have four members not present. Staff
7 would record the vote as four to zero to one and this is on
8 the motion made by Chairman Hill to approve. The motion to
9 approve was seconded by Mr. Blake. Also in support of the
10 motion to approve is Zoning Commissioner Peter May.

11 Mr. Smith, Mr. Blake, Chairman Hill, motion
12 carries, four to zero to one.

13 CHAIR HILL: Are you guys okay? We're going to
14 just power through this, we're not going to take lunch,
15 right? although now that might be bad for -- let's go ahead,
16 Mr. Moy, and call the next one. Mr. May knows the joke I was
17 going to make and get into it.

18 ZONING COMMISSIONER MAY: I would laugh even
19 without you making the joke.

20 CHAIR HILL: There you go, Commissioner, that's
21 how you know you've been around a long time.

22 Mr. Moy?

23 MR. MOY: Okay, where was I? The next case before
24 the Board is Application No. 20742 of 1252 H Street, NE, LLC.
25 This is an amended self-certified application for special

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1 exceptions for Subtitle H Section 1200.1 and Subtitle X
2 Section 901.2.

3 This is from the lot occupancy requirements,
4 Subtitle H, Section 904.1 in the rear yard requirement,
5 Subtitle H Section 905.1. The property is located in the
6 NC14 zone, the property is located at 1252 H Street NE Square
7 1003 Lot 172.

8 That's all I have for you, Mr. Chairman.

9 CHAIR HILL: Thank you. Ms. Wilson, can you hear
10 me?

11 MS. WILSON: Yes.

12 CHAIR HILL: Can you introduce yourself for the
13 record?

14 MS. WILSON: Alex Wilson from Sullivan and Barrows
15 on behalf of the Applicant in this case. I am here with
16 Christine Proudfoot, who is the architect as well as Todd
17 Ragimov, who is the owner of this property.

18 CHAIR HILL: Ms. Wilson, if you were to go ahead
19 and walk us through your application and why you believe
20 you're meeting the criteria for us to grant the relief
21 requested? I'm going to put 15 minutes on the clock so I know
22 where we are and you can begin whenever you'd like.

23 MS. WILSON: Thank you so much. Mr. Young, could
24 you please pull up the presentation when you have a chance?

25 Excuse my voice, it's a little under the weather. Next

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1 slide, please. Thank you so much.

2 The property is located in NC14 zone.

3 It has been proved that an existing two-story
4 building with retail space on the first floor and cellar and
5 two residential units from the second floor. The Applicant
6 is proposing a third-story on top of the existing building
7 footprint, which already occupies 100 percent of the lot and
8 has no rear yard.

9 The additional lot for three more residential
10 units for a total of five units. They're proposing to
11 maintain the existing first floor and cellar retail space as
12 the addition was put on top of the existing building
13 footprint.

14 We are seeking special exception relief from the
15 lot occupancy and rear yard requirements. The Office of
16 Planning is recommending approval, the ANC is supportive, and
17 we had two meetings with the Zoning Committee for the ANC and
18 made some design changes based on the first meeting.

19 DDOT has no objection and we presented to the
20 Capitol Hill Restoration Society, who is also supporting.
21 We've done extensive neighbor outreach and have 17 letters
22 of support from the surrounding community.

23 As this is in the 8th Street overlay, the special
24 exception requirements consider not only the general special
25 exception criteria but the 8th Street design guidelines as

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1 part of the approval.

2 And with that, I'm going to transition over to the
3 architect, Christine Proudfoot, and on the next slide, she
4 can walk through the proposed design as one of the main
5 requirements of the design is urban environment.

6 MS. PROUDFOOT: Next slide, please.

7 My name is Christine Proudfoot, I'm part of the
8 design team on 1252 H Street N.E. and I'm representing Sloan
9 34 on 6th.

10 So, just to bring you guys really quickly to an
11 existing context of where we are, I'm showing here two
12 existing photographs, one of the south side of the street as
13 it is facing H Street, and then looking at it from across the
14 street, looking at the southeast corner of the site and then
15 also coming down 13th Street.

16 So, as you can see right here, this is what the
17 property looks like. It's an existing two-story brick
18 building with a turret along the southeast side. Next slide,
19 please. And then as we turn the corner and come down 13th
20 Street, you'll see there's Picture 4.

21 We're showing the existing residential entry as
22 it is along 13th Street that we are going to keep the
23 location as it is.

24 And then I'm also pointing out on Picture 5
25 there's some existing storefront glazings there that we're

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1 going to be getting rid of, as well as some awnings and a
2 mural, condensing it into something we believe detracts from
3 the overall design consistency.

4 Next slide, please.

5 And then here we have two pictures of the existing
6 10-foot owls to the rear of the property. And you can see
7 it on the picture on the right there's some photographs of
8 the properties that front Wiley Street. They're directly
9 behind our lot.

10 Next slide, please.

11 So, as you conceptualize and as you guys visualize
12 what we are proposing, I'd like to turn our attention to a
13 project of ours that we worked with called Linda Flats. It's
14 about a block and a half over, it's behind the Atwood Theatre
15 and this is the project that we feel like will embody what
16 we are trying to accomplish of 1252.

17 And we are proposing a new addition on top of an
18 existing building and the way that we're doing that is
19 articulating the new volume as a roof with different
20 material. We use steel that's cheap and we did it because
21 it was complementary to but it was different than the
22 original third volume.

23 And with this project itself, we are proud of it.
24 It won a couple of awards including an AIABC award and a
25 Washingtonian award and we believe this is a successful

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1 interpretation of putting a vision on this building.

2 Next slide, please. And to further our point in
3 helping visualize what we were thinking of, this is just
4 showing some examples of how we would like to address the new
5 addition on top. Next slide, please.

6 So, looking at the site plan, the site is on the
7 corner of H and 13th Street and we have the adjacent
8 neighbors looking at the ones behind us and the ball-blend
9 which is across 13th Street.

10 The property itself, as you can see, is 100
11 percent low occupancy and we have ample connection to the
12 existing street car line and capital bike share station.

13 CHAIR HILL: Ms. Proudfoot? Let me do this, it
14 looks like a really great design and I know that we've gone
15 through this whole application already and I have a couple
16 of things I had to take care of a little bit more today.

17 So, what I want to do is I just want to ask
18 specifically if anybody has any questions of the architect
19 or the slides that are with regard to the architect? And I'm
20 going to ask Ms. Wilson to take over for the zoning
21 discussion.

22 Does anybody have any questions of the architect?
23 I hear one no from Mr. May. Ms. Proudfoot, do you have any
24 Native background?

25 MS. PROUDFOOT: Actually, my husband is Scottish,

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1 it's a Scottish original name that got changed as we went
2 down. But great question, I get that a lot.

3 CHAIR HILL: I'm part Chickasaw from Oklahoma,
4 there's a lot of names like Proudfoot and all kinds of
5 different type names like that, I'm sure you get that a lot.
6 Scottish?

7 MS. PROUDFOOT: Yes, it's Scottish in its
8 origination and then it used to be P-R-O-U-D-F-O-U-T-E and
9 it got changed to Proudfoot after a few generations.

10 CHAIR HILL: The Americans screwing up the name.
11 Ms. Wilson, do you want to please continue on your slides for
12 the requirements, please?

13 MS. WILSON: Yes, thank you, Mr. Young, would you
14 mind flipping through? In terms of the general special
15 exception requirement, these are submitted by right and the
16 third story will be on top of the existing building
17 footprint.

18 We did shadow studies, even though the lighting
19 is not part of the specific criteria for this relief, there
20 is a neighbor across the alley and a few doors down that
21 wanted to see the potential light and air impact for patio.
22 And the shadow studies in Exhibit 38C demonstrated that there
23 would be no impact on light and air to the neighboring
24 properties.

25 Next slide, please. I won't read all of these off

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1 but as Ms. Proudfoot demonstrated, the design enhances the
2 urban environment, the lot is relatively small, the building
3 is already at 100 percent lot occupancy and the proposal is
4 within the FAR limits of the zone.

5 There will not be any unsafe traffic conditions
6 as no parking is required or proposed. Next slide, please.
7 To summarize, the Applicant is preserving the existing facade
8 and original pre-1958 facade.

9 The street walls are not being altered and the
10 Applicant is maintaining the existing residential entrance
11 along 13th Street as well as the commercial entrance along
12 8th Street.

13 Next slide, please.

14 The Applicant will follow all applicable
15 requirements and restrictions such as prohibition of roof
16 signs. Next slide, please.

17 And finally, the project promotes active use of
18 underground floor and living space above and therefore,
19 adheres to the guidelines set forth in H Street's strategic
20 development plan.

21 This concludes our presentation and we are happy
22 to answer any questions.

23 CHAIR HILL: Mr. Young, could you drop that slide
24 deck? Does the Board have any questions for the Applicant?
25 Please raise your hand. Can I please turn to the Office of

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1 Planning?

2 MR. MORDFIN: Good afternoon, Chairman, and
3 Members of the Board, I'm Stephen Mordfin with the Office of
4 Planning.

5 The Office of Planning is in support of this
6 application to request relief from residential lot occupancy
7 in rear yards and the Office of Planning is in support of
8 this application and is available for any questions.

9 Thank you.

10 CHAIR HILL: Does anybody have any questions for
11 the Office of Planning? Does the Applicant have any questions
12 for the Office of Planning?

13 MS. WILSON: No, thank you.

14 CHAIR HILL: Mr. Young, is there anybody wishing
15 to speak?

16 MR. YOUNG: There is not.

17 CHAIR HILL: Ms. Wilson, is there anything you'd
18 like to say at the end?

19 MS. WILSON: Thank you for your time this
20 afternoon.

21 CHAIR HILL: I'm going to go ahead and excuse
22 everyone and thank you so much, you all have a good day. I
23 don't have an issue with the application. I think they're
24 meeting the criteria for us to grant the relief requested.

25 I thought the announcement the Office of Planning

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1 has provided is thorough.

2 Also, that of the ANC, I thought it was an
3 interesting design and I would have liked to have spent more
4 time with the architect but unfortunately, we just have so
5 many other things we have to take care of today.

6 So, I'm going to be voting in favor of the
7 application. Mr. Smith, would you like add anything?

8 MEMBER SMITH: I agree with your analysis,
9 Chairman Hill, and the analysis provided by the Office of
10 Planning and I support the application.

11 CHAIR HILL: Commissioner May?

12 ZONING COMMISSIONER MAY: I have nothing to add,
13 I agree with you and OP and Board Member Smith and I'm
14 guessing Board Member Blake too, we'll see.

15 CHAIR HILL: Great, thank you, Mr. Blake?

16 MEMBER BLAKE: Your guess would be right. Anyway,
17 yes, I'll be voting in favor of the application. I do agree
18 with everything everyone else has said.

19 CHAIR HILL: I'm going to make a motion to approve
20 Application 20742, establishing the right by the Secretary
21 and ask for a second. Mr. Blake?

22 MEMBER BLAKE: Second.

23 CHAIR HILL: The motion has been made and
24 seconded. Mr. Moy, can you take a roll call, please?

25 MR. MOY: Thank you, Mr. Chairman. When I call

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1 your name, if you would please respond with a yes, no, or
2 abstain to the motion made by Chairman Hill to approve the
3 application for the relief requested.

4 The motion to approve is seconded by Mr. Blake.
5 Zoning Commissioner Peter May?

6 ZONING COMMISSIONER MAY: Yes.

7 MR. MOY: Mr. Smith?

8 MEMBER SMITH: Yes.

9 MR. MOY: Mr. Blake?

10 MEMBER BLAKE: Yes.

11 MR. MOY: Chairman Hill?

12 CHAIR HILL: Yes.

13 MR. MOY: We have a Board Member not present with
14 us today. Staff would record the vote as four to zero to one
15 and this is on the motion made by Chairman Hill to approve.
16 The motion to approve was seconded by Mr. Blake. Also in
17 support of the motion to approve is Zoning Commissioner Peter
18 May.

19 Mr. Smith, Mr. Blake, Chairman Hill, motion
20 carries, four to zero to one.

21 CHAIR HILL: Okay. Great, Mr. Moy. Were you able
22 to find that applicant from the original case from way back
23 when?

24 MR. MOY: Funny you should mention that. Staff
25 has just informed me that apparently the applicant has been

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1 driving and she claims that she won't be ready until 1:45.

2 CHAIR HILL: Well, that's too bad for her then I
3 guess. So okay, I don't know what this applicant thinks is
4 going on. Like I mean when we were live, like this -- when
5 we were live, you had to be in the room at the dais, right?
6 And so it's not like wherever you are, you can now -- okay.

7 So as I recall, the situation was that the ANC had
8 requested for a postponement, okay? And they, the ANC, has
9 a meeting on July 14th, right? So I had hoped that I was
10 going to give an opportunity for the applicant to let us know
11 -- I'm a little disappointed. Like, I mean, I mean this is
12 a hearing where we take our time to be here. We also spend
13 and I'm just now going to vent for 30 seconds. Or Mr. May
14 is about to vent as well.

15 We take --

16 ZONING COMMISSIONER MAY: I don't want to vent.
17 I'm not part of this case, so thinking I might leave.

18 CHAIR HILL: Oh, goodness gracious. All right,
19 Commissioner May. There you go then. Commissioner May,
20 you're usually part of the venting. I was hoping for a
21 venting partner.

22 ZONING COMMISSIONER MAY: I'm sorry. I have
23 nothing to vent about here and I'm sorry to interrupt your
24 flow on your venting. But I'm sure it's going to be really
25 good.

1 CHAIR HILL: No, I've over it now. All right.
2 Okay. Thanks, Commissioner.

3 ZONING COMMISSIONER MAY: Good enough. See you
4 later.

5 CHAIR HILL: Okay. Bye-bye. Okay, was there a
6 Commissioner, Mr. Moy? So anyway, so bottom line, anyway,
7 I was going to say we take a weekend day to prepare for all
8 this stuff. We take a little bit of our weekday to get here
9 and then now we're here all day. And so the applicant is not
10 here. And so we tried to make the applicant -- we tried --
11 this agenda goes out so the applicant knows when the case was
12 supposed to be heard. It was earlier in the day. We made
13 arrangements now to have the applicant present later.

14 So now the ANC is interested for at least the
15 opportunity to speak on the 14th and the 14th, unfortunately,
16 doesn't give us a lot of time. I mean I don't even know if
17 I want to bother hearing this on the 27th and I'm like I mean
18 we already have now 8 cases.

19 What do you have on -- and I'm going to let my
20 fellow board members because I don't want to be the only bad
21 guy on this one.

22 MR. YOUNG: Mr. Chair?

23 CHAIR HILL: Yes.

24 MR. YOUNG: We have her on the phone now.

25 CHAIR HILL: Excellent. What is the person's

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1 name?

2 MR. YOUNG: Ms. Demetra Weir.

3 CHAIR HILL: Okay. Could you please -- and so do
4 you have the Commissioner then with us as well, Mr. Young?

5 MR. YOUNG: I'm checking. Yes, I have Ms.
6 Gilbert.

7 CHAIR HILL: Okay. Mr. Moy, then do you want to
8 call the case?

9 MR. MOY: Yes, sir. I can do that. So for the
10 record, this is Application No. 20612 of Demetra Weir. This
11 is a self-certified application pursuant to Subtitle X,
12 Section 901.2. This is in for special exceptions under
13 Subtitle E, Section 5201 from the lot occupancy requirement,
14 Subtitle E, Section 304.1 rear addition requirement Subtitle
15 E, Section 205.4 and pursuant to Subtitle E, Section 206.4.
16 The property is located in the RF-1 Zone at 647 16th Street,
17 Northeast, Square 4540, Lot 293. This case was called this
18 morning at around 10:35 and we've just returned to complete
19 this case.

20 CHAIR HILL: Okay. Ms. Weir, can you hear me?

21 MS. WEIR: I can hear you.

22 CHAIR HILL: Can you introduce yourself for the
23 record, please?

24 MS. WEIR: Hi. My name is Demetra Weir.

25 CHAIR HILL: Okay. Hi, Ms. Weir. You can go

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1 ahead and mute your line.

2 Ms. Gilbert, can you hear me? Commissioner
3 Gilbert? Commissioner Gilbert, can you hear me?

4 Okay, Ms. Weir, can you hear me?

5 MS. WEIR: I can hear you.

6 CHAIR HILL: They've said, Ms. Weir, that you've
7 been asked to present at their Zoning Board several times and
8 you haven't. Why haven't you presented to them?

9 MS. WEIR: I presented to them three times. The
10 first time which the date there was set for that it was in --
11 I think it was June 7th or something like that. It could
12 have been May, but it was three times that I actually talked
13 to them. I presented to them and that was the first meeting.

14 And they said okay, we have a second meeting.
15 Spoke again at the second meeting and then after the second
16 meeting, a couple days prior, like here's another call for
17 I guess another committee. Mr. Greenfield said it was --
18 some type of pre-committee or something like that. But it was
19 just principally the same thing over and over again.

20 And I spoke to them three times and it actually
21 caused me so much anxiety and I had to actually -- I'm going
22 through post-partum and my mental health is already
23 compromised. And I had to speak to my post-partum therapist
24 about it because --

25 CHAIR HILL: Ms. Weir, give me a second. Give a

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1 second, Ms. Weir.

2 MS. WEIR: Yes, I'm sorry. I'm just getting
3 nervous.

4 CHAIR HILL: Ms. Weir, you should get nervous.
5 You're supposed to be having a hearing and you're somewhere
6 where you're driving your car.

7 Commissioner Gilbert, can you hear me?

8 I hope you're pulling over, Ms. Weir, by the way,
9 okay?

10 MS. WEIR: I'm actually -- I'm on my driveway.

11 CHAIR HILL: Okay. Commissioner Gilbert, can you
12 hear me?

13 Ms. Weir, can you mute your line for me?

14 MS. WEIR: Yes, sir.

15 CHAIR HILL: Commissioner Gilbert, can you hear
16 me?

17 Oh, man. Mr. Young, were you able to find
18 Commissioner Gilbert or you don't know?

19 MR. YOUNG: She's on. I'm not sure why she's not
20 responding.

21 CHAIR HILL: Commissioner Gilbert, can you hear
22 me?

23 Mr. Moy?

24 MR. MOY: She appears to be muted unless Mr. Young
25 can unmute her.

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1 CHAIR HILL: That's okay. That's okay. Mr. Moy,
2 we got -- July 14th is a Thursday, right? Then we have the
3 20th and we have the 27th, correct? I mean I know that's the
4 case. How many cases are on the 20th and how many cases are
5 on the 27th?

6 MR. MOY: All right, July 20th, the Board has 9
7 cases on the docket. And on the 27th, the Board has 7 cases
8 on the docket.

9 CHAIR HILL: Say that again, I'm sorry. There's
10 eight cases on the docket, because I know we added one just
11 now, right? Or it was just a decision case.

12 MR. MOY: Right, right, right. Exactly. So the
13 thing is if you want to include the decision case.

14 CHAIR HILL: Okay. And then how many, I'm sorry,
15 on the 20th?

16 MR. MOY: You have nine.

17 CHAIR HILL: Okay. Okay. All right. Ms. Weir,
18 can you hear me?

19 MS. WEIR: I can hear you.

20 CHAIR HILL: Okay, so Ms. Weir, I mean if we were
21 going to have the case today, were you going to present it
22 from your phone like this?

23 MS. WEIR: I -- I'm just now pulling up and I have
24 my baby in the car. I would have to get on the computer, but
25 if I had to, then yes.

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1 CHAIR HILL: So Ms. Weir, I'm going to put -- I'm
2 just letting you know. We go on a recess in August, okay?

3 MS. WEIR: Okay.

4 CHAIR HILL: And the ANC meeting is apparently on
5 the 14th and this case has been kicked around and kicked
6 around and the ANC currently is opposed to your application,
7 right?

8 MS. WEIR: Yes.

9 CHAIR HILL: So I would suggest going to their
10 meeting on the 14th and see whatever you can do to figure out
11 what's going on with you and the ANC and then we, the Board
12 is going to accommodate you, like this is a good thing.
13 We're actually going to spend our time to accommodate you to
14 get you on the docket before our recess. Okay?

15 MS. WEIR: Okay.

16 CHAIR HILL: We're going to put you on the 27th,
17 but you really have to be prepared --

18 MS. WEIR: The 27th.

19 CHAIR HILL: -- and be on a computer and be ready
20 to present your argument because that's when we're probably
21 going to decide this and I would really, again, recommend you
22 take the time to figure out what you have to do with the ANC,
23 okay?

24 MS. WEIR: Okay. They are just opposing it and
25 now they have the neighbor opposing it. They scared them

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1 half to death, so they're going to oppose it anyway with Ms.
2 Gilbert having this issue with me and she never even met me.

3 CHAIR HILL: Okay, well, Ms. Weir, you'll have an
4 opportunity to give your -- again, you're going to have to
5 give your case on the 27th, okay?

6 MS. WEIR: Okay.

7 CHAIR HILL: So be prepared to give your case on
8 the 27th at a computer with video ready to go. Okay?

9 MS. WEIR: Yes, sir. I appreciate it. Thank you.

10 CHAIR HILL: Don't get off, Ms. Weir. Don't get
11 off just yet.

12 Commissioner Gilbert, can you hear me?

13 COMMISSIONER GILBERT: Yes, I can.

14 CHAIR HILL: Thanks, Commissioner. So
15 Commissioner, we're going to accommodate everybody and put
16 this in -- we're going to try to do this before our recess
17 which is in August, okay?

18 COMMISSIONER GILBERT: Okay.

19 CHAIR HILL: So you go ahead and try to get Ms.
20 Weir -- I don't want to get involved in what people say
21 happened or didn't say happen because Ms. Weir is saying she
22 presented to you all three times. It doesn't matter. I'm
23 just saying, right?

24 And earlier, she told me that Mr. Greenfield or
25 whoever said that Ms. Weir has not presented to you guys at

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1 all or not at all. You guys have tried to reach her and you
2 weren't able to get her. So it doesn't matter to us. It
3 doesn't matter to us. I'm just letting you know we're going
4 to hear from you guys on the 27th. Okay, Commissioner?

5 COMMISSIONER GILBERT: The 27th of what month,
6 sir?

7 CHAIR HILL: July.

8 COMMISSIONER GILBERT: Oh, okay. That's next
9 week.

10 CHAIR HILL: No. 27th of July.

11 COMMISSIONER GILBERT: Oh, July, next month. I'm
12 sorry, I'm in June.

13 CHAIR HILL: Okay.

14 COMMISSIONER GILBERT: Okay.

15 CHAIR HILL: Because you guys are having your
16 hearing on the 14th of July, correct?

17 COMMISSIONER GILBERT: We're having our ANC
18 Commission meeting on the 14th.

19 CHAIR HILL: Okay. So please do everything you
20 can to get Ms. Weir on your docket.

21 COMMISSIONER GILBERT: Oh, she's on there. She's
22 already on there.

23 CHAIR HILL: Ms. Weir, so you're ready present at
24 the ANC on the 14th of July, correct?

25 Ms. Weir? Hello?

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1 COMMISSIONER GILBERT: This is what happens with
2 us, too.

3 MS. WEIR: Hello.

4 CHAIR HILL: Yes, can you hear me?

5 MS. WEIR: I can hear you -- I heard you. I'll
6 be presenting the same thing I did the last three times.

7 CHAIR HILL: Okay, on the 14th of July.

8 MS. WEIR: Okay. I'll put that on my calendar.

9 CHAIR HILL: Reach out to your ANC and figure out
10 what's going on and we'll see you guys on the 27th, okay?

11 COMMISSIONER GILBERT: Mr. Greenfield will be
12 sending her notification.

13 CHAIR HILL: Okay, great. Commissioner, that's
14 great. Okay?

15 COMMISSIONER GILBERT: Okay.

16 CHAIR HILL: Mr. Moy, then when will we have --
17 if you wouldn't mind, when would we close the record before
18 the hearing on the 27th?

19 MR. MOY: This is the 27th -- this would be a
20 continued hearing or is this a decision meeting?

21 CHAIR HILL: I don't even know. I have to go back
22 and look at the record. I guess it would be a continued
23 hearing.

24 MR. MOY: We're still in a hearing format. So --

25 CHAIR HILL: Yes, it will be a continued hearing

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1 on the 27th of July and -- yes. So Mr. Moy, give me a
2 second.

3 I'll let you ask questions. Mr. Moy is going to
4 give you the deadlines, Ms. Weir. Can you hear me? Ms.
5 Weir? Ms. Weir, can you hear me?

6 MS. WEIR: Yes, I can hear you. I'm sorry, I had
7 to push *6 pound every time and I thought I did.

8 CHAIR HILL: That's okay. Just listen to me one
9 second. Mr. Moy is going to give you your deadlines, okay?

10 MS. WEIR: Okay.

11 CHAIR HILL: Go ahead, Mr. Moy.

12 MR. MOY: All right, I think what you're asking,
13 Mr. Chairman, correct me if I'm wrong, then I expect that
14 after the July 14th meeting with the ANC, if there are any
15 revisions to Ms. Weir's plans, that she submit that into the
16 case record by Monday July the 18th. Okay?

17 And I think that's all we need. Yes. Because it's
18 a hearing, so -- so if the applicant can do that, make any
19 revised plan changes after the ANC meeting on the 14th, to
20 submit that into the case record by Monday, July 18th. Then
21 we're back with the board for a continued hearing on July
22 27th.

23 CHAIR HILL: I don't think that will give them
24 enough time. You have to get something from the ANC. If the
25 ANC has a meeting on the 14th, then we have to get something

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1 from the ANC, right?

2 COMMISSIONER GILBERT: We can provide a letter.

3 CHAIR HILL: By the 15th?

4 COMMISSIONER GILBERT: Yes. I can have the chair
5 do that letter because we already have it drawn up and all
6 she has to do is sign off and you can get that.

7 CHAIR HILL: Commissioner, how can you have the
8 letter already done before you have the hearing?

9 COMMISSIONER GILBERT: What happens is the
10 committee has already -- the last meeting that Ms. Weir
11 attended, based on her evidence and information, we opposed
12 it.

13 This recommendation is going to be presented to
14 our Commission. They will draw up the letter to oppose and
15 then our Commission will decide whether we accept the letter
16 or not.

17 It's not final until we vote on it on the 14th.
18 If the committee, the EDZ Committee is recommending, that
19 letter can be signed by the chairwoman or if we are
20 supporting it or support her, that letter can also be done
21 and signed by the chair to provide --

22 CHAIR HILL: Okay, thank you. Give me a second.
23 Why don't you do me a favor? Get whatever you need to get
24 it to us by the 15th of July. Okay?

25 COMMISSIONER GILBERT: Okay.

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1 CHAIR HILL: So that will -- give me one second,
2 Mr. Blake. And then you get us your letter by the 15th of
3 July, okay?

4 And then Ms. Weir, can you hear me? Ms. Weir?
5 Ms. Weir, can you hear me?

6 MS. WEIR: Yes, I can hear you.

7 CHAIR HILL: Okay, great. So listen, by the 19th
8 of July, which is a Tuesday, okay?

9 MS. WEIR: Yes.

10 CHAIR HILL: You give us whatever you want to give
11 us by the 19th of July. That means you'll have an
12 opportunity to respond to whatever the ANC says on the 15th,
13 okay?

14 MS. WEIR: Okay. How can I see what they say?

15 CHAIR HILL: They're going to submit it on the
16 15th of July.

17 MS. WEIR: Okay. They're going to send me a copy,
18 too? Because I haven't seen anything based on that, to
19 clarify for you.

20 CHAIR HILL: You'll get a copy of whatever it is
21 they submit. I believe that's correct, Mr. Moy?

22 MR. MOY: Yes, sir.

23 COMMISSIONER GILBERT: On the 14th. On the 14th
24 when we hold the meeting, she will be at the meeting.

25 CHAIR HILL: I got that, Commissioner. What I'm

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1 saying is -- you guys are going to put something in the
2 record on the 15th, right?

3 COMMISSIONER GILBERT: Yes.

4 CHAIR HILL: I mean I don't know what's going to
5 happen on the 14th and 15th to be quite honest. So on the
6 15th, you're going to put something in the record. On the
7 19th, Ms. Weir will have an opportunity to respond. Okay?

8 COMMISSIONER GILBERT: Yes.

9 CHAIR HILL: And then the record will be left open
10 for one week for you to respond to her response. Do you
11 understand?

12 COMMISSIONER GILBERT: Yes.

13 CHAIR HILL: So that means by the 26th, we'll get
14 whatever we need. Okay?

15 COMMISSIONER GILBERT: Okay.

16 MS. WEIR: I don't know how I will be able to see
17 what they're going -- see what they write so that I can
18 respond to it.

19 CHAIR HILL: Ms. Weir, can you hear me?

20 MS. WEIR: Yes.

21 CHAIR HILL: Can you hear me?

22 MS. WEIR: Yes.

23 CHAIR HILL: Okay. On the 15th of July, they're
24 going to put something into the record. Okay? You're going
25 to go to the ANC meeting on the 14th of July. So you will

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1 know what's going to happen, but nonetheless, you'll be able
2 to see what they put in the record on the 15th of July. Then
3 you will have until the 19th of July to respond to what they
4 put in the record. Do you understand?

5 MS. WEIR: I can't -- I don't know how to see the
6 record is what I'm saying.

7 CHAIR HILL: Well, then you can talk to somebody
8 at the Office of Zoning. They can help you out, right?

9 MS. WEIR: Okay. I'll ask Mr. Reed.

10 CHAIR HILL: Exactly. Talk to Mr. Reed and he'll
11 tell you.

12 MS. WEIR: Okay.

13 CHAIR HILL: What I'm telling you, Ms. Weir, is
14 that you have to give us whatever you're going to give us by
15 the 19th of July. This is very important because it's not
16 going to go after this.

17 MS. WEIR: Okay.

18 CHAIR HILL: Okay?

19 MS. WEIR: Okay.

20 CHAIR HILL: By the 19th of July, you have to give
21 us whatever you're going to give us and then you're finished
22 with the record, okay?

23 MS. WEIR: I understand. Thank you. Okay.

24 CHAIR HILL: Okay.

25 COMMISSIONER GILBERT: Chair, I have a question.

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1 CHAIR HILL: Sure, go ahead, Commissioner.

2 COMMISSIONER GILBERT: Okay, on the 27th, is that
3 when you all make your decision or does it continue?

4 CHAIR HILL: We're going to have a hearing and
5 we'll see what happens. I don't know whether we're going to
6 make a decision or not.

7 COMMISSIONER GILBERT: Okay.

8 CHAIR HILL: Okay?

9 COMMISSIONER GILBERT: All right. Thank you.

10 CHAIR HILL: Hold on, hold on, don't go anywhere.
11 Mr. Blake wants to say something.

12 MEMBER BLAKE: Ms. Gilbert, I would hope that the
13 ANC -- sounds like you guys have a plan. I would hope that
14 in this month's period of time you have an opportunity to
15 perhaps figure out a way to make this work beyond what you
16 just told me. I hope you have an opportunity to have some
17 type of dialogue.

18 COMMISSIONER GILBERT: Yes. On the 14th, Ms. Weir
19 will be able to present whatever she wants to change, update,
20 or whatever.

21 MEMBER BLAKE: Ms. Gilbert, does Ms. Weir have an
22 idea of what she has to do to work a little more closely --
23 I mean I heard a comment earlier that she is just going to
24 tell the same thing she said for the last three times. It's
25 not working. There's something that she needs -- that she

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1 can work on in this period of time to help you?

2 COMMISSIONER GILBERT: Well, like I say, it's
3 really in her hands because the committee did ask her if she
4 wanted to -- the project size, if she wanted to reduce it,
5 whatever the terms they used, and she said no. And she
6 didn't agree with the shade study and so I don't know what
7 else to do.

8 I have no other -- and as far as the trash is
9 concerned, we are all tired. We don't understand none of
10 that. So it's really in Ms. Weir's hands and we're trying --
11 we're really trying to work with her.

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

13 MS. WEIR: I can hear you.

14 CHAIR HILL: Just to let you know, Ms. Weir, I'm
15 not -- we're going to go. We're done for today. And I
16 recommend whatever is going on with the trash --

17 MS. WEIR: There isn't any trash and I wanted --
18 if it was okay to respond to --

19 CHAIR HILL: No, no, no. We're not going to have
20 a hearing.

21 MS. WEIR: Okay. They haven't given me anything
22 to go on. They did ask me have you thought about making it
23 shorter. And I said no, I didn't think about it.

24 The only thing I was asked -- they haven't even
25 said well, we are okay if you go this far or that far or not

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1 this far and I don't see myself paying the architect for him
2 to draw up more plans just for them to oppose. If you're
3 opposing it, then what are you okay with?

4 CHAIR HILL: Ms. Weir, I've got to tell you,
5 you're going through the process. You've gone to the Office
6 of Planning. The Office of Planning has also made a
7 recommendation at this point for approval, I believe.

8 I'm trying to get through this hearing and we
9 usually go through ANC and I would definitely try -- if there
10 is a trash thing or there isn't a trash thing, I would fix
11 whatever it is there might be, okay, before we get back here
12 on the 27th.

13 MS. WEIR: I'm open to that, but they're not
14 making it easy at all. They haven't offered anything and
15 there is no trash. I don't know why that's in the
16 conversation.

17 CHAIR HILL: We'll figure all that out on the
18 17th, okay?

19 MS. WEIR: Okay. Thank you so much.

20 CHAIR HILL: Hold on, Mr. Moy has got his hand up.

21 MS. WEIR: Okay.

22 MR. MOY: After listening to this conversation, Mr.
23 Chairman, it might be helpful if all the parties serve all
24 the parties. In other words, that would help minimize anyone
25 not getting the filing. You're supposed to serve the parties

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1 anyway.

2 CHAIR HILL: All right, and aren't the parties
3 supposed to serve all the parties?

4 MR. MOY: That's correct. That's a reminder.
5 That's a reminder.

6 CHAIR HILL: Okay, thank you. So all the parties
7 are supposed to serve all the parties. So that means, Ms.
8 Weir, you need to let the ANC -- whatever you put in the
9 record, you need to send to the ANC and vice versa. ANC,
10 whatever you submit into the record, you have to submit to
11 Ms. Weir, okay?

12 Thank you so much. We'll see you on the 27th.

13 MS. WEIR: Thank you.

14 COMMISSIONER GILBERT: Thank you.

15 CHAIR HILL: Bye-bye. Okay, I'm going to close
16 the hearing or whatever that was. I'm going to close
17 whatever that was. Okay?

18 And now Mr. Moy, is there anything else that I
19 missed? Mr. Moy, is there anything else before the Board?

20 MR. MOY: No, that concludes your day, sir.

21 CHAIR HILL: Okay, Mr. Blake, Mr. Smith, you all
22 got anything?

23 Okay. Bye-bye. We're adjourned. Bye-bye.

24 (Whereupon, the above-entitled matter went off the
25 record at 1:48 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 06-22-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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