

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 20, 2022

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 10:05 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

- SARAH BAJAJ, Attorney Advisor
- MARK HAMALA, Zoning Specialist
- RYAN NICHOLAS, Attorney Advisor
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

- JONATHAN KIRSCHENBAUM
- STEPHEN COCHRAN
- ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from  
the Regular Public Hearing held on July 20, 2022.

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

2 10:05 a.m.

3 BZA CHAIR HILL: All right, I know there's some  
4 preliminary postponement issues, that we can kind of maybe  
5 go through those, Mr. Hamala, if you call our next couple of  
6 cases.

7 MR. HAMALA: The next two cases are both District  
8 Properties dot com, Inc. cases, and they're  
9 applications 20772 and 20773. And there is an applicant's  
10 motion to postpone the hearing.

11 BZA CHAIR HILL: Okay, can you bring them in,  
12 please, Mr. Young?

13 MR. YOUNG: Mohammad Sikder on, so I'm going to  
14 reach out to staff and see if we can get a hold of him.

15 BZA CHAIR HILL: Okay. So then, we'll go ahead  
16 and put this on at the end of the day, or just let me know  
17 when we get those. Okay, Mr. Young?

18 MR. YOUNG: Will do.

19 BZA CHAIR HILL: Because we need them. So, we'll  
20 do that. Let's see. All right, then, Mr. Hamala, you can  
21 call our next one.

22 MR. HAMALA: Our next application is number 20746,  
23 of Jordan Rosenstadt. As amended, this is a self-certified  
24 application pursuant to Subtitle X, Section 901.2. First,  
25 under Subtitle E, Section 205.5, and Subtitle E, 5201.

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1           From the rear addition requirements of Subtitle E,  
2 205.4, second under Subtitle E, Section 5201, from the lot  
3 occupancy requirements of Subtitle E, Section 304.1, and  
4 under Subtitle C, Section 1501.1(c), and Subtitle C,  
5 Section 1501.1(e)(2) for the total height permitted.

6           And this is a three-story, rear addition and  
7 penthouse enclosure for the conversion of an attached  
8 principal dwelling unit to a flat in the RF-1 zone. And the  
9 property is located at 1314 T Street, NW, Square 238, Lot 52,  
10 and there are two preliminary matters before the Board.

11           The first is a re-trust for party status in  
12 opposition from Charles Goldfarb, and the second is a motion  
13 by the applicant to waive the 21-day filing deadline to allow  
14 a revised burden of proof and revised elevation and section  
15 drawings into the record.

16           BZA CHAIR HILL: Okay. All right, Mr. Sullivan,  
17 if you can hear me, can you introduce yourself for the  
18 record?

19           MR. SULLIVAN: Members of the Board, Marty  
20 Sullivan with Sullivan & Barros, on behalf of the applicant.

21           BZA CHAIR HILL: Great, thank you. Okay, I'm  
22 speaking to my fellow Board members.

23           As far as the 21-day filing deadline, I'd like to  
24 go ahead and allow the information into the record, so that  
25 we can have a full record in order to review this. And if

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1 the Board has any issues with that, please speak up. Hearing  
2 none, Mr. Hamala, you can go ahead and let that into the  
3 record.

4 The next person I need to speak with is  
5 Mr. Goldfarb. Can you hear me?

6 MR. GOLDFARB: Oh, I'm on? Okay, yes, I can hear  
7 you. I'm new to this system, so I hope you can hear me. I  
8 see know, I don't know if you're able to see me from my home.

9 BZA CHAIR HILL: We can hear you. We can't see  
10 you. Do you want to try your camera?

11 MR. GOLDFARB: Well, my camera is -- I mean, I  
12 don't know why it would not be working.

13 BZA CHAIR HILL: That's okay. That's okay.  
14 That's okay.

15 MR. GOLDFARB: Because I use it for other things.  
16 This is my first time on WebEx.

17 BZA CHAIR HILL: No problem. I'll tell you what.  
18 So, Mr. Goldfarb, again, can you tell us why you think you're  
19 qualified to be getting party status?

20 MR. GOLDFARB: Yes. I own the property at  
21 1312 T Street, NW, which directly abuts 1314 T Street, NW.  
22 By building out seventeen feet, it would be blocking off the  
23 light and it would totally enshadow --

24 BZA CHAIR HILL: Mr. Goldfarb, I got you. I  
25 didn't mean to interrupt you. I'm just trying to first

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1 process the party status issue. And so, I don't have an  
2 issue with -- I mean, I think you qualify, under the  
3 conditions, to be given party status. And, Mr. Sullivan, you  
4 don't have any comments on that, do you?

5 MR. SULLIVAN: No, we don't oppose it.

6 BZA CHAIR HILL: Okay. All right. So,  
7 Mr. Goldfarb, unless the Board has any issues, I'm going to  
8 go ahead and grant Mr. Goldfarb party status. If the Board  
9 has any issues, please speak up now, or forever hold your  
10 peace.

11 MR. GOLDFARB: Ah, I got the video working. Okay.

12 BZA CHAIR HILL: Great. Perfect. Okay, so,  
13 Mr. Goldfarb, what I'm going to try to do here is, I'm going  
14 to explain to you what party status means and how this is  
15 going to work, and then I'm going to bring you guys back at  
16 the end of the day. Okay?

17 And, Mr. Sullivan, I'm going to try to work  
18 through the day as quickly as I can. But I'm trying to do  
19 this so that I don't have to delay this and hear all this  
20 today.

21 So, Mr. Goldfarb, what party status means, again,  
22 is you now are a person who has the ability to give a  
23 presentation, which is what you kind of started to do I guess  
24 when I interrupted you, as to what you're concerned about and  
25 your opposition. Right?

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1 MR. GOLDFARB: Yes.

2 BZA CHAIR HILL: And also, you'll have a chance  
3 to ask questions of the Office of Planning when the Office  
4 of Planning gives their report. You'll have an opportunity  
5 to ask questions of the applicant.

6 The questions you'll be asking of the applicant  
7 is towards their presentation, or anything that's in the  
8 record. Okay?

9 And then, again, you'll have the ability to ask  
10 questions of the Office of Planning. We'll all just  
11 basically -- everyone will have an ability to speak towards  
12 the regulations, and their concerns in regard to this  
13 project. Okay?

14 What I'm going to do is, I'm going to go ahead and  
15 bring you guys back at the end of the day. And so, if you  
16 want to go ahead and take a look at the record and make sure  
17 you see if they have any questions about anything.

18 And I don't know if, Mr. Sullivan, you have  
19 Mr. Goldfarb's information.

20 (Simultaneous speaking.)

21 MR. GOLDFARB: They sent everything to them, as  
22 well as to the Zoning Board.

23 BZA CHAIR HILL: Got it. Mr. Sullivan, I heard  
24 you say yes.

25 MR. SULLIVAN: Yes, my client and the applicant

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1 and the architect have his contact information, yes.

2 BZA CHAIR HILL: So, if you guys want to do  
3 anything -- or not, whatever -- until I bring you guys back,  
4 to communicate, that may or not be helpful.

5 Mr. Goldfarb, do you have any questions for me  
6 before we let you go?

7 MR. GOLDFARB: I guess I just want to make sure  
8 that what I submitted has been received, which was written  
9 testimony, including a photograph and a diagram, and I just  
10 want to make sure you've all received that. I sent that  
11 in --

12 BZA CHAIR HILL: I got from you -- because I have  
13 your written testimony -- oh yeah yeah yeah, the photograph.  
14 I saw the photograph. Yeah.

15 So, we got what you put in there. And if that's  
16 what you're going to refer to when you're giving your  
17 presentation, then that would be helpful.

18 MR. GOLDFARB: Yes, that is.

19 BZA CHAIR HILL: Okay. And, Mr. Goldfarb, just  
20 so you know, you do know how to look at the record. Correct?

21 MR. GOLDFARB: I think I would be able to -- well,  
22 I --

23 BZA CHAIR HILL: I got you.

24 (Simultaneous speaking.)

25 BZA CHAIR HILL: Okay, that's all right. Do you

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1 know -- who are you talking to at the Office of Zoning?

2 MR. GOLDFARB: Oh my goodness, I'm so bad at  
3 remembering names. Robert Reid. I communicated with Robert  
4 Reid.

5 BZA CHAIR HILL: Got it. Mr. Hamala, can you hear  
6 me? Can you ask Mr. Reid to reach out to Mr. Goldfarb and  
7 make sure he can take a look at the record? Okay?

8 Because, what would be also helpful for  
9 Mr. Goldfarb is the applicant's PowerPoint presentation is  
10 now in the record, Mr. Goldfarb.

11 And so, you'll see what the applicant is going to  
12 present to us, with regard to how they're meeting the  
13 regulations. Okay?

14 MR. GOLDFARB: Right. But they're seeking an  
15 exception to the rule.

16 BZA CHAIR HILL: No, no. I understand,  
17 Mr. Goldfarb. I'm just trying to give you an understanding  
18 of what they're going to present, so that you'll know this.  
19 Okay?

20 MR. GOLDFARB: Thank you.

21 BZA CHAIR HILL: Okay. Mr. Sullivan, go ahead.

22 MR. SULLIVAN: I don't like to ever have any  
23 preferences for timing, because I know it's hard to schedule.  
24 But when you say end of the day, I notice there's not a lot  
25 of cases, but there's one potentially really big case that

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1 I think is a longer case than this one. And I had scheduled  
2 some things for three o'clock or later.

3 BZA CHAIR HILL: I got you. I know.

4 MR. SULLIVAN: And so, if we could go before any  
5 case that's really long, that would be --

6 (Simultaneous speaking.)

7 BZA CHAIR HILL: Mr. Sullivan, I appreciate that.  
8 And you know we try to do our best. And I got that because  
9 I don't have a long -- I shouldn't say that. I don't have  
10 a lot of cases. Right?

11 So, I'll tell you what I'll do. Mr. Goldfarb, I'm  
12 going to try to -- there's one more case, Mr. Goldfarb.  
13 Okay? And then, there's a couple of things I'm going to try  
14 to do. And then, we're going to take a break. Okay?

15 So, I'm going to try to maybe -- you might be back  
16 here at eleven o'clock. Okay? So, go ahead and take a look  
17 at the record. Mr. Sullivan, if you can reach out to  
18 Mr. Goldfarb or whatever -- okay? -- and then we'll try to  
19 get you back here before that big case at the end of the day.  
20 Okay?

21 MR. SULLIVAN: I appreciate that. Thank you.

22 BZA CHAIR HILL: Okay. All right. Thank you,  
23 Mr. Goldfarb. Thank you, Mr. Sullivan. We'll see you all  
24 later. Bye-bye. Okay, Mr. Young, did you get Mr. Sikder?

25 Great. Mr. Hamala, if you could please go ahead

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1 and -- somebody told me your name rhymes with Kamala. And  
2 so, I've been trying to do it that way, and I've been having  
3 a hard time doing it. Because I have a hard time with Kamala  
4 too.

5 MR. HAMALA: Kamala? Kamala. Kamala.

6 BZA CHAIR HILL: Okay, so could you please call  
7 the ones that the person wasn't here for?

8 MR. YOUNG: Yes. Back before the Board are two  
9 applications by District Properties dot com, Inc., and they  
10 are application numbers 20772 and 20773. And before the  
11 Board is the request for a postponement.

12 BZA CHAIR HILL: Mr. Sikder, can you hear me?

13 MR. SIKDER: Yes, I can hear you.

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

16 MR. SIKDER: Yes, this is Mohammad Sikder.

17 BZA CHAIR HILL: Okay. Okay, sorry, Mr. Sikder.  
18 Can you introduce yourself?

19 MR. SIKDER: Yes, I am the owner of these two  
20 properties.

21 BZA CHAIR HILL: Okay. Mr. Sikder, so you need  
22 a postponement? Why do you need a postponement?

23 MR. SIKDER: Yes, my general manager, Oumar Seck,  
24 he's going to explain. Oumar, are you here? Oumar? I think  
25 he's muted, for some reason.

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1 BZA CHAIR HILL: Mr. Sikder, does your camera  
2 work?

3 MR. SIKDER: Yes, it works.

4 BZA CHAIR HILL: Could you turn your camera on?

5 MR. SIKDER: Oh, sure, sure, sure. Let me -- all  
6 right, it says -- okay, it's not working. I clicked the  
7 start video.

8 BZA CHAIR HILL: Yeah. At the bottom it says,  
9 stop video, start video.

10 MR. SIKDER: Yes. I clicked start video.

11 BZA CHAIR HILL: Yeah.

12 MR. SIKDER: And it's not doing anything.

13 BZA CHAIR HILL: That's okay. All right,  
14 Mr. Seck, can you hear me?

15 MR. SIKDER: Okay, then that's okay. I can  
16 explain.

17 BZA CHAIR HILL: Okay.

18 MR. SIKDER: Now, we had a meeting with ANC, and  
19 they did not like the congested -- the street at J Street to  
20 have -- there's two houses would be built.

21 BZA CHAIR HILL: Got it. Mr. Sikder, I'm going  
22 to interrupt you for a minute, because I see the Commissioner  
23 is here. Commissioner, can you hear me?

24 MR. HOLMES: Yes, this is Commissioner Holmes.

25 BZA CHAIR HILL: Hello, Commissioner Holmes.

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1 Could you introduce yourself for the record, please?

2 MR. HOLMES: Yes, I am Commissioner Holmes and I  
3 am the ANC Chair of 7C.

4 BZA CHAIR HILL: Okay. So, Commissioner, you guys  
5 are still working with the applicant. Is that correct?

6 MR. HOLMES: Absolutely. The applicant asked to  
7 request to be on our meeting once we knew what the date of  
8 the case was going to be. We had a discussion with them in  
9 advance.

10 We actually did a letter of opposition with them,  
11 but then we received an email from them stating that they  
12 were doing a change of the plans. So, based on that we  
13 wanted to go ahead and approve the postponement of this case.

14 We do not meet during the months of July and  
15 August. So, we would like to see either a September or an  
16 October date.

17 BZA CHAIR HILL: Yeah, we're currently looking at  
18 November 9th.

19 MR. HOLMES: That's fine by me as well. We don't  
20 meet in December, so that'll work.

21 BZA CHAIR HILL: Go ahead, Mr. Sikder.

22 MR. SIKDER: Yes, I think it will take little  
23 longer to do all the design items. So, probably, I'd say  
24 maybe in January, February. That should be okay.

25 BZA CHAIR HILL: Okay, yes. Okay, January of

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1 February. Is Mr. Seck there? Mr. Seck, can you hear me?

2 MR. SIKDER: I think he was there. He's there,  
3 but --

4 BZA CHAIR HILL: That's okay, Mr. Sikder.  
5 Mr. Sikder, did you ever come down to the BZA live hearing?

6 MR. SIKDER: Yes, I did.

7 BZA CHAIR HILL: I wish your camera would work.  
8 I haven't seen your face in such a long time. I want to get  
9 a face again. But that's okay.

10 MR. SIKDER: Still, I'm trying. But it is --

11 BZA CHAIR HILL: That's all right. That's all  
12 right, Mr. Sikder. That's all right. Okay.

13 MR. SIKDER: I'm not a great tech person, so I  
14 don't know. It's something --

15 BZA CHAIR HILL: That's all right, Mr. Sikder.  
16 Okay, Mr. Hamala, can you hear me? When are you scheduling  
17 out to? You're not scheduling out from January, are you?

18 MR. HAMALA: Let's see, we are through November.  
19 But I do have a list of hearing dates going into '23.

20 BZA CHAIR HILL: What's the first hearing date  
21 after our break. I think it's probably January 11th?

22 MR. HAMALA: Let's see. I'd like to confirm with  
23 staff, but I have January 4th. Let me make sure that  
24 that's --

25 BZA CHAIR HILL: That's probably not true. Let's

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1 put him on for January 11th.

2 MR. HAMALA: Okay, January 11th.

3 BZA CHAIR HILL: Okay? Okay, Mr. Sikder, that's  
4 going to be for both 20772 and 20773.

5 MR. SIKDER: Sure.

6 BZA CHAIR HILL: Okay?

7 MR. SIKDER: Thank you.

8 BZA CHAIR HILL: Commissioner, is that good with  
9 you guys? Commissioner Holmes, do you mind -- I mean, I  
10 don't see you, right -- January 11, 2023 sound okay?

11 MR. HOLMES: That's fine. It will be a new  
12 commission then, yes. But we'll do it.

13 BZA CHAIR HILL: Oh, God. Okay, well, Mr. Sikder,  
14 you better get in before the commission change. All right,  
15 we're going to go ahead and postpone this case to 1/11/2023.  
16 All right, everybody?

17 MR. SIKDER: Yes.

18 BZA CHAIR HILL: Okay, great. All right, you all  
19 have a nice summer.

20 MR. SIKDER: Thank you.

21 MR. HOLMES: Oh, real quick, this is for 20772,  
22 correct? Because I thought 20773 also.

23 BZA CHAIR HILL: I'm sorry, that is for 20772 and  
24 20773.

25 MR. HOLMES: Okay, both cases.

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1 BZA CHAIR HILL: We're calling them both at the  
2 same time.

3 MR. HOLMES: Thank you.

4 BZA CHAIR HILL: Okay? Okay. All right, I'm  
5 going to please excuse everyone, Mr. Young. Close the  
6 hearing until the postponement.

7 All right, this is my plan, you guys, if this  
8 works for you all. I was going to do the next hearing, which  
9 is 20767, take a break, bring back the one with  
10 Mr. Sullivan's case, and then see what happens. Okay?

11 All right, Mr. Hamala, if you want to call our  
12 next one?

13 MR. HAMALA: Application is 20767, of A.R. Design  
14 Group, Inc. This is a self-certified application pursuant  
15 to Subtitle X, Section 901.2, for a special exception under  
16 Subtitle U, Section 421, to allow a new residential  
17 development.

18 And the project is a proposed expansion of a  
19 detached two-story, four-unit apartment house through a  
20 three-story side and rear addition with cellar, to add twelve  
21 units in the RA1 zone.

22 The property is located at 2817 Buena Vista  
23 Terrace, SE, Square 5729W, Lot 1. And there is one  
24 preliminary matter before the Board, and that is the  
25 applicant's motion to waive the filing deadline for updated

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1 plans, drawing and plat.

2           BZA CHAIR HILL: Okay. Unless the Board has any  
3 issues, I'd like to go ahead and see the updated information.  
4 And if the Board has any issues, please raise your hand.

5           Seeing none? Okay? Ms. Wilson, if you can hear  
6 me, could you introduce yourself for the record?

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

9           BZA CHAIR HILL: Okay, great. Ms. Wilson, I see  
10 your PowerPoint. If you want to go ahead and walk us through  
11 why you believe your applicant is needing the standard and  
12 criteria for us to grant the relief requested. I'm going to  
13 put fifteen minutes on the clock and you can begin whenever  
14 you like.

15           MS. WILSON: Okay, thank you. Mr. Young, can you  
16 please pull up the presentation when you have a minute.  
17 Thank you. Could you go to the next slide, please? Thank  
18 you.

19           So, the property is currently improved with a  
20 four-unit apartment building. The applicant is proposing to  
21 construct an addition to the existing apartment building, and  
22 some of the existing premier walls will be incorporated into  
23 the internal structure within the addition.

24           The project contemplates an interior renovation  
25 to sixteen units, with four units per floor. It include two

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1 IZ units, a one-bedroom and a two-bedroom IZ unit. They're  
2 proposing four parking spaces, where only two are required,  
3 and the project meets all other development standards of the  
4 RA-1 zone.

5 We are requesting special exception relief  
6 pursuant to U-421, as the zoning administrator has  
7 interpreted U-421 to include the expansion of existing  
8 apartment buildings.

9 The Office of Planning is recommending approval,  
10 and DDOT has no objection. Next slide, please.

11 So, in terms of ANC outreach, we do not have a  
12 report. I won't read all of this off, but to summarize, we  
13 reached out when we filed in April, we presented at an SMD  
14 meeting in May, we presented to the full ANC in June and did  
15 not receive a vote. So then, we requested to present again  
16 in July, but were informed that there are no July or August  
17 meetings.

18 At that point, I believe the SMD offered to  
19 possibly write a letter directly supporting the project from  
20 him. We haven't heard back from him on that. He did ask us  
21 to investigate adding parking, but the only place was within  
22 the BRL. And so, of course, DDOT and Public Space had issues  
23 with that. And we are providing double the amount of  
24 required parking.

25 At this point, we presented twice to the ANC,

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1 we've been in communication with the SMD. And so, while we  
2 do not have an ANC report, we've certainly done a lot of  
3 outreach in this case and all we could really do with the  
4 ANC.

5 And so, as the ANC meeting is mid-September, we  
6 would appreciate not being postponed, given our level of  
7 outreach and effort on this case, and the apparent lack of  
8 issues with the ANC. And, of course, we will continue to  
9 work with the ANC. All right, next slide, please.

10 The property is an existing apartment building,  
11 as I mentioned, and the proposal will increase the number of  
12 units and building envelope. There is only one adjoining  
13 property, another multifamily building, and the proposed  
14 building will provide sufficient setbacks.

15 Accordingly, it meets the general special  
16 exception criteria of X-901.2. Next slide, please?

17 In terms of specific criteria, the increase in  
18 twelve units is not expected to have any impacts on area  
19 schools, public streets, recreation or services. The Office  
20 of Planning is recommending approval, and all relevant  
21 materials have been submitted. Next slide, please?

22 This might provide some additional context. There  
23 are existing apartment buildings, both smaller and larger,  
24 in the immediate area. The property is also located less  
25 than a mile from the Naylor Metro Station, and it is about

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1 one-tenth of a mile from the W2 bus line, which is considered  
2 a priority bus line in the District. Next slide, please?

3           These are some additional context photos showing  
4 the property now. And if you could please go to the next  
5 slide, I'm going to turn it over to our architect,  
6 Mr. Iglesias, to briefly walk through the plans.

7           MR. IGLESIAS:       Carlos Iglesias with JMI  
8 Developers. I represent the ownership and its design team.  
9 As Ms. Wilson stated, the project is an existing two-story,  
10 four-unit apartment house, and is proposing to expand the  
11 footprint of that apartment house in the rear and on the  
12 sides.

13           It will still be maintained as a fully detached  
14 structure, and will incorporate a third-floor addition to the  
15 property.

16           The unit count presently is four units for the  
17 first and second floor, and will be increasing to a total of  
18 sixteen units spread across the cellar through the third  
19 floor.

20           As stated earlier, the property presently does not  
21 have any parking. We are proposing to provide four parking  
22 spaces off of the rear alley of the property. The project  
23 will encompass a green roof and some bioretention facilities  
24 in the BRL location, and also on private property, to  
25 meet the GAR and stormwater management requirements for the

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1 site. If there are any questions, I'm happy to answer.

2 MS. WILSON: Great, thank you. That concludes the  
3 presentation. We're happy to answer any questions. Thanks.

4 BZA CHAIR HILL: Okay, great. Does the Board have  
5 questions for the applicant? I had a quick question. Just  
6 about the long-term bike storage. Like, how did you guys  
7 decide to put it there? I mean, that room was already  
8 existing, I guess? Or is that where the long-term bike  
9 storage is?

10 MR. IGLESIAS: Yeah, that room was not existing.  
11 So, it probably was designed originally by a different design  
12 team.

13 And when DCRA and Office of Zoning Administrator  
14 was allowing these applications to be approved as a matter  
15 of right without having to go through the BZA for expansions  
16 of existing apartment houses in the R-1A zone, so we had to  
17 find a way to meet the long-term bicycle storage apartments,  
18 because it wasn't in the previous design, while still trying  
19 to maintain the semblance of the unit count and layout that  
20 was there previously.

21 BZA CHAIR HILL: Okay, great. Thank you.  
22 Chairman Hood?

23 ZC CHAIR HOOD: Yes, I just wanted -- you  
24 mentioned about extensive reach out to, I think, Commissioner  
25 Trantham and the ANC. I just wanted to put on the

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1 record -- because I know we don't want to do it after the  
2 fact, because I know this is an improvement -- but I just  
3 want to put on the record that you again restate that you  
4 have reached out. You've had -- I guess you've had extensive  
5 discussions. What was the response from Commissioner  
6 Trantham? You may have mentioned it, but that might have  
7 went by me. If you could just repeat that.

8 MS. WILSON: Sure. I don't ever want to seek for  
9 a Commissioner. But my understanding is that once we were  
10 informed that there was no July meeting, and we told them,  
11 of course, this hearing's coming up, so it could impact the  
12 hearing if we don't get an ANC report, he offered to possibly  
13 write a letter in support from himself as the SMD.

14 We never heard back from him once we followed up  
15 a couple more times. I'm wondering if he's here today to  
16 possibly say something. But we've received generally  
17 positive feedback.

18 I know that ANC always has concerns over parking.  
19 But we did investigate trying to add a fifth parking space  
20 as he requested, and then we sent him all of the emails from  
21 DDOT and Public Space explaining why we couldn't do that.  
22 So, that's the general conversation that we've had.

23 ZC CHAIR HOOD: Okay. Thank you, Ms. Wilson.  
24 That's sufficient for me. Thank you, Mr. Chair.

25 BZA CHAIR HILL: Sure. Mr. Blake?

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1           MEMBER BLAKE: Any other issues or concerns that  
2 had been raised by the ANC and the SMD? And if so, how did  
3 you address those concerns?

4           MS. WILSON: Not to my knowledge. I don't think  
5 that there were any other major issues raised. The architect  
6 might have more to add, as he attended the ANC meeting. But  
7 what was communicated to me is that there were no other  
8 issues, other than investigating additional parking.

9           MR. IGLESIAS: The single-member District ANC  
10 representative, his major concern was seeing if a fifth  
11 parking space could be added.

12           And we ran that up the flagpoles, essentially,  
13 through Office of Planning and through DDOT, and received  
14 correspondence that it would be highly unlikely that we would  
15 receive approval from the Public Space Committee for locating  
16 a fifth parking space in the building restriction line area,  
17 since, one, we were already exceeding and meeting the  
18 required parking requirements, there wasn't a unique  
19 situation or condition why they would be allowing such items  
20 in the building restriction area.

21           That was the extent of really what the ANC member  
22 wanted to see. But we relayed to him that it was unlikely  
23 to be approved or achieved.

24           MEMBER BLAKE: Thank you. Mr. Iglesias, there  
25 were also some Public Space issues that were going to be

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1 addressed. Have they already been addressed in the design,  
2 or we'll need some design flexibility to accomplish those?

3 MR. IGLESIAS: We may need some design flexibility  
4 with respect to the stairs that are accessing the property  
5 in the front.

6 We did bring that up to Office of Planning and  
7 DDOT in our discussions regarding that additional parking  
8 spaces. But they said it would be through the permitting  
9 process.

10 We are going to schedule a PDRM with them, but it  
11 doesn't seem like it's going to be that big of an issue,  
12 considering the site conditions and elevations. Which is why  
13 it's designed the way it is. They may just want to change  
14 the orientation of the stairs that lead to the first floor  
15 from the grade at Buena Vista.

16 MEMBER BLAKE: But nothing that would require BZA  
17 adjustments.

18 MR. IGLESIAS: No, no. I don't think so at all.

19 MEMBER BLAKE: Thank you.

20 BZA CHAIR HILL: Okay. Let's see, can I turn to  
21 the Office of Planning, please?

22 MR. COCHRAN: I'm Steve Cochran, representing the  
23 Office of Planning for this case. One quick correction on  
24 the bottom of page 2 of our report. It refers to the rear  
25 yard as being existing non-conformity for its depth. It's

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1 not an existing non-conformity. It conforms. So, I'd just  
2 like to correct that for the record.

3 Other than that, I would note that OP has worked  
4 extensively with the applicant on this. The applicant has  
5 been responsive to all of the concerns we've raised about  
6 zoning-related matters, and OP recommends approval on the  
7 project. Of course, I'm happy to answer any questions.

8 BZA CHAIR HILL: Great, thank you. Does the Board  
9 have any questions of the Office of Planning? Does the  
10 applicant have any questions of the Office of Planning?

11 MS. WILSON: No, thank you.

12 BZA CHAIR HILL: Mr. Young, is there anyone here  
13 wishing to speak? Okay. All right, does the Board have any  
14 final questions? All right, I'm going to close the hearing  
15 on the record. Thank you everyone.

16 MS. WILSON: Thank you.

17 BZA CHAIR HILL: Okay. I actually didn't have any  
18 issues with the project. I mean, I think it's relatively  
19 straightforward as to what they're trying to do in terms of  
20 the regulations.

21 I also think that it is nice to see IZ units,  
22 obviously. It's something that the city and the Mayor,  
23 everyone's looking and trying to do more of. I thought that  
24 originally I was like, I think it's kind of a boring  
25 apartment building, no offense. But it seems pretty

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1 interesting that it has -- actually, I take it back. It's  
2 a very nice apartment building.

3 But again, I didn't have any issues with the  
4 application. I would agree with the analysis that the Office  
5 of Planning has provided, and I see that the ANC has had  
6 sufficient outreach, and I'm comforted by the fact that the  
7 applicant has also going to continue to work with the ANC.  
8 And so, I'm going to be voting in approval. Mr. Smith?

9 MEMBER SMITH: I don't have anything in particular  
10 to add. I do agree with your assessment that this is a  
11 fairly straightforward application. And I applaud the  
12 applicant for reaching out with the civic association, with  
13 the ANC, to ensure that their project is compatible with what  
14 they would like to see there.

15 And it seems like by and large the ANC is fairly  
16 happy with this proposal, short of the parking. But the site  
17 is fairly tight, and I don't see how they could add any  
18 additional parking.

19 But nonetheless, they're meeting the parking  
20 requirement. It is, again, always, as you stated, great to  
21 see additional affordable housing being created within the  
22 District, and it's great to see that the applicant is  
23 including two. One of them would be one bedroom, the second  
24 one will be two bedrooms, within this unit.

25 I do believe that the applicant's met the burden

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1 of proof for us to grant the special exception from  
2 Subtitle U, 421, for the new residential development  
3 standards, as outlined within the zoning regulations, and I  
4 will also support this application.

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

6 MEMBER BLAKE: I agree this is a fairly  
7 straightforward application. This is a sizeable lot with an  
8 area of over 8,500 square feet, can handily accommodate the  
9 proposed structure, although it needs some accommodation from  
10 Public Space.

11 It meets development standards of the zone,  
12 including GAR. There'll be two IZ units, as you pointed out,  
13 and one will actually be ADA-compliant, which I think is  
14 something we've not seen necessarily in most cases.

15 There are four parking spaces, where only two are  
16 required, and six long-term biking spaces, where only four  
17 are required. So, I think in that regard, it has met the  
18 obligations that we seek.

19 Everything in my point is supportive of that. I  
20 think the plans in 24A reflect all the concerns that the  
21 Office of Planning had done in its review, so I'd give great  
22 weight to the Office of Planning's recommendation for  
23 approval.

24 I'd note DDOT has no objection, and I do think  
25 that the interaction with the ANC has pointed it in the right

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1 direction. And again, the parking issue, which is, I think  
2 reasonably -- someone requested this ANC has made in the past  
3 is something that the applicant has tried to address, but is  
4 unable to do so. So, with that I'll be voting in favor of  
5 the application.

6 BZA CHAIR HILL: Thank you. Chairman Hood?

7 ZC CHAIR HOOD: I think what's existing, what's  
8 new proposed, is satisfactory for this record. I think this  
9 record speaks for itself.

10 And I think this is definitely an improvement and  
11 meets all the zoning relief. I think that what it doesn't  
12 meet has been mitigated. So, I would be voting in support  
13 of this application.

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

15 VICE CHAIR JOHN: So, I'm also in support of the  
16 application. I think it is fairly straightforward. And it's  
17 unfortunate that we don't have anything from the ANC, but I'm  
18 happy to see that the applicant is providing four parking  
19 spaces, and that there will two IZ units.

20 So, with that, I would go ahead and support the  
21 application. Thank you, Mr. Chairman.

22 BZA CHAIR HILL: Thank you, Vice-Chair John.  
23 Okay, I don't have anything further to add. I'm going to  
24 make a motion to approve application number 20767, as  
25 captioned and read by the secretary, and ask for a second.

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1 Mr. John?

2 VICE CHAIR JOHN: Second.

3 BZA CHAIR HILL: The motion made and seconded.

4 Mr. Hamala, could you please take a roll call?

5 MR. HAMALA: When I call your name, please respond  
6 with a yes, no, or abstain. Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MR. HAMALA: Vice-Chair John?

9 VICE CHAIR JOHN: Yes.

10 MR. HAMALA: Mr. Blake? Mr. Smith?

11 MEMBER SMITH: Yes.

12 MR. HAMALA: Mr. Hood?

13 ZC CHAIR HOOD: Yes.

14 MR. HAMALA: Staff would record the vote as 5-0  
15 to approve the application, with a motion made by Chairman  
16 Hill, seconded by Vice-Chair John, with the support of  
17 Mr. Blake, Mr. Smith and Mr. Hood in support of the motion.

18 BZA CHAIR HILL: Since I said 11:00, and since  
19 it's only going to be five more minutes that we take a  
20 fifteen-minute break, let's go ahead and come back at 11:00.  
21 Okay? If that's good with everybody, we'll do that one case  
22 and we'll probably take another five-minute break, to be  
23 quite honest, before doing the big one that we have today.  
24 So, see you all in twenty minutes. Thank you.

25 (Whereupon, the above-entitled matter went off the

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1 record at 10:41 a.m. and resumed at 11:06 a.m.)

2 MR. HAMALA: After a quick recess, the Board is  
3 back in session at 11:06 a.m. And back before the Board is  
4 application number 20746 of Jordan Rosenstadt.

5 BZA CHAIR HILL: Mr. Sullivan, can you hear me?  
6 And if so, could you reintroduce yourself for the record,  
7 please?

8 MR. SULLIVAN: Yes. Thank you, Mr. Chair. Marty  
9 Sullivan with Sullivan & Barros, on behalf of the applicant.

10 BZA CHAIR HILL: Great. Mr. Goldfarb, if you can  
11 hear me, could you reintroduce yourself for the record,  
12 please?

13 MR. GOLDFARB: Charles Goldfarb, owner and  
14 resident at 1312 T Street, NW.

15 BZA CHAIR HILL: Okay, great. So, thank you all  
16 for rejoining us. And as I mentioned before, I know, to  
17 Mr. Goldfarb in terms of how this whole thing works, the  
18 party status people will get relatively the same amount of  
19 time to give their presentations, but we're not going to,  
20 Mr. Goldfarb, give you a time to kind of speak through your  
21 points.

22 But I'm going to start with Mr. Sullivan.  
23 Mr. Sullivan, I know that you have a PowerPoint there that  
24 we're going to go ahead and pull up, or ask Mr. Young to pull  
25 up. I'm going to put fifteen minutes on the clock,

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1 Mr. Sullivan, so I know where we are.

2           And if you could please explain to us why you  
3 believe your applicant is meeting the criteria for us to  
4 grant the relief requested, and you can begin whenever you  
5 like.

6           MR. SULLIVAN: Thank you, Mr. Chair. And with us  
7 here today is Bill Smith, the project architect, as well as  
8 Mr. Rosenstadt. If we could go to the second slide, please?

9           Property's in the RF-1 zone district. Applicant  
10 is proposing an addition. There are three areas of relief.  
11 One is the ten-foot rule, to go seven feet beyond the ten-  
12 foot mark.

13           And then, the other one is lot occupancy. There's  
14 a very large accessory building on the property, which is  
15 historic and can't be reduced, that takes up a good bit of  
16 the property. So, 65 percent lot occupancy is proposed.

17           And also, this is the new one. A habitable  
18 penthouse is permitted now, but it's subject to the matter-  
19 of-right height.

20           So, it has to be within the matter-of-right height  
21 and there's relief allowed for that under special exception,  
22 and we're asking for an additional, I think it's one foot,  
23 eight inches, above the overall height for the top of the  
24 penthouse. Next slide, please?

25           We do have unanimous support of ANC-1B, and the

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1 Office of Planning is in support as well. Next slide,  
2 please. And I think I'll turn it over to Bill Smith now to  
3 take you through the plans.

4 MR. SMITH: Hi, good morning. I'm Bill Smith, I'm  
5 the architect for this project. And, full disclosure, I'm  
6 also a resident-owner at 1308 T Street, NW. So, neighbors  
7 to both Jordan and Chuck. If we could go to the plans? So,  
8 the next slide?

9 Just to give you a little opening with the photos,  
10 this is an existing photograph of the subject property. On  
11 the right, my own house is 1308 T Street. There, as you see,  
12 have been other projects in recent years that have done  
13 similar additions to what we're proposing, except they have  
14 also added additional floors, which we're not doing. Next  
15 slide, please?

16 Let's go, next slide. Next slide. Go to just  
17 overall site plan. General photos, next slide.

18 So, this is the existing site plan here. Our  
19 property is the one that is not hatched. Next slide, please.  
20 Thank you.

21 All right, so this is what we're basically  
22 proposing. We're proposing a two-story plus basement rear  
23 addition to this existing house. It has an existing carriage  
24 house in the back, which is protected by historic.

25 We are also adding basically a stair-access

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1 penthouse for a proposed new roof deck. We extended it back  
2 this far to basically, in order to accommodate the plan or  
3 the program proposals for the client.

4           And also, one thing that is really special about  
5 these lots is that they're exceptionally deep. They're 125  
6 feet deep, and they are fully south-facing on the back, which  
7 is wonderful for the rear yards, they're substantial for all  
8 of the daylight -- sometimes actually too much daylight --  
9 in our own backyard.

10           But this is why we hoped that we could go back to  
11 this amount, because the rear yard is still about double the  
12 amount of what's required. So, that's a little summary. And  
13 if anyone has any questions, I'm happy to answer and clarify.  
14 Thank you.

15           MR. SULLIVAN: If we could go to the slides with  
16 more narrative on them at the end, and I'll go through the  
17 criteria for approval.

18           The criteria for approval are -- of course,  
19 they're all subject to the general criteria, that this is in  
20 harmony with the purpose and intent of the regulations and  
21 will not tend to adversely affect the use of neighboring  
22 properties.

23           As Mr. Smith noted, there's a large addition  
24 already to the east of Mr. Goldfarb's property, and the  
25 addition goes just seven feet past the ten-foot limit, and

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1 these are south-facing.

2           As the Office of Planning talked about, these are  
3 long lots. The rear yard is noted as 43 feet, but that's  
4 just the distance between the building and the accessory  
5 building. Technically, the rear yard goes from the building  
6 all the way back to the property line.

7           But there's 43 feet of space between the building  
8 and the accessory building, the principal building and the  
9 accessory building. Next slide, please.

10           The specific criteria applied to both the lot  
11 occupancy relief and to the ten-foot rule relief, light  
12 near -- we don't have a shadow study, and we think that the  
13 Office of Planning agreed with us that the evidence was  
14 pretty strong that it wasn't needed in this case for the  
15 reasons pointed out.

16           Also in the Office of Planning report, the deep  
17 lot, the carriage house taking up a lot of space and the  
18 exceptional distance between the building and the carriage  
19 house, and the south-facing configuration as well.

20           For privacy, this actually increases privacy of  
21 use and enjoyment of neighboring properties, and regarding  
22 character, scale and pattern of houses along the street, of  
23 course, it can't be seen from the front. And as noted by  
24 Mr. Smith, there are several other additions in the rear and  
25 this is compatible with the general pattern of some of those

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1 additions in the back. Next slide, please.

2           Toward the end, the relief for the penthouse house  
3 of one foot, eight inches, is just the general criteria.  
4 There aren't any additional specific criteria for that.

5           But we did provide a sightline study showing that  
6 the top of the penthouse won't be seen from the front of the  
7 street anyway, and so we think that meets the general  
8 criteria of the spirit, and the purpose and intent, and also  
9 won't tend to adversely affect the use of neighboring  
10 properties.

11           So, that's it for our presentation. We're  
12 available for any questions.

13           BZA CHAIR HILL: Okay, Mr. Sullivan. All right,  
14 does the Board have questions of the applicant? Sure,  
15 Chairman Hood.

16           ZC CHAIR HOOD: The issue with the penthouse,  
17 Mr. Sullivan. You're already asking for relief for that.

18           MR. SULLIVAN: So, under the latest iteration of  
19 the penthouse regs, which came down I guess in the past year  
20 or so, penthouse is, on singles and flats, wasn't permitted  
21 at all before that. And now, it's permitted, with some  
22 restrictions.

23           One of those restrictions is that the penthouse  
24 must be within the matter-of-right height. So, it has to be  
25 within 35 feet. But the building overall is around 30 feet.

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1 And so, the penthouse will be one-foot, eight inches above  
2 the 35 feet, and special exception relief is provided for  
3 that as well.

4 So, it's not the penthouse height itself. The  
5 penthouse has to be within nine feet and its safely under  
6 nine feet. But the overall height of the building and  
7 penthouse has to be within the 35-feet, or you have to ask  
8 for relief. And that's what we're asking for.

9 ZC CHAIR HOOD: Right, and that's my question.  
10 Maybe I'm not understanding something. Why can't we come  
11 into compliance with the penthouse? What is the shortfall?  
12 Maybe I'm missing.

13 MR. SULLIVAN: Well, the penthouse and the  
14 building together will be one foot, eight inches, over the  
15 maximum permitted height of 35 feet. And I could turn it  
16 over to the architect if the question is about why  
17 programmatically that relief is being requested, if you have  
18 anything to add about that.

19 (Simultaneous speaking.)

20 ZC CHAIR HOOD: That's where I'm going. So, the  
21 architect, if you can answer that, Mr. Smith?

22 MR. SMITH: Hello. So, basically, the reason why,  
23 I think the penthouse itself is maximum, we're allowed nine  
24 feet. I think I had that set at eight, with the most minimum  
25 interior ceiling height at seven feet, which basically sits

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1 on the existing roof of the townhouse. The parapet in the  
2 front takes the townhouse up a little bit taller.

3 But in order to be able to have the stair access  
4 to the roof deck, and keeping the interior ceiling height at  
5 seven feet at its most minimum, and then with a foot with the  
6 roof structure package of the penthouse, that takes us up to  
7 one foot, I believe eight inches, above the building height.

8 So, with the penthouse sitting on top of the  
9 existing roof of the townhouse, that's what put us over the  
10 top a little bit, if that is clear.

11 ZC CHAIR HOOD: Yeah, that's what I wanted to  
12 understand. Okay, thank you. I have no further issues.

13 MR. SMITH: All right, thank you.

14 BZA CHAIR HILL: Anyone else from the Board?  
15 Mr. Goldfarb, do you have any questions on the presentation?

16 MR. GOLDFARB: Yes, I guess because it relates to  
17 questions I have relate to what he had in his PowerPoint that  
18 I just saw. But is that separate from my presenting my  
19 argument against this? I guess I'm a little confused by the  
20 process.

21 BZA CHAIR HILL: Sure. No problem.

22 MR. GOLDFARB: I guess I could combine both. That  
23 may be reasonable.

24 BZA CHAIR HILL: Mr. Goldfarb, why don't you go  
25 ahead and give your presentation. And then, the Board may

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1 have questions of your presentation. And then, also you may  
2 ask questions of the applicant after your presentation.  
3 Let's just maybe see where we get.

4 MR. GOLDFARB: Okay. It should be fairly brief.  
5 First, let me start, because I did see the presentation,  
6 there's a mention of an ANC approval. I was never even told  
7 there was any sort of ANC meeting.

8 And so, no neighbor was informed of this. So,  
9 they might have gotten some opposition if I had had an  
10 opportunity to speak earlier. And some of the other  
11 neighbors, none of the neighbors ever received that.

12 In terms of the discussion of the impact and the  
13 site plan provided, very cleverly leaves out the fact that  
14 I have a deck there. And I did provide -- I hope people have  
15 the access to the photograph I provided. And you can get a  
16 sense of what my major concern is.

17 Indeed, some light will be blocked from the west,  
18 and in the afternoon and evening, from all my rear windows.  
19 And think of this, as you look at that photo, we will now  
20 have on the other side of me, three stories high, a wall  
21 coming out seventeen feet.

22 My deck, which I use on a very regular basis, have  
23 many meals out there, will now be boxed in between the high  
24 wall at 1310 and the high wall at 1314.

25 Now, I understand by the current rules, that they

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1 can build out, oh nine or ten feet possibly, on that west  
2 side.

3 By coming out seventeen feet, my deck is sixteen  
4 feet, two inches deep. And of course, the last foot of that  
5 is taken up by the railing.

6 Now, where I sit for meals on a very regular  
7 basis, I will now have, blocked both from the east and the  
8 west, from having views. I will no longer have the views of  
9 sunsets, evenings. I will not have -- and maybe even more  
10 important, an air flow.

11 I can tell you, from just having had the  
12 experience of the extension at 1310, there are many days that  
13 I used to be able to sit out there, that I'm no longer able  
14 to, because of how hot it gets.

15 If I am boxed in by an equal wall -- and actually,  
16 an even longer wall -- seventeen feet out on the west side,  
17 I will be losing even more time when it can be comfortable  
18 to be out there and use my property.

19 I mean, there's been no explanation of why they  
20 have to build out more than what the current zoning laws  
21 allow, other than they want to. And no special reasons. So,  
22 I don't understand why they should get a special exception  
23 for doing that.

24 But by doing that, I effectively get -- and again,  
25 look at this. You will see well past where that holly tree

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1 is, there will be a wall up three stories high. And I'm just  
2 locked in. I lose the comfort of using that deck, which is  
3 something -- I've lived here 29 years in this house, and it's  
4 something that I will lose use of.

5           It will cut back also on environmentally -- yes,  
6 we have nice backyards. What that has meant is that we have  
7 had the ability to have a very nice ecosystem there. I have  
8 a very large fish pond, 20-foot by six-foot fish pond that  
9 my husband built.

10           We have butterflies, we have birds, we have  
11 squirrels. We have something that keeps getting encroached  
12 on.

13           Now, I understand the right to encroach on within  
14 the zoning rules. But to be giving exceptions for no obvious  
15 reason, to a zoning rule to further encroach on this  
16 ecosystem that this block enjoys, I just don't understand why  
17 the Zoning Board would be approving that.

18           Let me just see if there's anything else in  
19 particular. I guess not. I guess that's really -- I'm not  
20 concerned about the height issue. That one doesn't concern  
21 me, especially if it's within sort of the current height or  
22 the current outline of the building. I am much more  
23 concerned about it taking away my use of my backyard.

24           BZA CHAIR HILL: Okay. All right, Mr. Goldfarb,  
25 thank you. All right, I think it's pretty clear why

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1 Mr. Goldfarb is concerned about it. Does anybody have any  
2 questions of Mr. Goldfarb?

3           Okay. Mr. Goldfarb, I think, again, it's pretty  
4 clear, as you've seen the presentation that the applicant put  
5 forward, do you have any questions of the applicant?

6           MR. GOLDFARB: Well, I guess it's a basic question  
7 of, what is it that you offer, other than pure private  
8 interest, but for the community, of building out those seven  
9 feet? I think it takes away from the neighborhood.

10           I don't understand why -- now, the invitation is  
11 that it's something like 3,050 square feet in that front  
12 building now if this went through. Why is a 1,000 square  
13 feet needed for a rental unit in the basement, rather than  
14 800, or 900. There's no obvious reason why they're  
15 building --

16           BZA CHAIR HILL: Okay. I got it, Mr. Goldfarb.  
17 Yeah, I think probably the answer is what the answer is that  
18 you know. But I'm going to go ahead and check with  
19 Mr. Sullivan again, or the architect.

20           Mr. Sullivan, programmatically, what is it that  
21 you need the additional seven feet for?

22           MR. SULLIVAN: I'll turn it over to Mr. Smith.

23           BZA CHAIR HILL: Mr. Smith?

24           MR. SMITH: With the additional seven feet, it's  
25 for basically the basement apartment, so it can be a two-

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1 bedroom rental unit. Also, on the upper level, so it can  
2 have basically two bedrooms and a middle study.

3 I was basically designing it according to the  
4 requirements of the program for my client. And again, living  
5 on this block and understanding how the light and the air  
6 works, my own house is bookended by basically two properties,  
7 one that goes back fifteen feet and one that goes back  
8 24 feet.

9 And my husband and I actually prefer having the  
10 shade, because it bakes in the sun. It creates privacy --

11 BZA CHAIR HILL: That's okay. I got you,  
12 Mr. Smith.

13 MR. SULLIVAN: And that's why I felt  
14 comfortable --

15 BZA CHAIR HILL: I'm just trying to understand  
16 programmatically with the additional seven feet. So, back  
17 to the other question again. Okay, how come you guys didn't  
18 go like eight feet? Ten feet? Like, why is it that -- I'm  
19 just curious how you got to seven.

20 MR. SMITH: Seven additional feet?

21 BZA CHAIR HILL: Yeah.

22 MR. SMITH: Because I wanted to keep as much of  
23 the rear yard as possible, because it is nice having the  
24 green space.

25 BZA CHAIR HILL: Mr. Sullivan, is it a lot

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1 occupancy issue?

2 MR. SULLIVAN: We're asking for 65 percent. Yeah,  
3 because -- I mean, most of that is triggered by the large  
4 accessory building, which can't be reduced.

5 BZA CHAIR HILL: I understand.

6 MR. SULLIVAN: So, yes, 65 percent. We're not  
7 going the full 70, no.

8 BZA CHAIR HILL: You're at 65.

9 MR. SULLIVAN: Correct.

10 BZA CHAIR HILL: Okay. All right. Let's see,  
11 Mr. Goldfarb, did you get your question answered?

12 MR. GOLDFARB: Yes, I think I got the question  
13 answered. But I do have one more question, because I did  
14 have communication with my neighbor while we had this break.  
15 And he had made a request that I remove myself as a party.

16 And I want to understand what that would mean.  
17 He said I would still have -- you would hear my testimony,  
18 which you have. But I need to have an understanding what  
19 that means before I might agree to something like that.

20 I'm not sure I would, but what does it mean for  
21 me to say I'm no longer --

22 BZA CHAIR HILL: Yeah, that's okay. Mr. Goldfarb,  
23 I mean, I don't really know specifically about -- basically,  
24 I don't want to advise you one way or the other about any of  
25 this. I mean, what party status allows you to do is be

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1 involved with this hearing in a way that is different from  
2 being a member of the public. Right?

3 If you're a member of the public, you would have  
4 three minutes to testify and that's it. Okay? Since you're  
5 now a party, you actually have a bunch of different rights.  
6 Right? Which is to participate in this hearing the way you  
7 are. Right?

8 Also, what that tends to do is that -- and this  
9 is actually just something that's outside of the regulations,  
10 but if there are other people that are in opposition to the  
11 project, it tends to take longer for the project to work  
12 through the system. Right?

13 But as a party, you then will get information  
14 about anything that's going on with the case moving forward.  
15 Right? They'll have to send you information, right? If they  
16 change anything, if anything happens, X, Y, Z. Right?

17 If you're a member of the public, you don't get  
18 any of that stuff. Right? So, if you're a member of the  
19 public, you wouldn't even be here right now. Right?  
20 There'll be a portion of this hearing where you will hear,  
21 and we're going to talk to the public, and that's all you  
22 would have given.

23 But I'm not really a legal expert necessarily in  
24 zoning. But I'm just giving you my understanding of  
25 everything. Okay?

1 MR. GOLDFARB: Thank you. That helps.

2 BZA CHAIR HILL: Sure. Do you have any other  
3 questions of the applicant?

4 MR. GOLDFARB: No.

5 BZA CHAIR HILL: All right, could I turn to the  
6 Office of Planning, please?

7 MR. KIRSCHENBAUM: Good morning, Chair Hill,  
8 members of the Board of Zoning Adjustment. I'm Jonathan  
9 Kirschenbaum from the Office of Planning. We recommend  
10 approval of the ten-foot rule special exception, the lot  
11 occupancy special exception, and the penthouse special  
12 exception. And we rest on our staff report. Please let me  
13 know if you have any questions. Thank you.

14 BZA CHAIR HILL: Right. So, again,  
15 Mr. Kirschenbaum, so I'm going to jump around just a minute.  
16 Mr. Goldfarb, so the ANC meeting, it's disappointing that you  
17 missed the ANC meeting. And it's too bad the people in the  
18 city don't really understand the ANCs that well. I mean,  
19 they meet every month. Right?

20 And so, I'm just letting you know that, like you  
21 must have gotten something in the mail, whether it got missed  
22 or whatever, right? And at least there was a placard next  
23 door that said this was happening. Right? And then, there  
24 is an ANC meeting.

25 So, the ANC meeting happened. And your SMD should

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1 have -- I mean, it's too bad that like you didn't know about  
2 it, or -- and I don't know why your neighbors don't  
3 understand that an ANC meeting happens. It happens every  
4 month. You guys are in an ANC.

5           And so, I'm just trying to point out,  
6 Mr. Goldfarb, it's too bad. Like, it's happened. Right?  
7 But I'm just trying to let you know that there was  
8 notification, and it's always disappointing that people don't  
9 understand that their ANC meetings happen, and it happens  
10 with stuff that's going on in their immediate neighborhood.

11           It was more of a comment, Mr. Goldfarb. I'm sorry  
12 you missed it.

13           MR. GOLDFARB: I understand that, but I think  
14 you're naive in believing the ANC gets any communication out  
15 to people -- at least my local ANC. They're busy running for  
16 City Council.

17           BZA CHAIR HILL: Yeah, okay. So, Mr. Goldfarb,  
18 I'm not naive. I've been here a long time as the different  
19 ANCs. And different ANCs work in different ways. I don't  
20 know what your particular SMD is like, or your particular  
21 ANC, but anyway, I'm sorry you missed it, it what I'm trying  
22 to get at.

23           Okay, does the Board have any questions of the  
24 Office of Planning? Oh, sure, go ahead, Ms. John.

25           VICE CHAIR JOHN: Mr. Kirschenbaum, can you just

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1 talk about any potential adverse impact in terms of light and  
2 air or privacy?

3 MR. KIRSCHENBAUM: Sure. So, we don't think there  
4 would be undue impacts to light and air, given that this  
5 property is located on the southern side of the street. So,  
6 if there are any increased shadows from the addition, it  
7 would be primarily facing north, sort of above the roofs of  
8 either property on either side, and primarily on T Street.

9 The addition is under the permitted height limit  
10 of 35 feet. The first addition would only be 30 feet. So,  
11 we would not be increasing height.

12 And regarding privacy and driving through, there  
13 wouldn't be any windows on either side of this addition  
14 facing the properties to the east and the west. There will  
15 be windows on the south side of the addition, but that would  
16 be separated by a very deep rear yard and public alley for  
17 any properties that are south of here.

18 VICE CHAIR JOHN: So, if I could follow up,  
19 Mr. Chairman. And in terms of the additional seven feet,  
20 which is beyond the matter-of-right ten feet, what potential  
21 adverse impact do you see, or not see?

22 MR. KIRSCHENBAUM: Well, that doesn't change from  
23 the testimony that I just gave.

24 VICE CHAIR JOHN: Okay.

25 MR. KIRSCHENBAUM: And also, this is a built-out

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1 row house neighborhood, and row houses are close together.  
2 This is also just sort of the general rules condition of this  
3 area, where houses are very close together.

4 VICE CHAIR JOHN: Okay, thank you, Chair.

5 BZA CHAIR HILL: Sure. Chairman Hood?

6 ZC CHAIR HOOD: This is actually -- at the  
7 appropriate time I do have a question for Mr. Goldfarb, and  
8 it is something that Mr. Kirschenbaum in his testimony -- at  
9 the appropriate time I do have a question for Mr. Goldfarb.  
10 So, I may have missed it for that moment.

11 BZA CHAIR HILL: Sure. You can ask now if you  
12 want.

13 ZC CHAIR HOOD: Okay. Mr. Goldfarb, you may have  
14 mentioned this and I may have forgotten it just that quick,  
15 because I was reading some stuff.

16 You had mentioned that your neighbor mentioned  
17 about you withdrawing your party status. Obviously, you were  
18 having a conversation. Obviously, you were almost there for  
19 you to mention it back to us. What was it that would have  
20 made you -- it sounded like all this would have went away.  
21 Because, really the impacts are still there, but it sounds  
22 like you were considering that. Can you give me a little bit  
23 more insight on that discussion?

24 MR. GOLDFARB: Well, I mean, it was just a quick  
25 discussion where he asked if I would remove it because it

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1 would move up the process by about a year. And I asked,  
2 well, what exactly does that mean, and what do I gain or  
3 lose?

4 And as the Chairman indicated, what I seem to lose  
5 is an ability to always learn about any changes. And I say  
6 that because I know a little bit from what went on on the  
7 other side of my house, being kept informed of sudden changes  
8 and things is important, or something can happen that can  
9 harm me.

10 And as it is, I feel like my deck, where I spend  
11 a lot of time, is now boxed in. And it's --

12 ZC CHAIR HOOD: Okay, I think I got your point.  
13 I thought there was an offer made to lessen the impact --

14 (Simultaneous speaking.)

15 MR. GOLDFARB: No, there was no offer made to  
16 lessen the impact.

17 ZC CHAIR HOOD: Okay.

18 MR. GOLDFARB: I just say I'd be real comfortable.  
19 You stick with the ten feet. You have a right to that. I  
20 don't see how you made any argument successfully for an  
21 exception.

22 ZC CHAIR HOOD: Thank you, Mr. Goldfarb, you've  
23 answered my question. Thank you. Thank you, Mr. Chairman.

24 BZA CHAIR HILL: Thank you, Chairman Hood. All  
25 right, anyone else for the Office of Planning? By the way,

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1 I don't know where I am with this one. I'm going to talk  
2 about it for a little bit, because I want to talk at least  
3 with the fact that this ten-foot thing comes up all the time.

4 And I know where this property is. I know the  
5 neighborhood. Anyway, so I just have some questions and  
6 stuff, to talk with my Board members. Does anybody have  
7 questions of the Office of Planning, from my Board? Okay.

8 Mr. Goldfarb, do you have any questions for the  
9 Office of Planning?

10 MR. GOLDFARB: No.

11 BZA CHAIR HILL: Okay. Mr. Sullivan, do you have  
12 any questions of the Office of Planning? Okay, well, I'll  
13 go back to this. Mr. Kirschenbaum, again, so as far as like,  
14 again, the additional -- I mean, we're talking about the  
15 seven feet increase from the ten feet that's a matter of  
16 right.

17 The Office of Planning I'm sure looked at the  
18 adjacent property, and that the adjacent property is already,  
19 like, built that out. Why did they look at the adjacent --  
20 or maybe I'm confused. The adjacent property is built out  
21 or is not built out past the ten feet and lost.

22 MR. KIRSCHENBAUM: Which adjacent property are you  
23 talking about?

24 BZA CHAIR HILL: I'm talking about Mr. Goldfarb,  
25 I'm sorry. So, what is the other side of Mr. Goldfarb,

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1 again? Did the Office of Planning look at that, whether or  
2 not Mr. Goldfarb was going to be, quote unquote, boxed in?

3 MR. KIRSCHENBAUM: I didn't understand that  
4 question.

5 BZA CHAIR HILL: Okay, that's all right. I'm  
6 going to answer my own question in a second,  
7 Mr. Kirschenbaum. Can you tell me again how the Office of  
8 Planning decided that the increased seven feet wasn't going  
9 to be undue impact in terms of -- just say it again,  
10 Mr. Kirschenbaum -- the increased shadowing and the effects  
11 on basically the light.

12 MR. KIRSCHENBAUM: Sure. So, again, this  
13 property, or this entire row of buildings, is on the southern  
14 side of the street. So, I believe the shadows will, just in  
15 general, will work, is that it's going to start -- there's  
16 going to be sort of shadows starting sort of on the eastern,  
17 northeastern side of the property, and they're going to cast  
18 the light over on to T Street, and the majority of the  
19 shadows from -- if there would be any additional shadows  
20 created, the majority most likely would be on T Street  
21 because of the way the property is sited.

22 BZA CHAIR HILL: Okay, I got my question.  
23 Mr. Smith, can you hear me? And I'll get to you, Mr. Blake.  
24 Are you guys basically matching up to 1310?

25 MR. SMITH: 1310? We are going, I think about a

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1 foot, foot-and-a-half, or two feet beyond that. For 1318,  
2 that I believe goes back about 24 feet in all.

3 BZA CHAIR HILL: Okay, right. So, you're going --  
4 okay. Right, but you're going a foot-and-a-half back farther  
5 than 1310.

6 MR. SMITH: Correct.

7 BZA CHAIR HILL: Okay. Give me one second,  
8 Mr. Goldfarb. I'm still with my Board members. Mr. Blake,  
9 you had a question?

10 MEMBER BLAKE: Well, could you address the issue  
11 of air flow?

12 MR. KIRSCHENBAUM: Sure. So, again, the proposed  
13 addition would be under the maximum height permitted by the  
14 zone. It's only going to be 30 feet, the zone allows  
15 35 feet.

16 The rear yard is 42 feet in depth. And so, given  
17 the height and the setbacks, between the height and setbacks  
18 that help regulate air flow, the addition complies with that.

19 MEMBER BLAKE: Thank you.

20 BZA CHAIR HILL: Okay, anyone else for  
21 Mr. Kirschenbaum? Okay, Mr. Goldfarb, you had your hand up?

22 MR. GOLDFARB: Yes, because you were asking about  
23 the ten feet. My deck -- it's hard to see in this photo --  
24 but the deck is a total of sixteen foot, two inches. It's  
25 basically nine feet initially, and then two steps down, and

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1 then the last six or seven feet.

2           That last seven feet is where you can kind of see  
3 with the umbrella. That's where we have our meals. That is  
4 where it's really most important not to get blocked out.

5           So, if they come back nine or ten feet, I wouldn't  
6 love it, but it's certainly something that doesn't have  
7 nearly the same kind of impact on me.

8           Going those additional seven feet very much  
9 affects me, because that is where I have a table and chairs,  
10 and where we eat.

11           And so, that move back is a very major -- that  
12 request for seven feet has a major impact on me.

13           BZA CHAIR HILL: Got it. Okay, Mr. Goldfarb.  
14 I'll get you, Mr. Blake. One second, because I had a  
15 question for the Office of Planning, sorry.  
16 Mr. Kirschenbaum, when you guys look at -- I always forget  
17 this -- you all don't look at kind of how the whole block  
18 might change over time. Correct? You're just looking at it  
19 on an individual basis.

20           Or do you guys kind of look at how the whole block  
21 might change over time?

22           MR. KIRSCHENBAUM: Generally, we look at what the  
23 criteria says, and that's about it. The criteria is worded  
24 in adjacent properties.

25           BZA CHAIR HILL: Okay. Because, Mr. Goldfarb, I

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1 mean, I don't know what's going to happen here. I'm just  
2 saying, like, if this were to end up going through, then you  
3 basically could build all the way back to everybody else as  
4 well. Right?

5 MR. GOLDFARB: That's true. But I just spent a  
6 lot of time redoing my kitchen and interior. Because I'm  
7 75 years old and I do not want to go through having to do a  
8 year-and-a-half, a two-year build-out.

9 I've lived through sixteen months of hell with the  
10 build-out on one side of me. I'm not thrilled that I'm going  
11 to have to deal with the other. Legally, I have no problem  
12 with them doing what the rules are now. I get really  
13 disturbed about an exception that will make it longer to get  
14 completed, and also more disruptive in my life.

15 BZA CHAIR HILL: I got you, Mr. Goldfarb. All  
16 right, anybody got anything for anybody? Vice-Chair John?

17 VICE CHAIR JOHN: Yes. So, this is for the  
18 applicant. I'm not sure who wants to answer. So,  
19 Mr. Goldfarb just mentioned how difficult it is to be living  
20 next to a massive construction project for seventeen months.

21 I was wondering if the parties had discussed a  
22 construction management agreement which would let  
23 Mr. Goldfarb know what to expect and how it would be handled.  
24 I don't know who wants to answer.

25 MR. SULLIVAN: Yes. I'm sure -- yes, we would

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1 definitely consider that. And I'd like to -- I think maybe  
2 Mr. Rosenstadt can talk a little bit about the discussions  
3 he has had and what his intentions and plans are during the  
4 construction. Jordan, if you could --

5 MR. ROSENSTADT: Can you hear me?

6 BZA CHAIR HILL: Yeah, could you introduce  
7 yourself for the record please, sir?

8 MR. ROSENSTADT: Sure, thank you. Jordan  
9 Rosenstadt, and I'm the owner of the subject property,  
10 1314 T Street.

11 To the question around construction management,  
12 and in general, both myself and the architect, Bill Smith,  
13 have been in touch with Mr. Goldfarb as we've been going  
14 through this sort of design process, to keep him informed.

15 Obviously, it's important to me to be a good  
16 neighbor. I mean, we all have to coexist harmoniously. So,  
17 I want to be sure that he's in the loop.

18 And we had met a week or two ago to discuss just  
19 that, the construction. And I'd indicated to him, of course,  
20 we'd like to get it done as quickly as possible, and we would  
21 want to know if he's to have times at his house where things  
22 need to be kept quiet, and we'll see to it that we're not  
23 working, or working loud, on those days.

24 And so, with all these construction projects,  
25 nobody's really -- it's never enjoyable for anyone. So, it's

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1 important to me that we're being good neighbors, and being  
2 respectful of the fact that they do spent a bit of time at  
3 home and have gatherings and so forth.

4 So, we fully intend to keep him in the loop  
5 throughout the process.

6 VICE CHAIR JOHN: Thank you.

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

9 MR. YOUNG: We do not.

10 BZA CHAIR HILL: Okay. Mr. Sullivan, do you have  
11 anything in rebuttal and conclusion? Well, actually, let me  
12 do this. Go ahead and do rebuttal. And then, I want to let  
13 Mr. Goldfarb have a conclusion. And then, go ahead,  
14 Mr. Sullivan, you'll also conclude.

15 MR. SULLIVAN: If Mr. Smith has anything for  
16 rebuttal or not. Bill, if there's anything you think you  
17 would want to respond to specifically, feel free.

18 MR. SMITH: Hi, thank you. Bill Smith again, the  
19 architect for the property. I think I mentioned everything,  
20 in terms of how my experiences on the block a few doors down.  
21 I think I made that clear, so I don't believe that there's  
22 any more rebuttal, other than what I've already explained.

23 MR. SULLIVAN: Okay, thank you. So, we'll have  
24 a closing then, Mr. Chair. Thank you.

25 BZA CHAIR HILL: Okay. Mr. Goldfarb, is there any

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1 conclusion you'd like to give us?

2 MR. GOLDFARB: Yes. I would say that obviously  
3 my concern is I get boxed in between two high walls, one  
4 four-story high and one three-story high.

5 If the new property, or the new building to my  
6 west were to extend ten feet, it would have a disruption, but  
7 not a very significant major disruption, on my life.

8 Allowing seventeen feet out has a major impact.  
9 And I don't think there's been any demonstration that there's  
10 any particular benefit that should allow for a special  
11 exception.

12 BZA CHAIR HILL: Okay. Thanks, Mr. Goldfarb. All  
13 right, Mr. Sullivan.

14 MR. SULLIVAN: Thank you, Mr. Chair and members  
15 of the Board. Just to highlight some of the reasons why in  
16 this particular situation there are certain elements of the  
17 existing buildings and the size of the lots and the size of  
18 the yards, that allow for the special exception and allow for  
19 the finding that it's not substantially adverse impact to  
20 this neighbor.

21 It is a story lower, as Mr. Kirschenbaum  
22 mentioned. It's 30 feet high. It's one story less than the  
23 building on the other side. There are very deep lots with  
24 southern exposure.

25 There's more than twice the required area between

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1 the building and the accessory building. And the applicant  
2 went, as Mr. Smith explained, went as far as was required to  
3 get the bedrooms that they needed to get and not beyond,  
4 which stopped at 65 percent lot occupancy, with a large rear  
5 yard.

6 And some of the other things I know, that they're  
7 really not relevant to the situation whether there's the need  
8 for the special exception. Property values, of course, as  
9 Mr. Chairman maybe alluded to, could increase as much as  
10 decrease objectively, because of the additional length now  
11 available, and that building in the middle.

12 And I think that's all I have. I mostly just  
13 point to Office of Planning's positions. I thought they gave  
14 a very detailed analysis of the specific situations here for  
15 these properties, that show that it meets the special  
16 exception criteria. Thank you.

17 BZA CHAIR HILL: Okay, anyone else? Okay, I'm  
18 going to go ahead and close the hearing and the record.  
19 Thank you all very much for your participation.  
20 Mr. Goldfarb, thank you for your participation. And I'm  
21 going to let everybody go.

22 I got to say, I don't know what to do. Right?  
23 Like, and maybe you all know. Actually, I should say I know  
24 what seems to be what has happened in the past, and I like  
25 to be consistent for the public, so that people know what

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1 they can expect from the Board, and what it is that we look  
2 at.

3 I guess I always get a little confused with this  
4 undue impact, and the ten-foot rule versus more going for --  
5 I'm going to be in the middle right now. I'm going to wait  
6 to hear what you all say. Okay?

7 So, there's an additional seven feet. Normally,  
8 I mean, I think I can understand why the Office of Planning  
9 is in agreement. I can understand why the ANC is in  
10 agreement.

11 Either side, the buildings would basically kind  
12 of match up. It's south-facing, so that the light -- we have  
13 definitely approved things that have had more of an impact,  
14 I think. I just am a little torn on this one. And maybe  
15 it's just me today.

16 But I'm going to wait and see what everybody else  
17 has to say. Who would like to go next and please raise your  
18 hand, because I'm not going to call on anybody. Sure,  
19 Chairman Hood?

20 ZC CHAIR HOOD: Typically I use -- and I can get  
21 the conversation started. My colleagues, we usually wait and  
22 let the Board, as you mentioned earlier -- a little bit too  
23 earlier -- we're not here consistently. I did catch that  
24 draft.

25 Anyway, I will say that I've had an issue with the

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1 ten-foot rule. And you're exactly right, Mr. Chairman, I've  
2 seen what I would consider as worse. I think unduly, it's  
3 more subjective, as opposed to objective. And I think I said  
4 that correctly.

5 I've asked the Office of Planning to revisit the  
6 ten-foot rule, because I honestly -- and like I say, I'm not  
7 here every week -- I don't think we've ever turned the ten-  
8 foot rule. Now, we go beyond it now. And that's been a  
9 consistent problem.

10 I don't think you all ever heard me raise it. You  
11 may have done some, I'm just not familiar with it. It seems  
12 like there are more proven than done, and you're correct.

13 But some of the comments I've heard here,  
14 especially when you look at the rear wall extension and  
15 what's being asked for, I believe it's perfectly consistent  
16 with what this Board has done.

17 Now, as far as I'm concerned, do I necessarily  
18 agree with it? No. That's why I've asked the Office of  
19 Planning to come back and give you all some more tools in the  
20 toolkit. I do need -- and I'm glad this came up, because I  
21 actually just got off my radar with everything else, I  
22 actually need to talk to the Office of Planning to see where  
23 this is on our list, along with RA zones and some other  
24 things that I've asked for, that we have not had more of a  
25 discussion.

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1           So, unduly, I would concur with the Office of  
2 Planning in their report, especially in this case and how the  
3 Board has been moving previously. I think Mr. Goldfarb has  
4 a point, but I think you raised some other issues, as how has  
5 this been looked at overall.

6           So, I don't know if that necessarily starts the  
7 discussion. I don't normally like to start it, but I can  
8 just tell you that those are some of the concerns that I'm  
9 looking at from the Commission side, is to give the Board  
10 more tools when it comes to going beyond the ten-foot rule.

11           And one of the things that I know that you all do,  
12 or what the BZA does see a lot of, is deep lots. And I know  
13 that the residents in this city want to continue to build in  
14 place and age in place, and whatever the case may be.

15           So, I don't know if that helps in this situation.  
16 But I think that I would concur with the Office of Planning's  
17 report when it comes to the rear wall, the lot occupancy, and  
18 the penthouse.

19           We always put regulations in place. And the  
20 penthouse under Subtitle C, 1501.1, I would have to accept  
21 what Mr. Sullivan said, because it's very diminished. So,  
22 that's kind of where I am, Mr. Chairman. If that starts the  
23 discussion here.

24           BZA CHAIR HILL: Okay. Who would like to go next?  
25 Sure, Mr. Smith?

1           MEMBER SMITH: I agree with Chairman Hood that the  
2 regulations for the ten-foot rule are subjective, as opposed  
3 to objective.

4           There have been a couple I can think of off the  
5 top of my head, of cases similar to this where they were  
6 asking for more than ten feet, that we have denied them.

7           But for what I remember, getting to your issue,  
8 or the comment that you made about how the Board has looked  
9 at these in the past, and raising the caveat that every  
10 special exception should stand on its own merits, but the  
11 ones that we have denied, or the way that we've looked at  
12 these cases in the past from what I remember, is questions  
13 about undue adverse impact.

14           We've looked to the sun studies to see if there  
15 was a substantial or reasonably substantial impact on the  
16 light and air of the adjacent property owner.

17           We've also looked at the character. So, we've  
18 looked at the character along the block, which I believe that  
19 some might use, some of my colleagues, and ask these  
20 particular questions of the applicant today for this case:

21           What is the character along the block in the rear?  
22 What is the depths of the row homes? So, I agree with  
23 Chairman Hood. I welcome the Zoning Commission having this  
24 discussion. And just to put on Mount Zoning, other  
25 jurisdictions look at the average. They look at the average

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1 along the block, or look at the average adjacent to the  
2 properties to the left and the right. If that's the average  
3 along the block, or two properties out from that property.

4 I've seen it done. That could be one starting  
5 point of discussion piece that Chairman Hood could have with  
6 this Commission.

7 And about adding some additional teeth. It may  
8 require some additional criteria beyond the standard special  
9 exception criteria that we're looking at for these types of  
10 cases.

11 So, nevertheless, in looking at this particular  
12 case, I agree with the Office of Planning's assessment on  
13 this particular case.

14 Getting to the character, I do believe that yes,  
15 this is more than ten feet beyond the rear wall on one side,  
16 on Mr. Goldfarb's side. But looking at images that were  
17 submitted, looking at Google Earth images, it is not out-of-  
18 character within this neighborhood, to have rear additions  
19 that extend more than ten feet back from an adjacent  
20 property.

21 And I do believe that the way it's designed, it  
22 would not have a substantial impact on the air. And also,  
23 to Mr. Kirschenbaum's point, being that it's on the south  
24 side of the street, and this particular property is to the  
25 west of Mr. Goldfarb's property -- the sun rises in the east

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1 and sets in the west -- the shadow will have more of an  
2 impact on the property that would be to the west of the  
3 property in question, not necessarily to Mr. Goldfarb's  
4 property.

5 I understand his concerns and I fully respect his  
6 concerns. But the criteria that we have to evaluate this  
7 particular case is undue adverse impact. And based on that  
8 provision, there would not be, in my assessment, an undue  
9 adverse impact on the light to the adjacent properties in the  
10 neighborhood of row homes.

11 So, I do believe it has met the standard for us  
12 to approve all of these special exceptions, but in  
13 particular, this question about light and air, because of the  
14 extension of this property more than ten feet from, in this  
15 respect, Mr. Goldfarb's property.

16 So, I won't make a recommendation, but I'm just  
17 throwing out my position on this thus far. I'm inclined to  
18 support it, but I welcome additional comments from my other  
19 colleagues.

20 BZA CHAIR HILL: Okay. Who wants to go next?  
21 I'll tell you what. Let's leave Vice-Chair John last. Let's  
22 go with Mr. Blake.

23 MEMBER BLAKE: Sure. This is a very interesting  
24 project. And I think that at the end of the day, I agree  
25 that it meets the standards for approval. The issue that I

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1 see is that the cumulative impact on this particular property  
2 is unfortunate, and it is something that has arisen a couple  
3 of times in my tenure here on the Board, where we've  
4 actually, as you can call it, box someone in because it  
5 generally fits the criteria.

6           The individual action for this particular case,  
7 in itself, is not causing harm. The cumulative effect does  
8 create a little bit of a box for that. The fact that the  
9 properties have a very large lot size -- and I do think  
10 there's some ways you can adjust that to make it work.

11           For example, if his porch were just a few feet  
12 longer and he would again be back in the sun, I don't know  
13 that there's enough room to accommodate that. So, you don't  
14 have to really construct the whole house again, you just  
15 would want to move out your back porch a little further, so  
16 you got a little bit more of that sun exposure.

17           But as we talked about, ultimately you have the  
18 ability to actually expand that property, ultimately, down  
19 the road.

20           So, it is a factor of how the development goes,  
21 and concerns that others have had about moving, inching back  
22 further and further. But these are very large lots and it  
23 can be accommodating.

24           So, all that said, I agree with Board Member  
25 Smith's assessment of the criteria, and also that of the

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1 Office of Planning. And I would be in support of it.

2 BZA CHAIR HILL: Okay. This has been good,  
3 because I'm thinking about different things now, which I'm  
4 going to share in a minute. Vice-Chair John?

5 VICE CHAIR JOHN: So, since I have been serving  
6 on the Board, I have been really very troubled by the ten-  
7 foot rule.

8 And I initially thought that the Board can, in  
9 many cases, go beyond ten feet because this was initially  
10 that, in my view, a ten-foot addition is not a very large  
11 addition. That was my view initially. And I have voted  
12 against a couple of them. It may have been more than a  
13 couple.

14 But again, this is a very large, a very long lot.  
15 And even after the additional seven feet, there's still four  
16 to three feet between the accessory structure and the  
17 principal building.

18 So, I, in this case, agree with everyone so far  
19 in saying that the application meets the criteria, and I give  
20 great weight to OP's analysis. But I agree with Chairman  
21 Hood that the ten-foot rule is not the most objective  
22 standard that we're called to interpret.

23 And I really feel for Mr. Goldfarb, because he  
24 will be boxed in. But again, that's a condition of living  
25 in the city in these townhouses. And while it might feel as

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1 if there's less air circulation, they might -- I don't have  
2 the scientific knowledge to appreciatively evaluate that --  
3 I think that there will be sufficient light and air because  
4 of the length of the rear yard.

5           And so, I've been saying the same thing I guess  
6 just now over and over again, that I support the application.  
7 But I really am troubled by the notion that residents are  
8 boxed in, in this way.

9           But I expect that this will continue to happen.  
10 And considering that the city needs housing, and that the  
11 application meets -- technically, it meets the criteria for  
12 relief -- I think that I will have to support the  
13 application.

14           Because, ordinarily, the Board must grant relief  
15 if the application meets the criterion. And in this case,  
16 I can't find a reason to deny it. I guess that's what I've  
17 been trying to say for the last three minutes or so. So, I'm  
18 in support.

19           BZA CHAIR HILL: Okay. Yeah, I mean, I think  
20 that -- and I guess -- I don't know what the word is. It's  
21 always very disappointing. Because I think that Mr. Goldfarb  
22 has a lot of points that are valid, in terms of his concern  
23 about the additional seven feet.

24           The problem that the Board always has, and I don't  
25 see how this necessarily gets resolved, is that we're here

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1 to look at the regulations. And part of the regulations is  
2 the term, undue. Undue impact. Right?

3 And then, that undue impact, I mean, this is  
4 where, like I don't know how this -- I mean, I guess we  
5 all -- I've been here for a while also -- get to figure out  
6 what we think is undue, and how we can take any information  
7 we get from the Office of Planning and the applicants and the  
8 ANC, to determine, I guess, what is undue.

9 My question, I guess, is, does undue come into  
10 play when it's something that is undue to an adjacent  
11 neighbor, whereas it's not undue to anybody else? Right?

12 Then, does that hold a different value? I mean,  
13 obviously it does, because we gave party status to somebody  
14 who's adjacent. Right?

15 In the longer run, to Mr. Blake's point, can the  
16 deck be built out farther? Great. I mean, we weren't in  
17 negotiations about whether or not -- and I know this is kind  
18 of totally outside of the Board's purview, in terms of like  
19 party status and people working with each other to try to get  
20 agreement on things. That is completely outside of our  
21 scope.

22 However, I'm going to be a little bit now aware  
23 that party status, people don't just take away party status.  
24 People just don't -- there's a reason that somebody might  
25 decide not to use it. And there's a level of trickery

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1 involved, in terms of trying to get somebody just not to do  
2 it without any good reason. So, that's kind of just a side  
3 comment, if I might make to my fellow Board members.

4 But as far as the regulations go, I guess for me  
5 it would have been, even though a shadow study wasn't, I  
6 don't think it would have changed much in terms of what we  
7 would have seen.

8 I don't know if you don't -- to be quite honest,  
9 I don't really know the cost involved. Like, how much more  
10 it cost for a shadow study. I know all these things take  
11 money. It costs money. So, I don't know if at the Zoning  
12 Commission level, if this ever gets kind of dealt with, a  
13 mandatory shadow study between the matter-of-right and  
14 whatever they're trying to now do.

15 And I don't know how one actually quantifies air.  
16 We've never had anybody actually show how air works. And I  
17 don't mean to like to try to make additional costs. And  
18 again -- and I'll stop, because I'm kind of going on a longer  
19 discussion here, because, right, these are long lots. It's  
20 in an area that is highly desired. Right?

21 It's in a highly desirable area with a lot of  
22 retail, restaurants, all kinds of things there. The city  
23 needs additional housing. There's a lot of different things  
24 at play that really don't pertain to us in our Board level.

25 We're looking at the regulations that I'm staring

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1 at right now, and what we're supposed to look at. And we're  
2 not supposed to look at all those other things.

3 So, I will vote in favor, because I believe also  
4 the regulations are put forward in a way that we have voted  
5 for this before. I think that this meets the regulations,  
6 for me.

7 And also, I think that there is a consistency that  
8 we as a Board need to try to understand. And if that  
9 consistency starts to shift, then we should have a little bit  
10 of a discussion.

11 And we're kind of starting to have a little bit  
12 of a discussion now. And the last thing I'll say is we do  
13 get a different commissioner every week.

14 And, Chairman Hood, we kind of know your position  
15 on this ten-foot rule thing, right? But you know, Chairman,  
16 that you have other commissioners, and they have different  
17 views on the ten-foot thing. Right? So, it's kind of  
18 interesting who we get, when we get them.

19 And so, all that being said, I guess I'm going to  
20 vote in favor. Go ahead, Chairman Hood.

21 ZC CHAIR HOOD: I realize that we all show up.  
22 But see, I'm even thinking, I am privy to the discussion that  
23 we had when we dealt with this. I realize, I know where all  
24 of their positions are with this.

25 So, that's why -- well, it's supposed to be five

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1 of us. At that time, that's why it's five of us. And I know  
2 specifically, you're right. You're exactly right, if you get  
3 another commissioner -- I'm not going to call any names --  
4 they probably won't be as strict on the ten-foot rule like  
5 I am.

6           The ten-foot rule also would have been differently  
7 if I had had my way. But I think I've gotten my colleagues  
8 to let's have this discussion. Because this discussion right  
9 here -- I'm glad we're having it -- is because this also  
10 attributes to my push for us to revisit this, which I've been  
11 pushing now for a while. And I'm glad to have Board member  
12 Smith say that you all had turned some down.

13           But I think you all worked rather well with this  
14 whole, the regulations. And even with us relooking at them  
15 might not solve this problem. But I'm just trying to help  
16 us get closer. I think every so often we should relook at  
17 what we're looking at to progress, and which we've done with  
18 the Office of Planning as well over the years.

19           So, those are just my added comments. But I  
20 realize you get a different commissioner. Trust me.

21           BZA CHAIR HILL: You know what, Chairman Hood?  
22 And I'm going to look at you in a second like, I mean, that's  
23 why, like the deep lot -- like, it's a deep lot.

24           And I'm just talking about for our discussion on  
25 the Commission. It's a deep lot. And what Board member John

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1 has mentioned, which we've also said before, ten-feet's not  
2 particularly that long. Right?

3           Meaning, you're going to spend all this money to  
4 do all this work and you're going to get ten feet, you might  
5 as well not do anything. Right?

6           You're basically -- and I know you've had this  
7 discussion, because this is what you probably all talked  
8 about when you all were talking about it -- if you're only  
9 going to give somebody ten feet, you might as well not give  
10 them anything, because of the cost involved with getting ten  
11 feet.

12           So, this is what we also struggle with, which is  
13 also what you do. And I'll let you have the last word on  
14 this one, and then I'll make a motion.

15           ZC CHAIR HOOD: So, and you've got to remember,  
16 we've had a discussion with the community. And that's how  
17 we, with the community and our input, that's how we got  
18 there.

19           And I know there's a great nucleus in the city who  
20 probably is watching this discussion -- I know that they  
21 continue to watch that ten-foot rule -- who very much endorse  
22 it.

23           When we called the pop-backs, we didn't have  
24 anything in place. They really came down and they really  
25 made their case. So, we had to grapple with it. So, just

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1 like you all had to grapple with it here, we have to grapple  
2 with it there and try to figure out, we have all other  
3 parties.

4 One group wants it one way, one group wants it  
5 another way, and we have to try to mitigate it to try to make  
6 it a win-win.

7 Are we successful all the time? No. But do we  
8 try to achieve it? Yes. And that's all I'll say on that.

9 BZA CHAIR HILL: Okay. Well, I strongly  
10 encourage -- oh, sorry. Ms. John?

11 VICE CHAIR JOHN: So, I mentioned the construction  
12 management agreement. And if the applicant is listening, I  
13 would like to revisit that.

14 The Board has no authority to compel it. But as  
15 Commissioner Hood says, under the good neighbor policy, and  
16 especially in a case like this where we have a party-in-  
17 opposition claiming that they're boxed in, and that they have  
18 suffered through a sixteen-month construction project before,  
19 I think this situation cries out for a construction  
20 management agreement.

21 Not just talking about it, but actually putting  
22 something on paper. Even if the party-in-opposition does not  
23 agree.

24 So, that's where I am on that. We can't compel  
25 it, but I would like to see it done, and I hope the applicant

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1 will do that, whether or not the applicant has cooperation  
2 from the party-in-opposition. That's just my thoughts.

3 BZA CHAIR HILL: Okay. All right, well, I was  
4 going to mention again -- right, Ms. John -- and I know the  
5 applicant is listening. The applicant to work with the  
6 neighbor on a construction management agreement, and also  
7 just to keep the neighbor informed, that's obviously the  
8 biggest thing as to what's going on.

9 And who knows what might happen if the neighbors  
10 actually get together and come up with maybe some kind of an  
11 agreement that actually might move this forward in a way that  
12 would help both parties. So, that's what also I would,  
13 again, continue to encourage, as Ms. John so eloquently said.

14 So, that being the case, I'll go ahead and make  
15 a motion to approve application number 20743, as captioned  
16 and read by the secretary, and ask for a second. Ms. John?

17 VICE CHAIR JOHN: Second.

18 BZA CHAIR HILL: Motion made and seconded.  
19 Mr. Hamala, can you take a roll call?

20 MR. HAMALA: When I call your name, please respond  
21 with a yes, no, or abstain. Chairman Hill?

22 BZA CHAIR HILL: Yes.

23 MR. HAMALA: Vice-Chair John?

24 VICE CHAIR JOHN: Yes.

25 MR. HAMALA: Mr. Blake? Mr. Smith?

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1 MEMBER SMITH: Yes.

2 MR. HAMALA: Mr. Hood? Staff would record the  
3 vote as 5-0-0 to approve the application, with a motion made  
4 by Chairman Hill, seconded by Ms. John, with support from  
5 Mr. Blake, Mr. Smith and Mr. Hood in support of the motion.

6 BZA CHAIR HILL: Okay. Hey, guys, I didn't know  
7 this time was going to work out this way. But I have a hard  
8 stop at four o'clock. And so, how about we take lunch, and  
9 then we'll do this case? Does that sound like a good plan?

10 Okay, you want to say 30 minutes and try to come  
11 back at 12:45? Okay, great. I see you smiling, Chairman  
12 Hood. All right, I'll see you all in half an hour.

13 (Whereupon, the above-entitled matter went off the  
14 record at 12:13 p.m. and resumed at 1:01 p.m.)

15 MR. HAMALA: The board is back from a quick lunch  
16 recess at 1:00 p.m., and the final case of the day is  
17 application number 20594 of Nezahat, and Paul Harrison. As  
18 amended, this is a self-certified application for a special  
19 exception pursuant to subtitle X 901.2 under subtitle C,  
20 section 305.1 for theoretical subdivision to allow multiple  
21 buildings on a single lot. Or for an area variance from the  
22 minimum lot dimensions of subtitle D, section 502.1 pursuant  
23 to subtitle X, section 1002.

24 The project is for two new detached principal  
25 dwellings on an existing tax lot in the R8 zone. Option one

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1 is for special exception relief to create two theoretical  
2 lots, and to construct two new detached principle dwellings.  
3 Alternatively there's option two, the area variance relief  
4 from the lot requirements to permit a subdivision of the  
5 property. Square 2041, lot 818 to two lots, and to construct  
6 the two detached principal dwellings.

7           And this property is in the R8 zone located at  
8 3007 Albemarle Street Northwest, square 2041, lot 818. And  
9 there are a number of preliminary matters before the board.  
10 The first is from Mary Lee, represented by Andrea Ferster,  
11 and she has proffered an expert witness, Rebecca Stack, in  
12 engineering, and she is not in the witness book. The second  
13 is a motion from the Hernandez party, represented by Cynthia  
14 Giordano, and it is to two things.

15           One to identify Guillermo Rueda as an expert in  
16 zoning, and architecture, and he is in the witness book. And  
17 to ask the board to consider whether the application is  
18 incomplete, and should include additional relief before a  
19 hearing. We also have -- let's see, four letters from the  
20 parties in opposition letters, and images of the subdivision  
21 that didn't make the 24 hour rule, as well as some additional  
22 support, and opposition letters from the public that also did  
23 not make the 24 hour rule. And that is it for me Mr. Chair.

24           BZA CHAIR HILL: Okay, thanks. Okay, let me just  
25 do a couple of things here. Okay, I'm just talking to my

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1 fellow board members right now about other preliminary  
2 matters before we get into the hearing. So, as far as  
3 Rebecca Stack, I guess maybe we'll hear a little bit more  
4 from, I think it's Ms. Ferster, who is pretty informed, this  
5 person, I think that's what I heard, we'll get to that. In  
6 terms of Mr. Rueda, I have a hard time sometimes, Rueda.

7           He's been before us, and has been -- I am not sure  
8 what zoning expert exactly is, but I know he's an architect,  
9 and I guess we've put him forth as a zoning expert before.  
10 I would have to actually -- I'll ask Mr. Hamala to ask Mr.  
11 Moy when he comes back what exactly an expert in zoning  
12 means, because I am curious now Mr. Hamala, if you could. But  
13 for purposes of this hearing, I don't have an issue with Mr.  
14 Rueda being admitted as an expert in zoning, and, or  
15 architecture.

16           And I'll see if anybody has any comments on any  
17 of the stuff I'm about to say. In terms of the additional  
18 relief, and dismissal of the case, I think that this is a  
19 self-certified application, and that the board should be able  
20 to parse out what it believes the relief is that is needed,  
21 and since this is a self cert, eventually this zoning  
22 administrator, if what the applicant is requesting is not the  
23 necessary relief, then that would be out of the course of our  
24 hands.

25           So, what I would be doing is -- well, actually let

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1 me introduce everybody, then I'm going to make a motion.  
2 Because part of it is to deny the dismissal request, but I'm  
3 going to try to find everybody here. Who is here from  
4 Goulston and Storrs today?

5 MR. HARRISON: So, Mr. Chairman, this is Paul  
6 Harrison, the applicant. I'm working with Ms. Prince, but  
7 I am a licensed attorney, so I'll be making the presentation  
8 today, she's available in the background to support me.

9 BZA CHAIR HILL: Where is Ms. Prince?

10 MR. HARRISON: She's on, but she's not registered.

11 BZA CHAIR HILL: Okay. Ms. Prince, are you there?  
12 Could you introduce yourself for the record?

13 MS. PRINCE: Sure, Allison Prince with Goulston  
14 and Storrs.

15 BZA CHAIR HILL: Okay.

16 MS. PRINCE: I don't have the address right now.

17 BZA CHAIR HILL: That's all right, I mean I don't  
18 know if we're going to -- I guess Mr. Harrison is going to  
19 represent himself, although Mr. Harrison, just to let you  
20 know, you don't have to be an attorney to come before us.  
21 But I'm sure that's just lovely for you that you're an  
22 attorney, I hope that works out well for you. I'm not, so  
23 that's why I get to mock all the attorneys, no offense to the  
24 attorneys.

25 Okay, and so I guess Ms. Prince, whether we need

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1 you, or not, we'll see. Ms. Ferster, are you there?

2 MS. FERSTER: Yes, this is Andrea Ferster, I'm  
3 here via telephone.

4 BZA CHAIR HILL: Okay, Ms. Ferster, you're here  
5 on behalf of whom again?

6 MS. FERSTER: I represent Mary Lee.

7 BZA CHAIR HILL: Okay, great. And then let's see,  
8 Ms. Ferster, is it Rebecca Stack you're speaking of? Can you  
9 tell me who again you're trying to get as an expert for us?

10 MS. FERSTER: Yes, we are not offering Ms. Stack  
11 as an expert witness at the hearing today, so you do not need  
12 to address her qualifications.

13 BZA CHAIR HILL: Okay, thank you. All right, so  
14 then I'm going to go to the board, then the only preliminary  
15 matters I think, Mr. Hamala if I'm correct, is the expert  
16 status of Mr. Rueda, and the dismissal of the application as  
17 not being -- as needing additional relief. So, I'm going to  
18 approve, and I'm going to do both of these at the same time.  
19 Approve the motion of adding Mr. Rueda as an expert in  
20 zoning, and architecture.

21 And then deny the request to dismiss the  
22 application due to additional relief, and ask for a second.  
23 Ms. John?

24 VICE CHAIR JOHN: May I be heard on that one?

25 BZA CHAIR HILL: Sure, go ahead.

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1           VICE CHAIR JOHN: Mr. Rueda has appeared before  
2 us many times as an expert in architecture, and I'm prepared  
3 to approve that. I don't know if he's in the book as an  
4 expert in zoning as well. And so pending further  
5 clarification, I am comfortable accepting him as an expert  
6 in architecture.

7           BZA CHAIR HILL: That's fine, no problem. I'm  
8 sorry to interrupt you, I'm just going to find out, I can't  
9 remember what Mr. Rueda -- because I know this comes up at  
10 times, Mr. Hamala, do you know?

11           MR. HAMALA: Mr. Rueda is in the witness book as  
12 an expert in zoning.

13           BZA CHAIR HILL: Okay, so I don't know.

14           VICE CHAIR JOHN: Okay, he's in the book as an  
15 expert in zoning, and I'm prepared to accept that.

16           BZA CHAIR HILL: Okay. I mean I've got to tell  
17 you, this goes back again Mr. Hamala, and also if you could  
18 talk to Mr. Moy about it, I am interested in revisiting this  
19 zoning expert status stuff, because I don't really know what  
20 it means. So, obviously if you're an architect, you can be  
21 considered an expert in architecture. To be considered an  
22 expert in D.C. zoning, I don't exactly know what that means.  
23 And I can see Chairman Hood shaking his head, I don't know  
24 if I qualify.

25           ZC CHAIR HOOD: Paul qualifies for that.

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1           BZA CHAIR HILL: Okay, so none the less, we'll  
2 just leave it the way it is, but Mr. Hamala, if you can get  
3 back to Mr. Moy, and have him revisit this with me at a later  
4 time, okay?

5           MR. HAMALA: I will sir, and then the only other  
6 preliminary matter was the late submissions within the 24  
7 hour rule.

8           BZA CHAIR HILL: Thanks, and what are they again?  
9 They're letters in opposition, and other filings?

10          MR. HAMALA: Some of them are from the parties in  
11 opposition, I think letters, and then I think from -- yes,  
12 from the Hernandez party there is a subdivision plat, and  
13 some 3D images of the property, and then the other remaining  
14 document submissions are some letters in support, and some  
15 letters in opposition from the general public.

16          BZA CHAIR HILL: Okay. Unless the board has any  
17 issues, I want to see everything, so let's go ahead, and put  
18 everything into the record. And just so Ms. John knows  
19 again, I have a hard stop at 4:00, so if this goes past that,  
20 Ms. John is going to have to cover for me, and then I will  
21 rejoin, or see what happens.

22          VICE CHAIR JOHN: Mr. Chairman, if I might remind  
23 you, I did not second the motion, because I interrupted you  
24 for clarification. So, if we could maybe make the motion  
25 again.

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1 BZA CHAIR HILL: I got you, thank you. So, I'm  
2 going to go ahead, and make a motion again to allow Mr. Rueda  
3 as an expert in zoning, and architecture, and deny the  
4 request to dismiss this application due to the concern about  
5 it needed additional relief, and ask for a second Ms. John.

6 VICE CHAIR JOHN: Second.

7 BZA CHAIR HILL: Motion made, and seconded. Mr.  
8 Hamala, if you could please take a roll call.

9 MR. HAMALA: When I call your name, please respond  
10 with a yes, no, or abstain. Chairman Hill?

11 BZA CHAIR HILL: Yes.

12 MR. HAMALA: Vice Chair John?

13 VICE CHAIR JOHN: Yes.

14 MR. HAMALA: Mr. Blake? Mr. Smith?

15 MEMBER SMITH: Yes.

16 MR. HAMALA: Mr. Hood? Staff would record the  
17 vote as five to zero to zero to accept Mr. Rueda as an expert  
18 in zoning, and architecture, and to deny the motion to  
19 dismiss the application. The motions were made by Chairman  
20 Hill, seconded by Vice Chair John with support of Mr. Blake,  
21 Mr. Smith, and Mr. Hood, the motions both passed.

22 BZA CHAIR HILL: Okay, I have Mr. Harrison, you  
23 had a question?

24 MR. HARRISON: yes, I apologize for interrupting.  
25 We, in our earlier pre-hearing submission also identified Mr.

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1 David Landsman, who is with us today, who is already  
2 certified as a civil engineering expert, and Ms. Catarina  
3 Ferreira, who is a licensed architect, I don't think she's --  
4 not sure whether she's been certified, or not before, but  
5 just want to make sure we address that.

6 BZA CHAIR HILL: Got you. Ms. Ferreira has been  
7 before us, and you don't have to certify -- anyway, whatever,  
8 she's been before us before as an expert in architecture.  
9 The civil engineering person David Landsman, I don't know --  
10 Mr. Landsman, can you hear me?

11 MR. LANDSMAN: Yes, I can hear you, sorry.

12 BZA CHAIR HILL: Could you introduce yourself for  
13 the record please sir?

14 MR. LANDSMAN: Yes, David Landsman, CAS  
15 Engineering, licensed civil engineer.

16 BZA CHAIR HILL: Mr. Harrison, do you know if his  
17 resume is in the record?

18 MR. HARRISON: I believe it is.

19 BZA CHAIR HILL: Do you know --

20 MR. HARRISON: Original submission.

21 BZA CHAIR HILL: Do you know which exhibit by any  
22 chance?

23 VICE CHAIR JOHN: Mr. Chairman, I believe it's  
24 Exhibit No. 26C.

25 BZA CHAIR HILL: Thank you. Mr. Landsman, can you

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1 tell us a little bit about yourself, and your background  
2 while I'm looking this up?

3 MR. LANDSMAN: Sure, I have a bachelor's degree  
4 in civil engineering, University of Maryland. I've been  
5 doing land development in the district since 2008, I'm a  
6 licensed professional engineer in Maryland, Virginia, and  
7 D.C. I'm also a licensed, and registered surveyor in the  
8 district, and Maryland.

9 BZA CHAIR HILL: Okay, I don't have any issues in  
10 Mr. Landsman being a civil engineer, or representing himself  
11 as such before the board. Does the board have any issues  
12 with that? Okay, fine. Because I'm looking at your resume  
13 here also as well. So, I'm comfortable with the expert  
14 testimony that you may be providing. Okay, Mr. Harrison, can  
15 you introduce yourself again for the record please?

16 MR. HARRISON: Certainly, Paul Harrison, I'm the  
17 applicant, along with my wife Nezahat Harrison.

18 BZA CHAIR HILL: Okay, great, thank you. Let's  
19 see, Ms. Giordano?

20 MS. GIORDANO: Yes, hi, this is Cynthia Giordano,  
21 I just have one other very quick preliminary matter.

22 BZA CHAIR HILL: Sure, Ms. Giordano, first could  
23 you introduce yourself for the record please?

24 MS. GIORDANO: Yes, Cynthia Giordano with Saul  
25 Ewing Law Firm representing Deb Hernandez, who owns property

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1 adjacent to the subject property.

2 BZA CHAIR HILL: Okay, give me one second here.

3 MS. GIORDANO: And she's been accepted as a party  
4 in opposition already.

5 BZA CHAIR HILL: Yeah, one moment please. And  
6 what's your comment Ms. Giordano?

7 MS. GIORDANO: Yes, the special exception  
8 application is to permit more than one principal building on  
9 a record lot, but there is no record lot here. So, I don't  
10 think that the application should proceed under that  
11 provision unless there's a record lot.

12 BZA CHAIR HILL: Yeah, and Ms. Giordano, I'm sorry  
13 if you missed what I just said a moment ago. I saw your  
14 filing --

15 MS. GIORDANO: This is a different issue, this is  
16 completely different, it's not in my filing.

17 BZA CHAIR HILL: Okay, so what was your --

18 MS. GIORDANO: Okay, so the property is lot 818,  
19 it's an assessment, and taxation lot. The provision that  
20 they are requesting a special exception under is for a  
21 special exception to permit more than one principal building  
22 on a record lot. But there is no record lot here.

23 BZA CHAIR HILL: Okay, so you would like us to do  
24 what Ms. Giordano?

25 MS. GIORDANO: I think that -- I don't understand

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1 how they could proceed under that provision. I mean it's a  
2 very simple threshold issue.

3 BZA CHAIR HILL: Okay, well Ms. Giordano, it's  
4 kind of a little quick for me to decide on this issue right  
5 now. So, why don't we go ahead, unless my board members have  
6 a different opinion, and please speak up, let's go ahead, and  
7 have the hearing. We'll let Ms. Giordano argue her points,  
8 and then the board will be able to determine what we feel  
9 about those arguments. So, are you making a motion Ms.  
10 Giordano?

11 MS. GIORDANO: Yes, I think that the hearing  
12 should be postponed until there's a record lot, or dismissed  
13 until there is a record lot that's before the board. And  
14 it's a very simple issue, it shouldn't really take a lot of  
15 deliberation.

16 BZA CHAIR HILL: Right. Ms. Giordano -- so, Mr.  
17 Hamala, is this something that can be -- and I guess Ms.  
18 Nagelhout can help me, is this something that can be asked  
19 of us in this way, right now? Does something have to be  
20 filed? I guess I'll turn to Ms. Nagelhout. Ms. Nagelhout,  
21 do you know? They're making a motion right now for us to  
22 dismiss this due to the reason that Ms. Giordano just  
23 mentioned, is it something we can decide right now? Yes,  
24 correct?

25 MS. NAGELHOUT: No -- yes you could, but it's a

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1 different -- it's not the same as the motion she made before,  
2 but in essence it's very similar, in that she's arguing that  
3 the application is not complete, and should be dismissed.  
4 First of all, you want to hear from the applicants, and  
5 second of all, I would go ahead, and let the parties make all  
6 their arguments, not dismiss at the outset.

7           BZA CHAIR HILL: Yeah, I wasn't going to dismiss  
8 at the outset, I just wasn't clear -- at least I wasn't going  
9 to vote for that, and I wasn't clear as to whether, or not  
10 a motion -- I guess -- by the way, can everybody turn on  
11 their camera if they're going to talk with us, just so I can  
12 see people's faces, and know who is with us? And if your  
13 camera doesn't work, let me know when we get to that point.

14           So, right, what I was trying to figure out Ms.  
15 Nagelhout, and I assume that the answer is yes, because we're  
16 doing it right now. As a preliminary matter, people can make  
17 motions at any time at the beginning, is that correct Ms.  
18 Nagelhout?

19           MS. NAGELHOUT: Yes.

20           BZA CHAIR HILL: Okay, fine. So, I'm turning to  
21 my board members. I would like to hear this case, right?  
22 This has gone on since -- this started in December, so I'd  
23 like to go ahead, and hear this case, and let the party, and  
24 oppositions go ahead, and make their motions. I'm going to  
25 deny the request that was just made by Ms. Giordano, and we

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1 can go ahead, and hear what Ms. Giordano has to say about  
2 representing the party in opposition.

3 Does anybody have any issues with anything I just  
4 said? My board members, and if so, please raise your hand.  
5 Okay, so I'll continue making -- sorry, go ahead Chairman  
6 Hood.

7 ZC CHAIR HOOD: We are going to stay the issue  
8 that Ms. Giordano brought to our attention, so that's  
9 something we'll deal with after we hear everything, correct

10 BZA CHAIR HILL: What I was going to do Chairman  
11 Hood, is Ms. Giordano apparently is making a motion for us  
12 to dismiss, or deny this, or postpone --

13 MS. GIORDANO: Or postpone.

14 BZA CHAIR HILL: Because she thinks that this  
15 isn't here before us under the criteria that she just  
16 mentioned. Which, since I don't have it in the record, I  
17 can't look at it right now, although she did make a  
18 statement. And so I am going to deny that motion, and then  
19 during the argument that I guess Ms. Giordano is going to  
20 make, she can make the argument that this is here not before  
21 us, and the reason why, and then we can go ahead, and decide  
22 on that as well at a later time. Does that sound  
23 appropriate?

24 ZC CHAIR HOOD: Let me have this clarification Mr.  
25 Chairman, do we deny that motion, or just stay that motion,

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1 or hold it in abeyance for our decision making process?

2 BZA CHAIR HILL: Sure, I was denying the motion  
3 to postpone the hearing.

4 ZC CHAIR HOOD: Okay, just that part, I got you,  
5 so that's still on the table, what she's talking about.

6 BZA CHAIR HILL: I was going to deny the motion  
7 to postpone the hearing, and deny the motion to dismiss based  
8 on the facts that were quoted to us by Ms. Giordano both just  
9 now, and in the record, that this case is not here before us  
10 for the proper relief requested.

11 ZC CHAIR HOOD: Okay, maybe I'm confused, and just  
12 need to be quiet. Because I think that she mentioned there  
13 was two different issues. This issue she just brought to our  
14 attention just now, I think we need to hold that in abeyance,  
15 but Mr. Chairman, I'm not the chair of this, I will be quiet,  
16 and let you proceed.

17 BZA CHAIR HILL: No, no, it's okay Chairman Hood.  
18 I'm not saying that Ms. Giordano isn't able to make the point  
19 that she just made. I'm just saying that we're not going to  
20 postpone the hearing, and we're not going to dismiss this  
21 based on the argument that Ms. Giordano just made.

22 VICE CHAIR JOHN: Mr. Chairman, if I might, I  
23 think that we would need to hear from the applicant, and the  
24 other parties on that particular issue. So, perhaps Ms.  
25 Nagelhout can help us. I would say -- we typically don't

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1 dismiss cases on that basis. We prefer to hear the  
2 presentation of the parties, and then make a decision later.  
3 And so maybe on that particular motion, we can hold it in  
4 abeyance. But I would just add that it was quite similar to  
5 the previous motion which was in writing.

6 And I'm not in support of dismissing the  
7 application at this point. I would like to hear the  
8 arguments of the parties.

9 BZA CHAIR HILL: Okay, so we're back to the  
10 abeyance issue, and maybe I was getting ahead of myself also,  
11 that we could dismiss this after we go through this whole  
12 hearing if Ms. Giordano makes us agree that the threshold  
13 issue has not been crossed, which is that this is not a  
14 record lot. And that it needs to be a record lot in order  
15 for it to be before us.

16 VICE CHAIR JOHN: I believe the standard for  
17 dismissal, if I can check my notes, is that the board has to  
18 find that there is no possible basis on which the board could  
19 grant relief. And Ms. Nagelhout please chime in if I've  
20 stated the standard incorrectly. But we need to hear the  
21 facts in order to decide if there is no plausible basis to  
22 grant relief. And right now I don't have enough information  
23 in the record to make that decision.

24 BZA CHAIR HILL: Okay, let me do this. So, I'll  
25 go ahead, and I'll hold those two issues in abeyance, okay?

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1 The two issues that Ms. Giordano has brought before us, and  
2 I have to look in the record again, I apologize as to where  
3 the first one is. And then the second one, and we can rule  
4 on those. I'll tell you what. Mr. Hamala, and, or Ms.  
5 Nagelhout, you can help me out as to what the two issues are  
6 at the end when we get to deliberate on this.

7 As to whether, or not we're going to dismiss this  
8 based on the two items that Ms. Giordano has put forward that  
9 why we should dismiss this. I don't think I talked myself  
10 into a circle, but I might have. So, let me get --

11 MS. GIORDANO: Is it possible to respond to the  
12 commissioner's last comment about the record? The record is  
13 very clear, the Exhibit No. 2 shows the surveyor's plat --

14 BZA CHAIR HILL: Ms. Giordano, I'm going to  
15 interrupt you a second. I've got a long day ahead of me, do  
16 you see how many people are on screen? Do you really think  
17 we're going to dismiss this right now?

18 MS. GIORDANO: I really think that this is a very  
19 simple issue.

20 BZA CHAIR HILL: You must be crazy if you think  
21 we're going to dismiss this right now, okay? God, I said I  
22 --

23 MS. GIORDANO: I suggested a postponement as well.

24 BZA CHAIR HILL: All right, okay, I'm not going  
25 to postpone, I'm not going to dismiss. So, does anybody on

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1 the board want to do either one of those things? If so,  
2 please raise your hand.

3 ZC CHAIR HOOD: Well, Mr. Chairman, I brought it  
4 up, and I'm not certain I want to do either one, I just want  
5 to make sure that I can revisit the issue, not the one that's  
6 in the record, the one she just proposed to us, at the end.  
7 That's all I -- typically that's the process, that's normally  
8 what happens. That's still on the table after we go through  
9 all this. I'm not saying postpone, I'm not saying do away  
10 with anything.

11 Proceed, but I also want to make sure that at the  
12 end of this that question can be dealt with by this board.  
13 And Ms. John is exactly right, that's where I am.

14 BZA CHAIR HILL: Okay, so Ms. Giordano, I think  
15 I'm back at the same point, which was at the beginning.  
16 Which is please go ahead, and make your arguments as to why  
17 you think this should be dismissed. And also your arguments  
18 as to why you think this does not meet the criteria for it  
19 to be granted. However you want to make your argument for  
20 your client, okay?

21 MS. GIORDANO: Okay.

22 BZA CHAIR HILL: All right, so let's see. So, Ms.  
23 Giordano, you've introduced yourself for the record, correct?

24 MS. GIORDANO: Yes.

25 BZA CHAIR HILL: Okay, Ms. Ferster, you've

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1 introduced yourself for the record?

2 MS. FERSTER: I'm on a telephone --

3 (Simultaneous speaking.)

4 BZA CHAIR HILL: Ms. Ferster, I'm sorry, you might  
5 have to call in again. Can you hear me Ms. Ferster? Ms.  
6 Ferster, can you hear me? All right, Mr. Brown, can you hear  
7 me? Mr. Brown, can you hear me? Mr. Brown, can you hear me?  
8 Okay, great, could you introduce yourself for the record  
9 please?

10 MR. BROWN: Yes, it's David Brown of Knopf and  
11 Brown, I represent Jack Beringer, who has party status, and  
12 his wife Michela Perrone, who own, and reside in the property  
13 on 40th Street, abutting the subject property. I believe  
14 they are on the phone, or on the internet from Italy today.

15 BZA CHAIR HILL: Okay. All right, Well Mr. Brown,  
16 I'm going to let everybody represent their clients during  
17 this hearing, and then I'll let the representatives handle  
18 however they'd like to handle their witnesses, okay?

19 MR. BROWN: Mr. Chairman, I do want to raise one  
20 question about the list of preliminary matters. Mr. Hamala  
21 suggested that there were letters in favor, and in opposition  
22 that were late filed. There was a letter filed at 4:00 p.m.  
23 yesterday by the applicant, and I don't think that has been  
24 addressed. I filed an opposition to that late filing around  
25 8:00 o'clock last night, and so I think the handling of those

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1 two items is an appropriate preliminary matter as well.

2 BZA CHAIR HILL: Okay, I didn't know -- Mr.  
3 Hamala, is there other -- I thought you had mentioned  
4 everything to me, that we're still waiting to allow into the  
5 record, is that correct Mr. Hamala?

6 MR. HAMALA: Yes, those items included a letter  
7 from, I guess Mr. Brown, or Mr. Beringer, who is represented  
8 by Mr. Brown, and applicant's response to Debora Hernandez,  
9 as well as some plats, and images submitted by -- also  
10 submitted by Ms. Hernandez. Those were the first four items.

11 BZA CHAIR HILL: Okay, so Mr. Brown's filing is  
12 not one of the things that you're speaking of?

13 MR. HAMALA: It should be the letter from John  
14 Beringer objecting to the applicant's opposition to the  
15 Hernandez motion. Is there another one?

16 BZA CHAIR HILL: Mr. Brown, is that what you're  
17 speaking of?

18 MR. BROWN: I'm talking about the letter that I  
19 submitted to the board at 8:00 last night in response to what  
20 was submitted by the applicant at somewhere around 4:00  
21 yesterday afternoon. They haven't been given exhibit  
22 numbers, because they're in the 24 hour rule.

23 BZA CHAIR HILL: Do you have those Mr. Hamala?

24 MR. HAMALA: Let's see, staff is informing me that  
25 Mr. Brown's exhibit is number 157. Or his document is number

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1 157.

2 BZA CHAIR HILL: So, it's not in there yet?

3 MR. HAMALA: No, I believe it is in there, as  
4 Exhibit No. 157.

5 BZA CHAIR HILL: Okay, give me a moment.

6 MR. BROWN: Exhibit No. 152.

7 BZA CHAIR HILL: Maybe if you refresh.  
8 Regardless, and I'm looking at my fellow board members, I'd  
9 like to allow everything into the record, and have this  
10 hearing. Does the board have any issues with allowing  
11 everything into the record, and having this hearing? And if  
12 so, please raise your hand. Okay, hearing none, we're going  
13 to allow everything into the record. So, Mr. Hamala, if you  
14 could please allow everything into the record, and then we  
15 can move forward with this hearing, okay?

16 MR. HAMALA: Yes, I can confirm everything is in  
17 the record through Exhibit No. 163.

18 BZA CHAIR HILL: Great. Now it is Mr. And Ms.  
19 Harrison's -- whatever, Harrison's application, and so  
20 there's been a lot of preliminary discussions Mr. Harrison,  
21 and so if you want to respond to it you can. But as I said,  
22 where I think we are is we're going to let everybody be an  
23 expert that says they're going to be an expert. We're going  
24 to hold these two issues about whether, or not this is hear  
25 before us in abeyance as per what my board is interested in

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1 doing.

2           And then we're going to go ahead, and move  
3 forward, and have this hearing. Okay, I see a nod that that  
4 seems good, and a thumb's up. Okay, all right. Sure, go  
5 ahead Mr. Hamala.

6           MR. HAMALA: I'll just interject, but if Ms.  
7 Prince is going to represent the Harrisons, then she needs  
8 to take the oath.

9           BZA CHAIR HILL: Okay, Ms. Prince, I don't know  
10 what you're going to testify for, but why don't you go ahead,  
11 and take the oath, okay? Go ahead Mr. Hamala.

12           MR. HAMALA: Do you solemnly swear or affirm that  
13 the testimony you will give in this case will be the truth,  
14 the whole truth, and nothing but the truth?

15           BZA CHAIR HILL: Okay, great. So, how this works,  
16 and everybody here knows, because they've all been before us,  
17 is you, the Harrisons will have a chance to present your  
18 case. And why you believe you're here, actually you don't  
19 even have to defend that. You can go ahead, and make your  
20 case as to why you believe you're meeting the criteria for  
21 the relief that you've requested, okay? And then the board  
22 will figure out whether, or not we think you're here for the  
23 right relief.

24           Or we're going to let the zoning administrator  
25 figure it out, I don't know. We'll have to see, the board,

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1 thankfully I'm just one vote on this. So, you'll go ahead,  
2 and make your presentation. Everybody else will have a  
3 chance to then ask questions of you, right? Then everybody  
4 will have a chance to make their presentation. Everybody's  
5 going to have a chance to ask questions of everybody. Then  
6 the Office of Planning will come forward, the Office of  
7 Planning will give their report.

8           Everybody will have their chance, and I think the  
9 ANC commissioner is here as well. The ANC will have a chance  
10 to give their presentation, and this may go longer than I  
11 thought. So, Ms. John, you may take over for me at some  
12 point in time. And so let's see where we get. Okay, so back  
13 to the preliminary matters, so I just want to be clear, and  
14 I think Ms. Nagelhout, I don't even have to take a vote on  
15 all of this.

16           But I'm going to let everybody -- the people that  
17 were asked for expert status, which was Mr. Rueda, we're  
18 going ahead, and giving him expert status, right? Then I  
19 believe the civil engineer is being admitted as a civil  
20 engineer, so that's a preliminary matter, and then the one  
21 preliminary matter that Ms. Giordano just brought up now, as  
22 well as the one that she has in the record are going to be  
23 held in abeyance.

24           And then the board will determine those after the  
25 hearing. So, Ms. Nagelhout, do I need to take a vote on any

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1 of that?

2 MS. NAGELHOUT: What you just said is within the  
3 prerogative of the chair.

4 BZA CHAIR HILL: All right, so we're going to go  
5 ahead, and move forward then. So, there's not any particular  
6 order in how we can go ahead, and hear from the parties, and  
7 opposition other than how I have them listed here. And just  
8 so everybody knows, we'll do with Ms. Giordano, then Ms.  
9 Ferster, then Mr. Brown. That's the order that I have the  
10 parties in opposition. And so Harrison, or Ms. Harrison,  
11 whoever is going to present, please go ahead, and give your  
12 presentation.

13 I'm going to just start the clock, and see where  
14 we get. Actually I take that back, Mr. Young, if you could  
15 put 15 minutes on the clock so I know where we are. Mr.  
16 Harrison have you practiced this at all, do you know how long  
17 this might take you?

18 MR. HARRISON: I'll be done in 15 minutes without  
19 trouble.

20 BZA CHAIR HILL: Okay, great, because that's how  
21 much time everybody else is going to get, okay? All right,  
22 and you can begin whenever you like.

23 MR. HARRISON: Okay, great. Mr. Young, our slide  
24 deck is I think 151. Okay, excellent, and can you proceed  
25 to the next slide please? Okay, well good afternoon Chairman

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1 Hill, and members of the board, it's nice to see you all  
2 again, and it's already clear that this one is going to keep  
3 everyone from getting the post lunch doldrums, so excited to  
4 talk to you about this project. As mentioned, I'm joined  
5 here today by my wife, and co-applicant Nez.

6 As well as architect Catarina Ferreira, and civil  
7 engineer David Landsman, and they will be available for  
8 questions. We're here today to request theoretical  
9 subdivision special exception review of our plan to raze the  
10 existing small house, and build two homes on an over 30000  
11 square foot lot in Forest Hills. You can see here in the  
12 official zoning map, as mentioned it is a tax lot currently,  
13 it has an underlying record lot, lot 12.

14 There are no other primary structures on the  
15 little piece of land that was carved off to be added to  
16 someone else's driveway, so we expect that that would be  
17 perfected as the record lot during the permitting process.  
18 This land, as you can see here is less than half a mile walk  
19 from the Van Ness Metro Station, as well as the Van Ness  
20 apartment, house, and retail district. We have unanimous  
21 support from the ANC, the public space committee, and the  
22 support of the Office of Planning.

23 And under the special exception standards, you  
24 will hear that the proposed homes have bigger yards than are  
25 required, use dramatically less lot coverage than is allowed,

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1 reserve more permeable surface, and include far more  
2 stormwater retention than is required. In addition, the  
3 plans include many mature trees for screening, and  
4 biodiversity. These homes are fully HUD compliant, and at  
5 18400, and 12200 square feet each, the lots will  
6 significantly exceed the 7500 square foot zone minimum.

7           And together they're actually more than twice it.  
8 One home, the one on the east, relies on the Albemarle Street  
9 access that has existed since before any other house on the  
10 square was built. And one, the one we want to build for our  
11 family, relies on a new entrance on Appleton Street that has  
12 been approved by the public space committee, and opens onto  
13 an existing no parking zone on a quiet street where no  
14 sidewalk exists, or indeed is possible because of the  
15 adjacent topography.

16           We have worked tirelessly to adopt these plans to  
17 our neighbor's reasonable concerns, regardless of whether  
18 those concerns are zoning considerations. We will show today  
19 that our proposed plans involve lesser impacts than a  
20 potential matter right development, that could have greater  
21 height, occupancy, and substantially smaller setbacks. We've  
22 shown that our plans fully satisfy each of the special  
23 exception standards.

24           Because this project more than meets the special  
25 exception test, that's why the OP, the ANC, and the public

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1 space committee have given it their stamp of approval.  
2 However, today you're going to hear opposition from some of  
3 our neighbors. They cannot contest anything that I've said  
4 above. Instead, they're going to come to you asserting that  
5 this project, that meets, and exceeds all of the R8 zones  
6 rear, and side yard requirements, and site requirements, and  
7 its lot size minimums.

8           Among other things, in fact dramatically exceeds  
9 them, will damage their privacy, view, and property values.  
10 This suggests that one large house could not have more  
11 impacts than our two proposed houses. Really what they're  
12 functionally asking you to do is change the zoning code to  
13 remove the long standing subtitle C, section 305, theoretical  
14 lot provision. And there is a letter from the zoning  
15 commissioner, zoning administrator in the record defining  
16 what that lot provision means for this site.

17           AS we know, this is not a meeting of the zoning  
18 commission tasked with changing the code. It's a meeting of  
19 this board, and we ask you to look at the special exception  
20 criteria. Can we go to slide three please? One more. You  
21 can see the two proposed homes here in grey. The one to the  
22 west on the left is the home that we want to build for our  
23 family. The one on the right to the east is the one that we  
24 propose to sell to a new family in this community that has  
25 very, very low available housing stock.

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1           We have ten adjoining neighbors. Of them, three  
2 appear today as party opponents, while the majority are not  
3 opposed to our plans. Perhaps most remarkably, those  
4 opposing neighbors are the ones -- perhaps not remarkably,  
5 those opposing neighbors, and let me identify them to you.  
6 So, if you see the eastern house, the one on the right of  
7 your screen, if you go directly below that, you see Ms. Deb  
8 Hernandez's house, that is 3009 Albemarle.

9           You can see the driveway in between that is part  
10 of our property, that she, and Dr. Lee have a right of way  
11 easement over. And then to the right of that, you can see  
12 Dr. Lee's house at 3005 Albemarle Street, you can see both  
13 of their garages there as well. In the upper -- directly to  
14 the right of our eastern house is 4516 30th Street, that is  
15 where Mr. Beringer, and Ms. Perrone's home is, and you can  
16 see their ADU there close to the property line.

17           All three of these houses have higher lot  
18 coverage, and larger footprints than we propose for our two  
19 homes. But you can also see from this extended site plan  
20 that there are numerous houses nearby with significantly  
21 larger footprints, despite having similar smaller lot sizes  
22 than we propose for our two homes. Please also note that two  
23 of our three party opponent's houses couldn't be built today  
24 without zoning relief due to insufficient physical width,  
25 insufficient side yards, an oversized ADU, and parking in the

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1 front yard.

2           We don't say this to complain, but just to point  
3 out that such conditions are not uncommon in the square. If  
4 you can go back to slide two please, the previous slide? So,  
5 as we're all very familiar, special exception review, if you  
6 boil it down, asks whether the relief requested would impact  
7 the neighbors, or the zoning code in a way that as of right  
8 use of the property would not. Our route to special  
9 exception review here is the theoretical subdivision  
10 provision.

11           Which is a long standing section designed to allow  
12 multiple primary buildings on a single record lot without  
13 reference to lot frontage. The purpose of this provision is  
14 to allow development, and use of large interior lots. This  
15 provision has been used dozens of times across the city, and  
16 the neighborhood, and is included in the original 1956 zoning  
17 updated to include special exception review in 1989, and then  
18 included again in the 2016 zoning rewrite.

19           This board has approved cases under it at least  
20 four times since the 2016 code was adopted. And go to slide  
21 five please. So, from the special exception perspective, we  
22 think about physical dimensions versus as of right. So, I  
23 want to quickly review those relevant physical dimensions.  
24 Lot coverage. Western house in this case is 11.2 percent,  
25 and the eastern house is 14.7. Together they average 12.8

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1 percent in a zone where the maximum is 30 percent.

2 I do want to highlight that those numbers are the  
3 size of the homes, they do not include any decks that are  
4 above grade, which we are trying to eliminate, so there's  
5 some discrepancy on our civil engineer's drawing. Even with  
6 his drawing, it's about 17 percent lot coverage as a whole.  
7 Rear yards, 25 feet is required in the R8 zone. Rear yards  
8 are specifically called out in the theoretical lot  
9 subdivision provision.

10 The western house rear yard will be 67.9 feet, and  
11 the eastern house will have a 42 foot rear yard. And for  
12 context, that house will also have a 42.6 foot front yard  
13 between the front facade, and Ms. Hernandez's property at  
14 3009 Albemarle Street. Side yards, in this zone eight feet  
15 is required, a total of 24. The western house here will be  
16 42 feet from the neighbors at 3045 Albemarle Street. The  
17 eastern house will be approximately 12, and a half feet from  
18 the eastern property line, and both of these will exceed the  
19 total with the space in between them.

20 Accessory buildings, they're allowed in the zone,  
21 but we don't propose any, the garages are interior to the  
22 buildings, as in the potential for an in lot suite, or an  
23 accessory apartment. Stormwater management, I want to spend  
24 time on this, and more in a bit, and that's why we have Mr.  
25 Landsman here, because this was a big issue for the community

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1 at the ANC. We developed a plan that provides 185 percent,  
2 or more of required stormwater retention, and treatment.

3 Impermeable surface, together these lots have less  
4 than 40 percent impermeable surface, and that is due to the  
5 back patio of the eastern house is impervious. We're  
6 considering ways to have it be pervious, so we can get this  
7 down to 25 percent. Again, by half of what's allowed.  
8 Trees, much more detail on this layer as well. We protect  
9 the trees of significance on this site, while planting dozens  
10 of new, and many mature new trees, looking forward to showing  
11 you our landscape architecture plan for this.

12 Height not noted on this chart, but both of these  
13 homes are under the 40 foot height restriction. Parking,  
14 parking is a big issue for a lot of zoning cases, but here  
15 both homes have two car garages, with at least enough  
16 exterior space for two, or more parked cars. They're only  
17 required to have one space per house. Access, both of these  
18 homes have access to public streets via private driveways.  
19 So, both will meet the DDOT width, and paving standards,  
20 they'll have to do that for the permitting process.

21 Now, imagine the Albemarle driveway as existing  
22 before basically any house was built in this square, and it  
23 really hasn't seen any significant improvement in decades,  
24 and because of this, it will be fully modernized. Slide six  
25 please. Mr. Young, if you can go down? Thank you, that's

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1 perfect. So, what does this actually look like? Well, not  
2 that different from now. I'll show you some drawings of the  
3 Albemarle street houses shortly, but frankly given that it  
4 is sited over 200 feet from the sidewalk, and behind  
5 significant trees, it was near impossible to develop a good  
6 image from the street that projected that view.

7           However, we are able to show you the Appleton  
8 Street view, this is the home that we intend to occupy with  
9 our family. Where an existing house on a hillside that has  
10 never been landscaped, or maintained will be replaced with  
11 a modern home, and professional landscaping. The current  
12 house has two main floors, basement, and an attic, as will  
13 be the new house. So, you can see on the left, that's the  
14 existing view from halfway up the street, and on the right  
15 is the proposed view.

16           Slide seven please. Once again, as I mentioned,  
17 we'll properly regrade, and plant the never improved Appleton  
18 Street frontage. This was a key part of the public space  
19 committee approval. The new home will access the street via  
20 a curb cut, and a walkway where we now have to walk over 400  
21 feet to the current exit on Albemarle. And again, as I will  
22 mention, this is a no parking zone, so no on street parking  
23 is impacted, and it's on that curb, so there's no site  
24 impacts, or any pedestrian, or vehicle travel impacts. Slide  
25 eight please.

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1           This is the site plan. This shows you that the  
2 site plan is respectful of the existing geography. The high  
3 point of the property, that's up in the left hand corner  
4 where you can see Appleton Street in the upper left hand  
5 corner, that's where the site of the existing house -- pretty  
6 much co-terminates with the existing footprint. And the  
7 other is down into the low point of the property, and uses  
8 the Albemarle Street access.

9           I also want to use this slide to point out that  
10 this footprint, if these two buildings were physically  
11 connected, because we have more than enough remaining lot  
12 coverage, this will be fully as of right. So, we're looking  
13 at the exterior around these houses, the impact on any  
14 neighbors in these houses, this footprint could be built as  
15 of right, in fact it could be made substantially larger. So,  
16 this case is really about can this neighborhood handle two  
17 primary structures on a 30000 square foot lot rather than  
18 just one?

19           Or some other special exception use. Slide nine  
20 please. Okay, so the top of this shows the view from the  
21 west, our neighbors from the west will see roughly the same  
22 volume as they do today. We had hoped to keep the western  
23 house the same distance from the street as the current house,  
24 but we had to drop that variance request, because of the  
25 procedural complexity, and oppositions in this case.

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1 Unfortunately to the dismay of our neighbors to the west, who  
2 still support us.

3 Now, the lower view is from the north, people  
4 walking --

5 BZA CHAIR HILL: Two things sir, I'm sorry. If  
6 everybody could mute their line, except for Mr. Harrison, and  
7 I'm going to do the same myself, just because there's so many  
8 people on here. Because there's some gurgling happening.  
9 And then Mr. Harrison, I'm sorry, that last part again, you  
10 said you made some changes due to something, what? And then  
11 what happened?

12 MR. HARRISON: Yeah, so in our original  
13 submission, we had a variance request to keep the western  
14 house on the same relation -- distance from Appleton Street  
15 as the current house is, because the current house is --  
16 that's the outside boundary of the range of block face. When  
17 we raze that house, we'll have to move this house further  
18 back from the street, and that was something that our  
19 neighbors to the west wanted.

20 But again, this all got so complicated that we  
21 ended up not pursuing that variance at this point.

22 BZA CHAIR HILL: Okay, please continue.

23 MR. HARRISON: Okay, thank you. So, again, the  
24 lower part of the screen shows the view from the north, where  
25 people walking down Appleton will see a new, and contemporary

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1 home with professional landscaping, where now, frankly they  
2 see the results of decades of absentee landlordism before we  
3 purchased this property. The eastern house is seen to the  
4 side, and again, you can see how this slopes down, and hides  
5 that from our neighbor at 4025 35th Street, Mr. Brent, and  
6 Scott.

7           But you won't be able to see that from the street,  
8 because of the way the street is located. Slide ten please.  
9 Okay, the top image shows the view from the east, and this  
10 is deceptive, Because it will largely be screened by trees.  
11 But if the trees weren't there, I will show you the  
12 landscaping plan shortly. If the trees weren't there, the  
13 neighbors facing west would see a house sunken into the  
14 property, as both of the adjoining neighbors are at a  
15 significantly higher elevation.

16           In fact Mr. Beringer, and Ms. Perrone's property,  
17 while it's height compliant, is actually in reality, 50, or  
18 60 feet above the low point of our property. As you can see  
19 here to the right, they would be able to see the side of our  
20 western house as indicated, but that would be approximately  
21 170 feet from the rear of their primary house, and well  
22 screened by trees. The bottom view is the south view. So,  
23 most of the property will not be visible from the street, as  
24 the 13 foot side yard of the eastern house there largely  
25 aligns with the 16.3 foot wide driveway.

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1 Plus again, there will be large trees planted in  
2 front of this house for screening. Some already exist there,  
3 including some large trees on Ms. Hernandez's property. The  
4 western house will be some 220 feet back from Albemarle  
5 Street, and over 120 feet from our neighbor's rear window at  
6 3009 Albemarle. This will also be well buffered from our  
7 neighbors by the existing, and new screening trees.

8 I will note that you can see here, that the  
9 western house, again, the one on the left, makes good use of  
10 the topography so that the lower level opens out directly  
11 under the pool level, where the pool is sunken in at grade  
12 level in the hill side. Now in the next slide, you'll see  
13 how Kevin Campion's amazing landscape architecture plan  
14 adapts the stormwater infrastructure in between these two  
15 houses to create a forested stream valley that also serves  
16 as a forested buffer between the two homes.

17 So, if you can go to slide 12 please, one more.  
18 So, speaking of trees, as shown in the record, we have  
19 proposed significant tree planting focused on biodiversity,  
20 and screening. And as you'll note from the more detailed  
21 exhibits in the record, trees critical to the screening  
22 effort will not be saplings, but instead mature trees, many  
23 already over 20 feet tall, some 30 feet tall. Please pay  
24 attention to the continuous canopy of trees that if you start  
25 in the upper left hand corner, form an S around the

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1 perimeter.

2           We're trying to help biodiversity by keeping a  
3 contiguous canopy. And you'll note that the central band of  
4 trees turns the stormwater swell that you'll see in the next  
5 diagram into a birch, and cypress dominated stream valley,  
6 where we hope to include an active water feature. I want to  
7 note that we actually had a group of University of Maryland  
8 engineering students, and computer science students study how  
9 they could tie operation of such a system into computer  
10 networks, and databases to increase stormwater treatment, and  
11 absorption.

12           And the result was good enough for them to win a  
13 Northrop Grumman design challenge contest. So, we'd really  
14 like to work with those kids to get this implemented. Next  
15 slide. So, here's the stormwater system. It's really  
16 important to understand that our property sits below almost  
17 two, and a half acres of other people's land, most of which  
18 has no stormwater management, and drains down onto our  
19 property. When it rains, water pours onto our property from  
20 our neighbors, and then flows out the driveway from the  
21 street.

22           This is a situation that has existed for as long  
23 as this site has been here, and the original adjoining houses  
24 were developed, literally for decades, more than 50 years.  
25 With that in mind, at the request of the community, and the

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1 ANC, and we appeared several times before the ANC for very  
2 robust public hearings, we have developed an extensive  
3 stormwater management system, as Mr. Landsman can address  
4 questions about, that will storage retain 185 percent of the  
5 required volume.

6           One note that our site is physically 20 percent  
7 of the drainage area, but currently only contributes 3.4  
8 percent of the runoff in a two year storm because it's so  
9 under developed, we have less than four percent lot coverage  
10 here. But with the proposed home owner improvements, our  
11 contribution to the system would drop to zero. So, if we can  
12 go back to slide 11 please. One more, I'm sorry, one more  
13 back.

14           Thank you. So, I do want to emphasize that we  
15 have been working with our neighbors, and the community for  
16 literally over two years to refine, and improve this project.  
17 Hundreds of emails, and letters to everybody within the 200  
18 foot zone. Multiple site visits, with, or without our team  
19 of experts. We've had our team of experts out on the site  
20 several times to answer questions, and engage with all our  
21 adjoining neighbors.

22           We've had at least three public hearings, all of  
23 which have been robustly engaging, and participated in, and  
24 much more. We changed the stormwater plans, we moved the  
25 location of the houses relative to the other houses. We

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1 created the tree planting plan, which is way more screening  
2 trees than would be required all in response to neighbor  
3 comments, and request. And I want to be clear, we designed  
4 this home to live in it.

5 We designed it from the beginning to be respectful  
6 to, and fit in with our neighbors. And as you know, we have  
7 agreed to extensions for negotiations repeatedly. We find  
8 ourselves today before you after more than a year after  
9 trying to work with our party opponent neighbors, because  
10 frankly they have not been able to give us one joint concrete  
11 list of what we can address to get them to settlement.

12 So, by listing the issues in this presentation,  
13 they're addressed in the record, and have been systematically  
14 addressed in the Office of Planning report. My team, and I  
15 are here to answer questions. It really helps to know that  
16 people qualified to look at the big picture, regulations, and  
17 city policy, the Office of Planning, and the ANC, and the  
18 public space committee have reviewed our plans, and given  
19 unanimous support as appropriate.

20 Again, we met, or exceed all of the relevant  
21 zoning considerations when compared to an as of right  
22 development in what, let's face it, is amongst the most  
23 restrictive zoning areas in the city today. If the already  
24 restrictive rules aren't sufficient, that's a matter for the  
25 zoning commission. Thus conclude the special exception

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1 approval as appropriate. We appreciate your consideration  
2 of our application, and look forward to questions. Thank  
3 you.

4 BZA CHAIR HILL: All right, thank you Mr.  
5 Harrison. Is the ANC commissioner here? I'll get you Mr.  
6 Blake.

7 MS. MEHTA: I need to work out the video part of  
8 it, because I'm not in my normal office.

9 BZA CHAIR HILL: That's all right commissioner,  
10 there you go. Could you introduce yourself for the record  
11 please?

12 MS. MEHTA: Sure, my name is Dipa Mehta, and I am  
13 the commissioner for 3F03. Again, I apologize the quality  
14 of the video, I am in a temporary apartment.

15 BZA CHAIR HILL: That's all right, you're kind of  
16 breaking up just a little bit. We'll see, maybe you might  
17 want to turn off --

18 MS. MEHTA: Did you hear my introduction? I am  
19 Commissioner Dipa Mehta for ANC --

20 BZA CHAIR HILL: Yeah, I got it. Are you the SMD?  
21 Commissioner?

22 MS. MEHTA: Yes, I am the commissioner for SMD  
23 3F03, which is where 3007 Albemarle Street is located.

24 BZA CHAIR HILL: Okay, great, thank you.  
25 Commissioner, we'll get back to you.

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1 MS. MEHTA: Great, thanks.

2 BZA CHAIR HILL: You can go ahead, and mute  
3 yourself, I just wanted you to introduce. Does the board  
4 have any questions for the applicant? I see Mr. Blake's  
5 hand. Please Mr. Blake.

6 MEMBER BLAKE: Yeah, just one quick question. And  
7 perhaps you covered this at some other point in the  
8 presentation. I'd like to see some information, or some  
9 better renditions of the lot two property. To me that seems  
10 to be the one that has the greater issues around it. I know  
11 you said it was a little hard to do that. But if you could  
12 somehow capture that for me, maybe you have it in some other  
13 information elsewhere in the record? I wasn't able to kind  
14 of get a good picture of that, other than the aerial type  
15 shots.

16 MR. HARRISON: I'm trying to see in the record,  
17 so you're speaking to the fact that we don't have a rendering  
18 of that picture, correct?

19 MEMBER BLAKE: Yes, a rendering, yes. That would  
20 be very helpful for that particular property.

21 MR. HARRISON: Sure.

22 MEMBER BLAKE: It's the one that abuts all three  
23 of the parties in opposition, the other one that you showed  
24 on the west is very nice, and it's set aside, but it seems  
25 like the area of controversy really settles around this side

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1 of the property. So, to not see that makes it a little bit  
2 challenging for me to kind of assess what we have.

3 MR. HARRISON: Agreed, so actually maybe what we  
4 can do, Mr. Young, can you go back to I believe it is slide  
5 ten, which is the view from the east, and the south? And I  
6 wonder if you can -- actually, I take it back, will you go  
7 to the one that shows the landscaping? Which I think is the  
8 next one, just to -- one more, sorry. Is there any way that  
9 you can zoom in on the right side of the screen? Okay, and  
10 then bring it up a little bit.

11 So, you can see there, the foot print of this in  
12 relation to the landscaping that will be planted, and also  
13 in relation to Ms. Hernandez's garage, which is basically two  
14 feet from the property line directly below it. And Ms. --  
15 sorry, Dr. Lee's garage, which is in the lower right hand  
16 corner. And then the Perrone Beringer auxiliary dwelling  
17 unit, which is there to the right hand. There is -- it  
18 actually Catarina, if you want to hop in at any point, and  
19 cover anything that I haven't discussed about this.

20 So, you can see that folks will drive in, there's  
21 a garage there on the left side of the property that goes  
22 down. There's a walkway up to a little porch in the front,  
23 and I'll show you that from the other angle. And the primary  
24 social space is a patio in the back. And then if we can now  
25 go to that other slide. Thank you, if you can zoom in down

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1 there. So, again, when you're looking at this picture, on  
2 the top, you're seeing the triangular volume.

3 On the left is the view from the neighbors to the  
4 east, again, it's already pretty forested over there. It  
5 will overlap slightly with the Beringer Perrone's auxiliary  
6 dwelling unit, which is located less than three feet from the  
7 property line. They do have an at risk window there, but  
8 mostly they will pretty much not be able to see much of this  
9 from their house, and there's no active space on that side.  
10 If you look in the lower right hand corner, maybe you can  
11 zoom in there Mr. Young.

12 So, this is the view from the top of the driveway.  
13 The width between the top of the driveway, so the back of  
14 both Ms. Hernandez's, and Dr. Lee's property is 42, and a  
15 half feet before you get to the front of this house. There  
16 will be -- you've got a living room space there in the front  
17 door. On the left again, the garage going down, and then the  
18 upper left hand corner has a small outside deck that will be  
19 attached to an office space. And the bedrooms on the second  
20 floor primarily do not have any open space, any active space  
21 coming out onto the side.

22 And if we can go to the other schematic slide,  
23 which I think is the one before, and scroll down. So, same  
24 thing from the west, you will not be able to see this house,  
25 it's below the topography. And then from the north, looking

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1 this way, so Mr. Brent, and Scott's mid-century modern which  
2 looks down onto this property, and they are supporters of us,  
3 I believe Brent is here to speak today. With the landscape  
4 screening, they're actually the ones who suggested the  
5 landscape architects to us.

6           And their existing fence, the house on the left  
7 will largely be obscured from them. So, again there is an  
8 outside deck there, the kitchen opens onto it, the living  
9 room opens onto it, but it's sunken down in relation to the  
10 neighbors from that side. I don't know if that helps.

11           MEMBER BLAKE: That's very helpful, thank you.  
12 One last question, with regard to the easement agreement that  
13 exists on the current entry way, I may understand that may,  
14 or may not be narrowed, if it is, how would that impact the  
15 easement agreements that are available to those two adjacent  
16 neighbors?

17           MR. HARRISON: Yes, great question, thank you.  
18 The easement agreement allows a right of way, which I  
19 understand, I'm not testifying as a legal expert on this, but  
20 I understand that that allows both Ms. Hernandez, and Dr.  
21 Lee, and her family, and neighbors to cross that land, and  
22 also to place any necessary utility pipes in it. The  
23 narrowing of the driveway, the DDOT restrictions are in  
24 relation to the physical drive path.

25           So, if it's a ten foot, or nine foot wide paved

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1 driveway, the remainder of the driveway will be landscaped  
2 with ground cover, or otherwise to keep it clean, and neat.  
3 But it won't impact their ability to access their garages,  
4 or their side doors. Both of them have kitchen doors that  
5 open off -- or in Ms. Hernandez's perspective, there's a side  
6 gate that goes to her pool area, and then into the back of  
7 her home, and that won't be affected.

8 MEMBER BLAKE: Okay, thank you very much.

9 MR. HARRISON: And importantly, right now that  
10 driveway serves a single family home, and in the future it  
11 will serve a single family home, so the volumes of traffic  
12 shouldn't change at all.

13 MEMBER BLAKE: Thank you, I have nothing else Mr.  
14 Chairman.

15 BZA CHAIR HILL: Okay, does anybody else have any  
16 questions for the applicant?

17 VICE CHAIR JOHN: Mr. Chairman, I have a question  
18 about the record lot. So, Mr. Harrison, you said that  
19 there's an underlying record lot under the tax lot. Is there  
20 anything in the record to support that?

21 MR. HARRISON: I believe Exhibit No. 20, I  
22 believe, which is a compliance letter from DCRA, that says  
23 that this is currently in zoning compliance. And then in  
24 addition, I believe that something here --

25 VICE CHAIR JOHN: And if Mr. Hamala -- I'm sorry,

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1 Mr. Young could pull up the exhibit, if you could pull up  
2 each one. And I did review that initial DCRA memo, but I  
3 wasn't sure what it meant. And it basically said that the  
4 lot is in compliance, but I don't know what that is. What  
5 I need is something that says that there is an underlying  
6 record lot, which is the same dimension as the tax lot. And  
7 I see Ms. Prince with her hand up, so --

8 MR. HARRISON: Yeah, I'd love to hear Ms. Prince  
9 on this, and then I believe there may be something else in  
10 here that references it.

11 BZA CHAIR HILL: Go ahead Ms. Prince. You're on  
12 mute Ms. Prince. You're still on mute. Can you all hear me?  
13 Okay, Ms. Prince can't speak, okay. There we go, go ahead.

14 MS. PRINCE: Can you hear me now?

15 VICE CHAIR JOHN: Yes.

16 MS. PRINCE: Excellent. So, here's the issue lot,  
17 let me address it. The existing -- are you getting --

18 VICE CHAIR JOHN: You're breaking up Ms. Prince.

19 MS. PRINCE: Okay. Can you hear me now? Can you  
20 hear me now? Does this echo?

21 VICE CHAIR JOHN: I hear you.

22 MS. PRINCE: Okay. This 30000 square foot lot was  
23 -- a tiny portion of the lot was pulled out of the lot -- and  
24 the property as it -- today has a tax designation, but like  
25 many, many cases that come before this board, we will need

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1 to create a record lot, which we can easily do, in connection  
2 with permits. So before we elect -- the order, should the  
3 board grant this case, we will have a record lot -- Will be  
4 divided into the record lot -- but there is more than ample  
5 area, there's area for a record --

6 BZA CHAIR HILL: Ms. Prince, I'm sorry, I'm sorry,  
7 we were also trying, maybe if you call that number, the  
8 2027275471 number, 2027275471, and then try that first.

9 MS. PRINCE: I'll try that.

10 BZA CHAIR HILL: Yeah.

11 MR. HARRISON: May I just address the question of  
12 what the DCRA letter means? Which as I understand it, is a  
13 letter that allows you to say that this is an as of right  
14 buildable lot, which by definition meets the record lot  
15 standards. So, I believe what Ms. Prince is going to say is  
16 that it's a definition matter, but we meet all the standards  
17 for a record lot, and it's normal within the permitting  
18 process, we would go through, and they would update this as  
19 a record lot before doing theoretical lot subdivision on top  
20 of it.

21 I would add here, that if it's an issue for the  
22 board to have a condition here, that the special exception  
23 cannot be used until we're successful in getting that record  
24 lot update.

25 VICE CHAIR JOHN: Right, because as I understand

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1 the discussion from the party in opposition, Ms. Giordano,  
2 is that the regulation requires a record lot. So, the board  
3 has reviewed applications where there is an underlying --  
4 there's a tax lot, and an underlying record lot that meets  
5 the exact same dimensions as the tax lot. And the board has  
6 allowed those applications to go forward. And this is sort  
7 of germane to your application. So, if that's your  
8 representation, that's helpful to me.

9 MR. HARRISON: So, I want to make sure I'm  
10 perfectly clear with you. So, there is an underlying record  
11 lot, which is 12. This site used to have a circular  
12 driveway. The driveway used to go through to the west, and  
13 down, which is not something that's required. That chunk of  
14 land was subdivided off, and added to adjacent properties,  
15 and that's when the tax lot was created.

16 However, all of the underlying record lot  
17 compliance provisions with frontage, size still apply. So,  
18 hence the DCRA letter that says this meets all the standards  
19 for a record lot. Now, we just need to go through the  
20 administrative procedure of having it reestablished as a  
21 record lot.

22 VICE CHAIR JOHN: I still don't have that in the  
23 record, that's speaking for myself. It's fine Mr. Chairman,  
24 I don't have any more questions, but I don't see that  
25 information in the record. I see a very generic letter from

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1 the DCRA, and then I see a determination from DCRA that was  
2 submitted last night. So, that's what's in the record now.  
3 And I'm just explaining how the board has proceeded before.  
4 If there is an underlying record lot that is the exact  
5 dimension of the tax lot.

6 Now, I don't know if Ms. -- I guess this is  
7 something we can address in deliberations, I'm just asking  
8 if there is anything like that in the record, and I'm  
9 prepared to accept your answer for now. Mr. Chairman, I'm  
10 fine, I have no other questions.

11 BZA CHAIR HILL: Okay, thanks. I mean I  
12 appreciate your questions Ms. John. And we'll see if Ms.  
13 Prince, when she gets on, if she has any further clarity, she  
14 still can't seem -- were you able to at least call that  
15 number? The 2027275471. They'll get you in if you can call  
16 that one. All right, anyone else have any questions for the  
17 applicant? Okay, let's see, Ms. Giordano, can you hear me?

18 MS. GIORDANO: Yes.

19 BZA CHAIR HILL: Do you have any questions for the  
20 applicant on their presentation?

21 MS. GIORDANO: Yes, I do.

22 BZA CHAIR HILL: Okay, you want to go ahead?

23 MS. GIORDANO: Yes. In follow up to Ms. John's  
24 question, is there a record lot here Mr. Harrison, that is  
25 of the same dimensions as the 800 lot? No, I don't think so.

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1 You said that some of the record lot had been sold off to an  
2 adjacent property, so how could the dimensions be the same  
3 as this lot?

4 BZA CHAIR HILL: Hold on, I've got Ms. Prince  
5 coming on, and Ms. Giordano, I understand -- I'm going to get  
6 Ms. Prince at some point on, so let's just -- that question  
7 seems to be one that Ms. John also asked, and I guess she's  
8 comfortable with the answer that Mr. Harrison gave. Do you  
9 have another question?

10 MS. GIORDANO: Yes, I can present in my direct  
11 that -- an exhibit that shows the record lot being crossed  
12 out.

13 BZA CHAIR HILL: Okay.

14 MS. GIORDANO: As far as the regulations, the  
15 special exception regulations require you to show easements  
16 on the subject property, and did you show the easements for  
17 the adjacent lots on your plat?

18 MR. HARRISON: That was submitted, and the Office  
19 of Planning specifically asked me that question, and  
20 considered the answer.

21 MS. GIORDANO: Where is that shown in the record?

22 MR. HARRISON: I will have to find that. I will  
23 --

24 BZA CHAIR HILL: You're looking for the easements,  
25 is that what you're asking Ms. Giordano?

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1 MS. GIORDANO: Yes, it's a requirement of the  
2 special exception regulations.

3 BZA CHAIR HILL: Okay, so that might be -- so,  
4 we'll let -- maybe that's also a question for the Office of  
5 Planning I suppose Ms. Giordano. But what's your next  
6 question?

7 MS. GIORDANO: That's it, thank you.

8 BZA CHAIR HILL: Okay. Ms. Ferster, can you hear  
9 me?

10 MS. FERSTER: I can.

11 BZA CHAIR HILL: Do you have any questions for the  
12 applicant?

13 MS. FERSTER: I have no questions.

14 BZA CHAIR HILL: Okay. Mr. Brown, can you hear  
15 me?

16 MR. BROWN: Yes, I can.

17 BZA CHAIR HILL: Do you have any questions for the  
18 applicant?

19 MR. BROWN: Yes, a couple.

20 BZA CHAIR HILL: Okay, go ahead Mr. Brown.

21 MR. BROWN: Mr. Harrison, if I understand your  
22 testimony correctly, you are saying that the lot one, the one  
23 on the left meets all of the relevant standards for the R8  
24 zone, is that right? Are you making the same claim for the  
25 lot on the right?

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1 MR. HARRISON: The lot on -- we are not able to  
2 do record lot subdivision for two properties on this site.  
3 So, that is why the theoretical lot subdivision is necessary.  
4 The only element that is missing is the sufficient lot  
5 frontage, which again is the reason why the theoretical  
6 subdivision provision will be used.

7 MR. BROWN: Doesn't the lot number two fail the  
8 minimum lot width requirement for the R8 zone?

9 MR. HARRISON: The lot number two is 75 feet wide,  
10 the question is, which is just the requirement for the zone.  
11 If you were doing a record lot subdivision, and again, this  
12 is a legal matter for the board, and for the zoning  
13 administrator to consider, but if you were doing a record lot  
14 subdivision, that would be measured 30 feet back from the  
15 street lot line. So, if you measure 30 feet back from the  
16 Appleton lot line, which is the largest street lot line, it's  
17 76ish feet, definitely more than 75.

18 There is not enough street frontage there to  
19 create two lots. If you measure it from the Albemarle side,  
20 and again, you're relying on the street lot line to measure,  
21 the lot is not wide enough at that point. Which is again,  
22 the reason why consultation with the Office of Planning,  
23 switched to the theoretical lot subdivision because it is  
24 designed to measure these factors without reference to the  
25 street lot line.

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1           And that's what specifically weighs the provisions  
2 of section 302.1, which references lot width, and gives this  
3 to the board to make a special exception analysis, where you  
4 would say, you would look at the fact that this site over  
5 12000 square feet is 75 feet wide across the majority, except  
6 the driveway, and in terms of impacts to the neighbors, meets  
7 all of the purposes of the zone.

8           MR. BROWN: In light of this situation, are you  
9 requesting any zoning relief from this board about lot width  
10 other than approval of the theoretical lot special exception?

11           MR. HARRISON: As you'll note in our pleading Mr.  
12 Brown, we need the theoretical lot subdivision, but we have  
13 asked in the alternative if the board does not find the  
14 theoretical lot subdivision, for a variance to the lot width  
15 provision, which would be based on the standard -- this is  
16 an exceptional property, because of the way that Appleton  
17 Street, and 31st turn away from the top, leading to an  
18 abnormally large interior foot print.

19           And that that creates a substantial difficulty in  
20 that we'll have to leave the majority of this property  
21 unbuilt, or we will have to build a unit for rental, which  
22 forces us to start a business, which is not something we  
23 desire, and that's a major life change. So, that is in the  
24 pleadings. Again, the Office of Planning informed us that  
25 they, and the board would prefer, due to policy, that we

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1 pursue this under the theoretical lot subdivision.

2           That the theoretical lot subdivision is explicitly  
3 designed for lots of this type, which is why it specifically  
4 does not reference lot frontage. And again, there are many  
5 theoretical lot subdivisions that have been done in the city,  
6 where lots have zero frontage. They're deeply interior, and  
7 those have been improved over decades by the board. So, we  
8 did make that request in the alternative. However, we've  
9 chosen to focus on the theoretical lot provision because of  
10 the Office of Planning's direction.

11           And because as we understand, the board is not  
12 predisposed towards creating non-compliant record lots.

13           MR. BROWN: This would be argumentative of you,  
14 you've given me a long, argumentative answer to a simple yes,  
15 or no question. I'll just repeat the question. Are you  
16 requesting any other zoning relief from this board other than  
17 approval of the special exception for the theoretical lot  
18 subdivision, yes, or no?

19           MR. HARRISON: So, thank you Mr. Brown for  
20 clarifying your question, I understand it better now, and I  
21 have no intention to be argumentative. We do not believe  
22 that any other variance, or relief is necessary for the  
23 theoretical lot subdivision, and we are not applying for any.  
24 We have applied for the variance, this is in the record as  
25 an alternative, but that assumes that the theoretical lot

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1 subdivision is not granted.

2 MR. BROWN: One other question Mr. Harrison. Do  
3 I understand correctly that you were denied a curb cut on  
4 Appleton Street by DDOT?

5 MR. HARRISON: That is incorrect. We were given  
6 preliminary design review for the curb cut on Appleton Street  
7 subject to subdivision, so that the Appleton Street house  
8 does not have two curb cuts. So, what the public space  
9 committee did is they approved it subject to subdivision by  
10 this board.

11 MR. BROWN: Let me see if I understand this. Is  
12 the situation that with one house on the property now, you're  
13 only allowed one curb cut, and you would be able to get a  
14 second curb cut if there were two lots?

15 MR. HARRISON: That is correct, each primary  
16 structure is entitled to a curb cut.

17 MR. BROWN: Thank you very much, I'm done.

18 BZA CHAIR HILL: Did we get Ms. Prince back? No.  
19 Is the phone not working? It's just not -- I don't know,  
20 okay. Let's try, I don't know if -- Mr. Hamala, if you know  
21 Ms. Prince -- oh, yeah.

22 MS. PRINCE: I was on mute. I'm sorry, to take --  
23 I just wanted to go back to the record lot issue if it's  
24 appropriate --

25 BZA CHAIR HILL: Yeah, Ms. Prince, I don't know

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1 why -- it's okay. Why don't you turn off your camera, maybe  
2 that's helping, or not helping, and then just speak kind of  
3 slow?

4 MS. PRINCE: Is that helping?

5 BZA CHAIR HILL: Give it a try.

6 MS. PRINCE: Okay, do you still have the echo?

7 BZA CHAIR HILL: It's not an echo, you're just  
8 kind of broken up.

9 MS. PRINCE: Okay, I have a tech here helping me.  
10 How is this working now?

11 BZA CHAIR HILL: We won't know until you start  
12 talking. Go ahead, and just try.

13 MS. PRINCE: Okay, I'm trying now. Is it better?

14 BZA CHAIR HILL: Yes, give us your testimony.

15 MS. PRINCE: I'm still getting interrupted on my  
16 end, that's why I can't --

17 BZA CHAIR HILL: It's not bad, we don't get an  
18 echo on our side, what is it that you would like to say Ms.  
19 Prince?

20 MS. PRINCE: Okay, I'm going to try this with the  
21 echo. Okay, can you hear me?

22 MR. HAMALA: Yes.

23 BZA CHAIR HILL: Okay. I just wanted to put the  
24 record lot issue to rest, because it's created so much  
25 confusion. This 30000 square foot lot can be a record lot

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1 immediately. We simply need to file a subdivision plat. It  
2 more than qualifies, the DCRA letter explains that. In many  
3 cases before this board, including this case, a record lot  
4 is required in connection with the building permit process.  
5 In connection with our building permit process, there will  
6 be a record lot that will allow the site to be divided into  
7 two theoretical lots if the board grants this case.

8           You encounter this all the time, situations where  
9 applicants come before you with tax lots that need to be  
10 record lots in order to secure a building permit. They're  
11 not buildable sites until there is a record lot. The  
12 underlying record lot no longer technically exists because  
13 a small portion of it was pulled out of the lot. My client  
14 owns this 30000 foot plus remainder lot, the tax lot. So,  
15 we're proceeding today to get the approval that we've sought,  
16 and if granted, we will file for a subdivision.

17           If there is any concern at all by this board,  
18 we'll file for a subdivision immediately. It is a non-issue,  
19 it is fully capable of being converted into a record lot, and  
20 frankly this is just one of the many kinds of minor  
21 extraneous pieces of nonsense that are being brought up to  
22 delay this board's ability to methodically consider the plans  
23 that are before you. So, we just want to proceed with our  
24 case.

25           If the record lot issue is bothering you in any

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1 way, we will file for a subdivision, but I mean I've really  
2 never even encountered an issue like this in a hearing, so  
3 frankly, I'm a little taken aback.

4 BZA CHAIR HILL: Okay, I thought I saw Chairman  
5 Hood's hand up, maybe I didn't.

6 ZC CHAIR HOOD: Chairman, I was going to ask --  
7 I want to follow up with Vice Chair John's request, and then  
8 I also echo what she asked for, something a little more  
9 definite. And also I heard Ms. Prince's comments. So, Ms.  
10 Prince, let's just take it off the table. So, if you could  
11 do that for us, that would be very helpful. And frankly, it  
12 should have been done before we got here, but let's just take  
13 it off the table.

14 If you can take it off the table, then we don't  
15 have to go down those lines, we can get back to what we need  
16 to get back to. Thank you Mr. Chairman.

17 VICE CHAIR JOHN: I would just like to add that  
18 applicants have come before us, and said outright that there  
19 is an underlying record lot, and I was unaware of this until  
20 it was brought up today. So, we have to look at the  
21 regulations. Now, we are aware that there has to be some  
22 further processing in terms of the subdivision, or the  
23 theoretical lot approval, but we at least need to know that  
24 there is a record lot some place.

25 So, I understand the frustration that everyone

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1 feels, but we're just trying to get through this. So, that  
2 is clarification for me, and that's why I asked the question,  
3 because I did not see it anywhere in the record when I was  
4 reviewing this lengthy record.

5 MS. PRINCE: So, just to be clear, we're happy to  
6 file a request for a subdivision to convert the existing tax  
7 lot to a record lot.

8 VICE CHAIR JOHN: And that's what applicants  
9 typically -- Ms. Prince, that's what applicants typically  
10 tell us, so there is no confusion. This would have been a  
11 non-issue at the beginning of the hearing today, and that's  
12 my frustration.

13 BZA CHAIR HILL: Okay, all right. I'm going to  
14 turn to Ms. Giordano, can you hear me?

15 MS. GIORDANO: Yes.

16 BZA CHAIR HILL: Would you like to go ahead, and  
17 give us your presentation?

18 MS. GIORDANO: I just wanted to say in relation  
19 to this issue that this is not a typical situation where part  
20 of the building permit process, you get a record lot. This  
21 is a case before the board that requires a record lot for the  
22 board to consider the special exception. It is very clear  
23 in the special exception regulations that what is being  
24 requested is to divide a record lot into theoretical lots.  
25 So, there is no underlying record lot right now.

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1           And one may, or may not be created, but to come  
2 before this board, there should be a record lot prior to  
3 submission of the special exception application.

4           BZA CHAIR HILL:   Okay.   Now, Ms. Giordano, I'm  
5 sorry, I don't know if that was a question, or I guess that's  
6 part of your statement, you're making a statement, correct?

7           MS. GIORDANO:   Yes.

8           BZA CHAIR HILL:   Okay, so that's part of your  
9 presentation I guess.   And I'll go ahead, and let people ask  
10 questions if they want to from your statement when the  
11 appropriate time comes.   But in any case, I understood what  
12 you're saying, and I guess that's part of what this whole  
13 discussion has been about for a while.   And so in addition  
14 to that, would you go ahead, and like to give your  
15 presentation?

16           MS. GIORDANO:   Yes.   So, just to clarify it's not  
17 a matter of just updating this lot, a subdivision is  
18 required, and subdivision has to meet zoning, and the letter  
19 from DCRA, we get those all the time for zoning opinions.  
20 It has nothing to do with whether, or not they can create a  
21 record lot here.   It just means that there's no violation of  
22 the zoning currently with regard to this lot.   It doesn't  
23 address a record lot, or not.

24           And certainly it's perfectly legal to have the  
25 house on assessment --

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1           BZA CHAIR HILL: Ms. Giordano, I'm sorry to  
2 interrupt you, two things. Can you turn your camera on, so  
3 we can see you?

4           MS. GIORDANO: I thought I had it on.

5           BZA CHAIR HILL: That's all right. And then the  
6 other is I'm just -- is this part of your presentation?

7           MS. GIORDANO: Yes.

8           BZA CHAIR HILL: Okay. So, I just want to know  
9 when I'm supposed to start the timer.

10          MS. GIORDANO: Okay, so anyway, just again, a  
11 subdivision needs to be -- it's a process, a subdivision.  
12 It's not as Mr. Harrison indicated, just updating this lot.  
13 It has to go through a process, and a subdivision is a  
14 process that has ministerial aspects, and one is compliance  
15 with zoning. So, anyway, how long do we have now? I think  
16 the applicant took how many minutes for their presentation?

17          BZA CHAIR HILL: You've got about -- we're going  
18 to start everybody off at 15 minutes, and this went -- they  
19 went, I don't know, 20 minutes or so, and then we asked  
20 questions, and stuff. So, I'm going to put 15 minutes on the  
21 clock, and you can begin whenever you like.

22          MS. GIORDANO: Okay. So, the other issue that was  
23 addressed in my first motion had to do with the pipestem for  
24 the existing pipestem, which the applicant calls a driveway  
25 for purposes of the second house. But we really feel it's

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1 more than a driveway. I mean it's almost 200 feet long, and  
2 it really functions more like a private alley. It provides  
3 access to the two opposing parties, who have properties on  
4 Albemarle Street to their garages as well.

5 So, we feel that the narrowness of it does not  
6 meet the requirement in the special exception to provide for  
7 necessary emergency, fire, and truck access for deliveries.  
8 With that, I'm going to go ahead, and turn to Ms. Hernandez,  
9 and then our expert witness, Mr. Rueda.

10 MS. HERNANDEZ: Ready for me?

11 BZA CHAIR HILL: Yes, please, go ahead, I'm sorry.  
12 Go ahead, and introduce yourself for the record.

13 MS. HERNANDEZ: Of course, hi my name is Deb  
14 Hernandez. Debora Hernandez officially. I am the property  
15 owner at 3009 Albemarle Street Northwest. My home is an  
16 abutting property directly to the south of the applicant's  
17 property. And this home has been in my family since 1998.  
18 I'd like to say that I support Mr. Browns, and Ms. Giordano's  
19 briefs, that the property at 3007, specifically the second  
20 home that is to be placed directly behind my property does  
21 not comply with the required development standards.

22 And is not appropriate for special exception  
23 relief. I also wanted to note that I've been prejudiced by  
24 the applicant's protracted, and faulty process, and shifting  
25 legal theories in pursuing the development of the subject

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1 property. Initially the applicant applied for a variance to  
2 subdivide the property into two record lots, but then  
3 identified the variances needed, which included --  
4 incorrectly identified them to include a lot with variance.

5           Then it seemed that these variances would not meet  
6 the legal criteria, so it was pivoted, and amended such that  
7 a special exception for theoretical subdivision would  
8 circumvent the need for the lot width variance. We have  
9 retained an architect, and have spent several months trying  
10 to negotiate design changes that would have mitigated some  
11 of the impacts of the second house onto my property, only to  
12 have the applicants inexplicably cut off negotiations with  
13 us.

14           And now I'm having to appear to try to get through  
15 this again. I understand that the Harrison's intent in  
16 building the second home is to subsidize the expense of their  
17 family home that they intend to build on the property through  
18 an applied curb cut into Appleton Street. However, this  
19 development is being placed amidst our backyards, and deny  
20 us privacy that we moved into this neighborhood to enjoy.

21           As my property is located at the bottom of the  
22 hill, the development of both of these homes will eliminate  
23 privacy to my back yard, as they look directly into it. The  
24 height is close to maximized, and so windows, numerous decks,  
25 balconies will negatively impact me, and the use of my

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1 personal space. While the application discusses screening  
2 with trees, Mr. Harrison also had emailed me himself an  
3 article dated November 14th, 2021.

4           Addressing the short life span of a tree species  
5 that is rapidly approaching the end of its life on my  
6 property, and it's close to being removed, so there won't be  
7 any screen to the views of the proposed third floor, or pool  
8 deck without me starting all the way over. As going to be  
9 presented in Mr. Rueda's drawings, the view from both of the  
10 Harrison's two intended houses have south facing windows,  
11 balconies, and decks that look directly into my bedroom  
12 windows, as well as my outdoor patio area, which my family  
13 enjoys quite frequently.

14           And it would cause us to feel like we are living  
15 in a fish bowl, unrelaxed, and always under view. Your  
16 regulations state that you can impose requirements pertaining  
17 to design, appearance, height, size, et cetera, and since to  
18 ensure compliance with the intent of the zoning relations.  
19 Negotiations with the applicants failed, as they would not  
20 make amendments to the second home to offset some of the  
21 burden onto their own proposed house number one, or family  
22 home through height reduction, balcony elimination, or window  
23 replacement to face their own side of the property.

24           As neighbors, we have never opposed the  
25 development of their family home, but have simply tried to

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1 compromise on development of the land, as it directly affects  
2 our properties, and low density development to not erode the  
3 appeal of single family neighborhoods, which is one of the  
4 defining characteristics of Forest Hills. We have conveyed  
5 to the applicant that we don't oppose house one, and that we  
6 understand, and respect the need to generate income with  
7 house two.

8           But we believe modifications could be made which  
9 would support these objectives fairly. Additionally, due to  
10 failed negotiations, there is no construction management  
11 agreement in place, which could have also been easily  
12 accomplished by the applicant. According to the theoretical  
13 subdivision section C 305.6, the proposed development shall  
14 comply with the standard intent, and purpose of this title,  
15 and shall not be likely to have an adverse effect on the  
16 present character, and future development of the  
17 neighborhood.

18           Mr. Young, I have Exhibit No. 152, and I guess  
19 if you can go to the page that has like a map on it?

20           BZA CHAIR HILL: I don't know if Mr. Young is, I  
21 'm sure he is, but we're also pulling it up, the exhibit.

22           MS. HERNANDEZ: Okay, so on the street map it has  
23 lots marked with a black dot that are indicative of  
24 properties that have 15000, or more square feet, and if in  
25 your determination, the applicants are able to proceed with

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1 this project, it would set a bad precedent for the entire  
2 community wherein anyone who has larger plots of land could  
3 essentially ask for special exceptions to subdivide, build,  
4 and sell another home on their property, increasing our  
5 neighborhood's overall density.

6 I hope that when you're evaluating this, you will  
7 take under consideration our neighborhood, and the zoning  
8 regulations that have been long established to protect lower  
9 density areas like ours in order to preserve the character,  
10 and uphold the zoning regulations as required, and written.  
11 To be clear, I'm not opposed to development. However, there  
12 are established ways to monetize people's property by which  
13 the city manages development, and effective ways to work with  
14 adjacent neighbors to consider their lives, and their  
15 privacy.

16 And my next exhibit, labeled Exhibit No. 2,  
17 you'll see what is also an issue for me with regard to this  
18 property, it has just been a long standing stormwater problem  
19 that has caused my property, and my basement to flood on  
20 several occasions. I worked with DOEE, and made significant  
21 efforts at great expense to avert water that comes down from  
22 3007 Albemarle onto my property, and if you flip to the next,  
23 Exhibit No. 3, you'll see that the water that comes down the  
24 hill traverses across the pipestem, and onto Albemarle.

25 If you go to the next exhibit, you'll see that

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1 water that drains from the property, and that picture was  
2 taken like four days after a rain. It just drains for a long  
3 period of time. And the next slide, you'll see that in the  
4 winter it freezes, causing ice, and dangerous conditions to  
5 anyone that goes there. There hasn't been any maintenance  
6 to the driveway, or the pipestem I should say, which provides  
7 access to my garage, as well as my neighbors to the east.

8           And in the spring, and summer, we're now  
9 maintaining it by mowing, and in the winters, I've also been  
10 out there shoveling myself. The site plan also proposes a  
11 bio-retention planter, which is to the front of their  
12 proposed property, and the district's stormwater best  
13 management practice states that to avoid the risk of seepage,  
14 bio-retention areas must not be hydraulically connected to  
15 a structural foundation, and setbacks must be at least ten  
16 feet, and adequate water proofing protection must be  
17 provided.

18           Where the ten feet setback is not possible, then  
19 a liner would need to be in place. However, with the lot  
20 being, as the applicant stated, over 12000 square feet, there  
21 is certainly significant room to move that ten feet away from  
22 the property line, given all the water that I've had to deal  
23 with over the past few years. That's shown in Exhibit No.  
24 7, the proximity to my property where the highlighted bio-  
25 retention area has been placed.

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1           Finally, while I understand it was the ANC's role  
2 to weigh in on the development changes in the area in which  
3 we all reside, the ANC 3f Commissioners Mehta, and Cristeal  
4 have been almost dismissive regarding my concerns, because  
5 it's not just regarding the water. In her letter -- in  
6 Commissioner Mehta's letter dated May 12th of this year, she  
7 states that as opposed parties, our desire is to maintain the  
8 status quo of a large undeveloped green space that is not  
9 owned, or maintained by us.

10           And utilizing delay tactics to prevent the  
11 Harrisons from building their home, this is simply not true.  
12 To clarify once again, we did not ever try to oppose this  
13 right of the applicant's, we simply asked them to reconsider  
14 the impacts of the second house to our home. I appreciate  
15 the time that you gave for me to speak today, and I  
16 appreciate the opportunity, and thank you for all the  
17 dedication you give to all of our civic projects.

18           I'm simply asking that the decision be upheld,  
19 that the need for a variance would be required, and not set  
20 an unfortunate precedent in our neighborhood. Thanks.

21           BZA CHAIR HILL: Thanks Ms. Hernandez. Let's see,  
22 I know that Mr. Rueda is there. Ms. Giordano, did you want  
23 specific questions from Mr. Rueda?

24           MS. GIORDANO: He has a presentation, and a  
25 PowerPoint.

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1 BZA CHAIR HILL: Okay. Mr. Rueda, I'm just -- I  
2 mean you guys can go ahead -- I've got to work through three  
3 more witnesses. I'm sorry, three more presentations, so if  
4 you can just kind of help me out, and be as succinct as  
5 possible. Which one do you want us to pull up Mr. Rueda? And  
6 welcome by the way, I'll let you introduce yourself in a  
7 second. Which exhibit do you want us to pull up?

8 MR. RUEDA: I'm not sure what number it is.

9 BZA CHAIR HILL: Does Mr. Young have it?

10 MS. GIORDANO: Yes.

11 MR. RUEDA: Yes.

12 BZA CHAIR HILL: Mr. Rueda, would you introduce  
13 yourself for the record then first please?

14 MR. RUEDA: Yes, good afternoon members of the  
15 board, Chairman Hill, thank you for hearing my testimony  
16 today. And you did get it right, Chairman Hill, it's Rueda,  
17 after many tries. I might have trim up my video --

18 BZA CHAIR HILL: Go ahead.

19 MR. RUEDA: Okay, it's 147.

20 BZA CHAIR HILL: Thank you.

21 MR. RUEDA: Is the exhibit, can you hear me okay?

22 BZA CHAIR HILL: Yeah.

23 MR. RUEDA: Okay, thank you. So, my name is  
24 Guillermo Rueda, and I've been practicing in the district for  
25 30 years. My testimony is obviously offered in opposition

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1 to the project on behalf of Mary Lee, and Deborah Hernandez,  
2 who adjoin the property. The application proposes creating  
3 two theoretical lots with real problems. One larger lot for  
4 the applicant's use will be accessed by way of a new driveway  
5 from Appleton, and the second lot will be accessed from the  
6 existing pipestem on a lot that is half as big as the larger  
7 lot, but with a house that's about 83 percent in size, in  
8 footprint.

9 My clients oppose the approval of the second lot  
10 principal dwelling, because it's sited directly behind their  
11 properties. However, the lot is to be divided -- I'm getting  
12 some feedback, I'm sorry, I'm not sure if you can hear me  
13 okay.

14 BZA CHAIR HILL: We can hear you okay, I'll stop  
15 you if we can't.

16 MR. RUEDA: Okay. However the lot is to be  
17 divided, the non-conforming zoning elements of the proposed  
18 smaller lot create substantial public, and private adverse  
19 effect to present its approval. Although street frontage,  
20 lot width are theoretically ignored for special exception  
21 process, these are confirmed by OP to be non-compliant, and  
22 OP's report indicates that a non-conforming lot width  
23 requires variance relief.

24 In addition, the application fails the basic test  
25 for a special exception by applying for a theoretical

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1 subdivision, because it requires a single record lot, as  
2 we've discussed. With that background, I also believe that  
3 any house sited and sized as shown will have a  
4 disproportionately negative effect on my client's properties  
5 at 3005 and 3009, especially when you consider the lack of  
6 suitable access.

7           The pipestem access will now terminate at the top  
8 of the parking ramp, which goes down into the proposed  
9 basement level of the speculative home. Traffic by default  
10 will overflow onto the narrow pipestem shared with 3005, and  
11 3009, which is accessed by them for their garages. To  
12 demonstrate this adverse effect, we modeled the proposed  
13 development in three dimensions to show what the applicant  
14 does not at house two. The impact, and the location, and size  
15 of the proposed house against my client's adjoining  
16 properties.

17           So, if you could please switch to slide two, I'll  
18 note that a few of the images that were supposed to be  
19 included had to be submitted late, because I didn't realize  
20 they weren't part of the presentation. It's two images that  
21 got put back in. So, the first here captures how the  
22 proposed subdivision in our mind conflicts with the R8 zoning  
23 goals. The scale, and volume of the houses, and hardscapes  
24 alone are counter to the park like ideal set out for R8  
25 zoning, and which is asked to be enhanced.

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1           Reading from the regulations, which I have on the  
2 left, you can see the subdivision is not compatible with the  
3 stated purpose, and intent. In this case, placing the second  
4 home at the bottom of the steeply sloped site is a direct  
5 result of the natural topography that the regulations seek  
6 to preserve. House two is proposed on the flatter terrain  
7 closer to Albemarle, and next to my client's rear property  
8 lines with significant alteration required of the rear grade,  
9 rear to this house, to provide outdoor patio space cut into  
10 the hill.

11           Slide three. And answering the question on  
12 theoretical subdivisions, Mr. Legrant communicated to the  
13 team, to all teams that the board was directed to assess  
14 (audio interference) exception --

15           BZA CHAIR HILL: Mr. Rueda?

16           MR. RUEDA: Yes.

17           BZA CHAIR HILL: Maybe speak a little slowly?

18           MR. RUEDA: Yes sir.

19           BZA CHAIR HILL: Start again from where you  
20 started to talk about Mr. Legrant.

21           MR. RUEDA: Okay. Mr. Legrant communicated to the  
22 teams that the board was directed to assess the application  
23 based on a long, and detailed list of special exception  
24 factors, including lot dimensions, access, and driveway  
25 design to ensure that there is a comprehensive review of

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1 potential impacts through the special exception process. The  
2 site plan is marked up to show how the house by necessity  
3 will interface with the public more than 200 feet back from  
4 Albemarle.

5           The public area for 3007, which previously was on  
6 Appleton, is now moved forward next to 3005, and 3009, and  
7 provides direct access, and views no less than five  
8 neighboring lots. This means that these opposing neighbors  
9 will have two public faces at the front, and rear of their  
10 properties. House two cannot rely on special exception  
11 relief by theoretical subdivision because it cannot suitably  
12 meet the 24 foot access requirement of 305.3B.

13           The 16 foot pipestem cannot be excluded as a  
14 driveway in this case, as it is shared by the three  
15 properties, 3005, 7, and 9. Beyond the 3005, and 3009  
16 properties, if you can zoom in a little bit on the word  
17 public, you can see a vehicular access to 3007 effectively  
18 terminates at the site walls, which is where the ramp down  
19 to the basement garage starts. There's a small area to the  
20 left of the drive that provides some margin of relief for  
21 turn around.

22           But nowhere does the applicant endeavor to show  
23 how the plans accommodate the four identified zoning sized  
24 parking -- about delivery trucks or UPS that would try to  
25 venture on site, who want to avoid the walk down the

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1 pipestem. There is simply no room to properly stack, or turn  
2 around, especially if there are cars already parked in front  
3 of 3007 on the 14 foot driveway. Or if properly guided, and  
4 once denied on site by car, these folks will by necessity  
5 create additional pedestrian traffic between the two  
6 neighbors.

7 That will ensure a compromise in privacy. Slide  
8 four. As I mentioned previously, the larger volume, and  
9 scale of the proposed homes is adverse to the --

10 BZA CHAIR HILL: Mr. Rueda, Mr. Rueda, why don't  
11 you try calling in? Try calling in on the phone, and we'll  
12 hold you right here, and I'll hold the time for a second.  
13 And I don't know if -- I'm trying to --

14 MR. RUEDA: What's the number?

15 BZA CHAIR HILL: The number is, give me a second.  
16 The number is --

17 MR. RUEDA: The number online is 30 -- go ahead,  
18 sorry.

19 BZA CHAIR HILL: That's all right. 2027275471.

20 MR. RUEDA: Mr. Reed, hi, can I be patched into  
21 the meeting by this phone number, or do I need to use a  
22 different number?

23 BZA CHAIR HILL: No, call the number on the  
24 screen, which is 202727 --

25 MR. RUEDA: Yes, I'm being told, thank you.

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1 BZA CHAIR HILL: 2027275471. I should have that  
2 memorized by now. 2027275471.

3 MR. RUEDA: Can I unmute myself now?

4 BZA CHAIR HILL: Yeah, can you hear us?

5 MR. RUEDA: Okay, I just got it, yes, I can hear  
6 you.

7 BZA CHAIR HILL: Okay, great, that's much better.  
8 Okay, go ahead please with where you were.

9 MR. RUEDA: Okay, so this is slide four, right?

10 BZA CHAIR HILL: Yes. Can you not see the screen?

11 MR. RUEDA: I can, I'm just still getting some  
12 reverb.

13 BZA CHAIR HILL: It's very clear on our end.

14 MR. RUEDA: Excellent. As I mentioned previously,  
15 the larger volume and scale of the proposed homes is adverse  
16 to the character of the neighborhood and nearby residences.  
17 Instead of relying on the typical lower profile one- and two-  
18 story homes with larger footprints in the immediate square  
19 on Albemarle, the subdivision proposes --

20 BZA CHAIR HILL: Wow, I don't know, it's so much  
21 --

22 MR. RUEDA: High vantage point look into the 3005,  
23 and 3009 properties. Slide five. Longitudinal section shows  
24 how the slope influences locating the house closer to the  
25 rear property line of 3009 Albemarle. Additional stress on

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1 the adjoining properties is created by the need to  
2 accommodate stormwater management -- basemen of the 3009  
3 garage, and in the pipestem away from the 3007 house.  
4 Furthermore -- will negatively affect neighboring privacy.

5 While trees are shown in plan as possible  
6 screening, the property line shared -- privacy concerns are  
7 not mitigated by this 12-foot high tree -- you can see that  
8 even at the model height of 18 feet, there's little chance  
9 at privacy from trees being attained -- later. Slide six.  
10 Can you hear me now, or not?

11 BZA CHAIR HILL: Yeah, we can, and also just to  
12 let you know Mr. Rueda, we are flipping through these slides  
13 together, so it is easier to understand. You are somewhat  
14 breaking up, but please continue, and we'll see where we get.

15 MR. YOUNG: He's still talking from his computer,  
16 he needs to mute his computer, and then unmute from the  
17 phone.

18 BZA CHAIR HILL: So, Mr. Rueda, mute your  
19 computer, and then Mr. Young, how do you unmute your phone?

20 MR. YOUNG: I believe he just unmuted himself.

21 MR. RUEDA: Okay, can you hear me?

22 BZA CHAIR HILL: Yes.

23 MR. RUEDA: Okay, sorry about that. So, the  
24 highlight is -- wait, am I?

25 BZA CHAIR HILL: You're on slide six right now.

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1 Can you see the screen?

2 MR. RUEDA: Yeah, but slide six is the next slide.

3 BZA CHAIR HILL: Did you not want slide six?

4 MR. RUEDA: Okay, unless I'm crazy, slide six is  
5 the next slide. I'm on slide five actually -- no, I'm not,  
6 I just finished five. I apologize, five is what's on screen  
7 right now for me.

8 BZA CHAIR HILL: Is that what -- it's all right.  
9 Mr. Young, go back to the slide number six.

10 MR. RUEDA: Slide six is the one after the  
11 longitudinal section.

12 BZA CHAIR HILL: Slide six I have Mr. Young says  
13 impact on privacy. There you go. Go ahead Mr. Rueda.

14 MR. RUEDA: Okay. The highlighted view is taken  
15 from the third floor balcony of house two, which clearly  
16 shows the adverse effect on the property. The use, and  
17 enjoyment of 3005 -- sorry, it shows the adverse effect on  
18 privacy, and use, and enjoyment of 3005, and 3009. There's  
19 a corollary view from house at 3009 back to house two, which  
20 was included as part of Exhibit No. 163. We can look at  
21 that later.

22 Slide seven is an effort -- sorry, slide seven --  
23 efforts in negotiation to reduce the story count, and provide  
24 more space between house two, and the 3009 property were  
25 rejected. The drawn vehicular access to the lower level

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1 garage bifurcates the front yard of 3007, and prioritizes car  
2 traffic to the park like setting required to be enhanced.  
3 The area required for vehicular access on site limits the  
4 location of drawn stormwater control, and retention measures  
5 which are relegated off site onto the pipestem, and at the  
6 lot edge adjoining 3009.

7           Closer than the ten foot minimum required by DOEE.  
8 Both retention elements will require ongoing maintenance to  
9 keep them in working order, and maintenance that will likely  
10 be entrusted, and be performed by the buyer of house two.  
11 Slide eight. In conclusion, I offer this additional view  
12 from house one's pool, as it looks towards my client's  
13 property. The pool, located within ten feet of the property  
14 line, creates another vantage point above the neighboring  
15 properties.

16           In spite of the many cited measures, and  
17 mitigating factors listed by the applicant to attempt to  
18 persuade the board that a subdivision is possible, these seem  
19 to be reserved mainly for house one. The actual solution  
20 provided for house two does not rise above the problems  
21 created by the lack of street frontage, narrow lot width, and  
22 non-functional egress, ingress to the property. The lot in  
23 principal dwelling that would be accessed off of Albemarle  
24 are not only incompatible with design plan, but create  
25 insurmountable adverse effect on the neighbors.

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1 I would love to have the Exhibit No. 163 put up,  
2 they were slides that were just missing from the  
3 presentation.

4 BZA CHAIR HILL: Mr. Young, if you want to just  
5 throw up 163, and just show 163 slide one, and two real  
6 quick? Okay, Mr. Rueda, Ms. Giordano, that's it, correct?

7 MS. GIORDANO: Yes. I was just curious, typically  
8 we do the Office of Planning, and the ANC before the parties.  
9 Are we going to go back to that, or?

10 BZA CHAIR HILL: The order that I had been going  
11 on lately, and I don't think that -- what I've been advised  
12 from the attorneys is that we'd gone through the different  
13 parties -- as long as it's treated correctly, and fairly, and  
14 done properly, as long as everyone gets the correct amount  
15 of time, then there -- what am I trying to say? As long as  
16 it's done fair. I don't know, this the way I started to do  
17 it. And I guess Ms. Nagelhout, as I understood it, and as I  
18 was planning on doing it, I was going to go through all of  
19 the parties.

20 Then get to the ANC, then get to the Office of  
21 Planning. And as I remember, as long as it was done in --  
22 I'm going to go with the word fair, because then I'm getting  
23 tired, fair, then it was appropriate. Is that correct?

24 MS. GIORDANO: Okay, I was just curious, I must  
25 have missed that.

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1 BZA CHAIR HILL: That's all right.

2 MS. GIORDANO: That's fine.

3 BZA CHAIR HILL: Is that correct Ms. Nagelhout?

4 MS. NAGELHOUT: The hearing I think is subject to  
5 adjustment by the presiding officer.

6 BZA CHAIR HILL: Okay, great, okay. So, Ms.  
7 Giordano, is that it for you?

8 MS. GIORDANO: Yes.

9 BZA CHAIR HILL: Okay. Who is that, Mr. Rueda?

10 MR. RUEDA: Yes, sir, Mr. Rueda speaking. I just  
11 wanted to see if we could pull up the two slides from 163.

12 BZA CHAIR HILL: I'm sorry, I had my eyes shut,  
13 I thought Mr. Young pulled them up. Mr. Young? Thanks.

14 MR. RUEDA: I think to Mr. Blake's point, there  
15 was a lot of misinformation in the presentation regarding  
16 house two. And so this view here is taken from the sidewalk  
17 looking up the pipestem towards the house, basically from  
18 public space. And obviously we can't present all the margin  
19 trees on the side, but basically this looks straight back  
20 towards the house, and our model trees, as stated before,  
21 were 18 feet high. Six foot higher than what they presented  
22 in their initial construction plan.

23 The second image is a view showing the view from  
24 Ms. Hernandez's bedroom back towards the proposed house.

25 BZA CHAIR HILL: Okay.

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1 MR. RUEDA: So, if you look at sort of the sum  
2 total of the images, I think the idea is to sort of show how  
3 the tall volumes that are setup high off the ground create  
4 sort of an out of character experience if you will, for the  
5 neighborhood, and certainly for the R8 zone. Thank you so  
6 much.

7 BZA CHAIR HILL: Okay, give me a second.

8 MR. RUEDA: Obviously I'm happy to answer any  
9 questions.

10 BZA CHAIR HILL: Okay.

11 MS. FERSTER: Chairman Hill, this is Andrea  
12 Ferster, counsel for Mary Lee.

13 BZA CHAIR HILL: Sure, go ahead Ms. Ferster.

14 MS. FERSTER: Yes, do you want to hear Ms. Lee's  
15 testimony? We have adopted Mr. Rueda as our expert, so he  
16 presented for us, as well as for Ms. Hernandez, and our only  
17 witness is Mary Lee if you would like to hear her now. And  
18 I will adopt Ms. Giordano's opening statement.

19 BZA CHAIR HILL: Sure, that's great Ms. Ferster,  
20 thanks. I was going to go to you guys next. But before I  
21 do again, because Ms. Ferster, I appreciate what you're  
22 saying, I didn't know you were going to use Mr. Rueda as  
23 well, well I guess can do this. Does Mr. -- well, maybe I  
24 can do both at the same time then. Mr. Harrison, you're  
25 going to get an opportunity to ask questions of the testimony

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1 that was just given.

2           And so, it appears as though Ms. Ferster's client  
3 is going to also use Mr. Rueda's testimony, and also agree  
4 with the statements I guess that Ms. Giordano made. And so,  
5 I guess I'm going to go ahead, and let -- so, in terms of  
6 being efficient, going to go ahead, and let Ms. Ferster add  
7 her testimony to it, and then Mr. Harrison give you an  
8 opportunity to ask questions of the two presentations, if  
9 that would be appropriate? And I see you nodding your head  
10 yes Mr. Harrison?

11           MR. HARRISON: Obviously following your lead Mr.  
12 Chairman, we just have a question as to the total time  
13 allowed to party opponents, which I believe is supposed to  
14 be equal to the time that we were given. This is going on  
15 for quite a while.

16           BZA CHAIR HILL: Yes, Mr. Harrison, I appreciate  
17 what you're saying. There was a lot of time, I feel like I'm  
18 doing soccer somehow. I've got my clock right here, and I'm  
19 at half an hour, and you guys were at around 25 minutes,  
20 okay? So, I was trying to get to the phone thing, and the  
21 phone issue, and all that, so you're all about the same right  
22 now. But I appreciate your comments. Ms. Ferster, would you  
23 like to go ahead, and give us your presentation, or your  
24 portion of the presentation?

25           MS. FERSTER: Yes, and Ms. Lee will be testifying,

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1 and I think she will be brief, so Ms. Lee, if you could  
2 unmute, and give your presentation?

3 BZA CHAIR HILL: Ms. Lee, can you hear me?

4 MS. LEE: I can.

5 BZA CHAIR HILL: Hi, can you introduce yourself?

6 MS. LEE: Can you hear me?

7 BZA CHAIR HILL: Yes, could you introduce yourself  
8 for the record please?

9 MS. LEE: Yes, I'm Mary Lee, I live at 3005  
10 Albemarle Street since 1995, and my property abuts the  
11 Harrison property at 3007 Albemarle. I too support Mr.  
12 Brown's brief, and Ms. Giordano's letter regarding the  
13 variance, and object to granting a variance for this project.  
14 The contention that this lot is in size, and configuration  
15 is unusual is not accurate. There are pipestem lots in  
16 Forest Hills numbering at least ten, which were obviously  
17 developed before the 2016 zoning regulations.

18 And then with respect to size, the size actually,  
19 if you consider the large lots in Forest Hills, which are  
20 equal to, or exceeding 15000 square feet, IE amenable to  
21 subdivision by virtue of their size, actually the 3007  
22 Albemarle Street lot is actually below average in area for  
23 these large lots, which number 136 large lots shown on Ms.  
24 Hernandez's map. And so this property is below average in  
25 area.

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1 I also object to the special exception given the  
2 impact of the speculation house plan, house number two, on  
3 my property. In terms of the criteria of special exceptions  
4 being that it is in harmony with the general purpose, and  
5 intent of the zoning regulations, I can't see how this plan  
6 complies with that requirement either. As Ms. Hernandez  
7 illustrated in her presentation, for the 136 properties that  
8 could be divided in Forest Hills by virtue of their size,  
9 with this kind of precedent, they will be able to be  
10 subdivided, many of them.

11 And many of them will be divided as pipestem lots,  
12 thereby running counter -- being antithetical to the present  
13 zoning regulations, which require minimum street frontage.  
14 And then for house number two, the speculation house, which  
15 is a 6000 square foot, three story house, it's front yard,  
16 balcony, deck, and windows are going to be facing my  
17 backyard. It will adversely effect, as Mr. Rueda showed, the  
18 use of my property. It's going to overlook my backyard, and  
19 uncomfortably to say the least.

20 And I will be sandwiched between the street, and  
21 basically the front yard of house two. So, I'll be  
22 sandwiched between the street, and a front yard, which is not  
23 also consistent with the layout that the zoning regulations  
24 allow. Basically I just want to be able to enjoy -- continue  
25 at minimum to enjoy the privacy of my backyard. Notably, in

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1 the house plan, the house two is a full third larger than my  
2 house, or any of the houses on the abutting properties that  
3 surround this pipestem lot.

4           It'll look directly into my backyard as I said,  
5 and notably, the Harrisons have taken care to minimize the  
6 impact on their house number one, their family home, and  
7 they've located the balconies, decks, and so forth, patios,  
8 windows, basically they biased the location of those to look  
9 onto the south of the property, which is my backyard, and  
10 have not located those features on the side that will  
11 overlook their house.

12           So, basically we're taking, I believe an unfair  
13 brunt of the consequences of this development. And then  
14 similarly, for the stormwater runoff, which is a big problem  
15 that we've talked about, and everybody knows about, similarly  
16 I'll just say, rather than repeating that the features that  
17 are planned to mitigate the stormwater runoff are really  
18 located on the speculation house that will be sold.

19           So, I feel like that's basically putting us at  
20 risk for literally, and figuratively the downstream effects  
21 of this development when this property is owned by whoever  
22 buys it. So, I too would have preferred a negotiated  
23 solution to these problems. We attempted to negotiate with  
24 the Harrisons with an actual list of criteria, or points that  
25 we would have liked some relief on. But then after the first

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1 round, the Harrisons pulled out of negotiations, and I was  
2 never told why.

3           In summary, I urge the board to uphold the need  
4 for a variance, and to follow the Office of Planning guidance  
5 to deny that variance. And most importantly I'm not -- I too  
6 am not opposed to development of this property. On the  
7 contrary, I've never opposed the construction of the  
8 Harrison's family home, and I have also never opposed the  
9 development of the property according to what the Harrisons  
10 can do under the zoning regulation, such as made here. So,  
11 I thank you for your time, and attention, that concludes my  
12 testimony.

13           BZA CHAIR HILL: Okay, thank you Ms. Lee.

14           MS. FERSTER: Chairman Hill, that concludes our  
15 testimony. I would just like to note that one of the items  
16 that was on the table when there were negotiations was a  
17 construction management plan. And when the applicant  
18 abruptly concluded negotiation, it left the parties in  
19 opposition without even the basic protection to their  
20 property that a construction management plan would have  
21 provided. So, that is it for our testimony, and I thank you.

22           BZA CHAIR HILL: Okay, thanks Ms. Ferster. Okay,  
23 you guys, so that gets me through --

24           MR. BROWN: The third party Mr. Chair --

25           BZA CHAIR HILL: Don't worry Mr. Brown, I haven't

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1 forgotten you. Somebody I know needs a break, and so let me  
2 do this. I would like to get through questions real quick  
3 first, if I could, with Mr. Harrison before he -- actually,  
4 you know what, let me do this. Mr. Harrison, how many  
5 questions do you think you have?

6 MR. HARRISON: A couple for Mr. Rueda, and Ms.  
7 Hernandez, and then I know that Ms. Ferreira has a couple for  
8 Mr. Rueda.

9 BZA CHAIR HILL: Okay, then let's go ahead, and  
10 take a break. So, let's take a quick, I guess 15 minute  
11 break, and we'll see what happens, we'll come back, thank  
12 you.

13 (Whereupon, the above-entitled matter went off the  
14 record at 3:15 p.m. and resumed at 3:28 p.m.)

15 BZA CHAIR HILL: Okay. I think you had a  
16 question. Mr. Rueda, are you there? Mr. Rueda?

17 Ms. Hernandez, I think Ms. Giordano was going to  
18 have -- I'm sorry. Ms. Ferreira was going to have questions  
19 for Mr. Rueda. Correct, Ms. Ferreira?

20 MR. HARRISON: Correct, but actually I'd like to  
21 just --

22 BZA CHAIR HILL: Yeah. That's fine. Okay. I got  
23 you. I'll let you do it, Mr. Harrison. I'm sorry.

24 MR. RUEDA: I was -- can you hear me?

25 BZA CHAIR HILL: Yep. We can hear you.

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1 MR. RUEDA: I was trying to do it through the  
2 phone. It's not allowing me to.

3 BZA CHAIR HILL: Well, whatever it is, you're good  
4 now.

5 MR. RUEDA: Perfect.

6 BZA CHAIR HILL: Okay. Let's see. Mr. Harrison,  
7 go ahead. So what's happened thus far, Mr. Harrison? I'm  
8 trying to -- Mr. Brown still has to give his testimony, but  
9 I don't want you to -- since this is longer than -- we have  
10 more people in party status than we normally have. And so  
11 I'm just trying to do it in a way that you don't forget your  
12 questions. So, Mr. Harrison, what questions do you have for  
13 the previous two parties to ask people, either Ms. Giordano's  
14 client or Ms. Ferster's client?

15 MR. HARRISON: I'd just like to ask Mr. Rueda a  
16 couple of quick questions.

17 BZA CHAIR HILL: Sure.

18 MR. HARRISON: So, Mr. Rueda, you're certified  
19 here as a zoning expert, correct?

20 MR. RUEDA: And architecture.

21 MR. HARRISON: Okay. Great. Is it common in  
22 Washington, D.C., to have a home in the property behind your  
23 home?

24 MR. RUEDA: Not one that necessarily faces your  
25 backyard.

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1 MR. HARRISON: Just yes or no. Is it common to  
2 have a house in the property behind your house?

3 MR. RUEDA: It is common to have houses in  
4 adjacent properties.

5 MR. HARRISON: Thanks. And is there anything that  
6 you're aware of -- giving you a hypothetical. If this  
7 property had been proposed and you were reviewing it and  
8 there was no western house, only the eastern house sited  
9 exactly where it is and how it's built, are you aware of any  
10 issues that would be out of compliance? Yards, heights, any  
11 rules that would say this has to be changed?

12 MR. RUEDA: Yeah. It doesn't face the street.

13 MR. HARRISON: So that's the only thing that you  
14 contest?

15 MR. RUEDA: Well, I think my testimony lays out  
16 exactly why I think there's the adverse effect. As far as  
17 the ability to put a second --

18 (Simultaneous speaking.)

19 MR. HARRISON: That's not what I asked you, sir.

20 BZA CHAIR HILL: Hold on. Just wait a sec. Mr.  
21 Rueda? Mr. Rueda? Give me a second.

22 MR. RUEDA: Yes, sir.

23 BZA CHAIR HILL: Mr. Harrison, the question again  
24 was what about that -- saying that that first -- not the  
25 second house. The first house is going to be your primary

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1 home. Your question was -- I didn't understand --

2 MR. HARRISON: That doesn't exist. If we just  
3 built the eastern house, the house that is 120 feet from the  
4 back wall of Ms. Hernandez's house, is there anything about  
5 the design of that house that he understands would not be  
6 allowed under the current zoning?

7 BZA CHAIR HILL: The second house?

8 MR. HARRISON: Correct.

9 BZA CHAIR HILL: Exactly the way it is? What? Mr.  
10 Harrison, is that correct? Is that your question?

11 MR. HARRISON: Yes. Correct. Exactly the way it  
12 is.

13 BZA CHAIR HILL: Right. So, Mr. Rueda, the  
14 question is if the primary house wasn't built, do you think  
15 you'd have a problem with the secondary house?

16 MR. RUEDA: Yes, because the lot is recordable as  
17 a record lot. The house itself may be considered by right  
18 under a limited microscope, but the fact that you remove  
19 house 200 feet from the street is hard to ignore.

20 (Simultaneous speaking.)

21 BZA CHAIR HILL: Okay. So, Mr. Harrison, the  
22 answer is yes. Go ahead, Mr. Harrison. What's your next  
23 question?

24 MR. HARRISON: Okay. So no side yard, rear yard,  
25 front yard, lot occupancy, or height issues that you're aware

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1 of?

2 MR. RUEDA: But to ignore purpose and intent of  
3 how you use your front yard or how you address the street or  
4 how you have the required lot width -- so I don't really  
5 understand your question unless you're just trying to get me  
6 to agree to something that is irrelevant.

7 BZA CHAIR HILL: Mr. Harrison, I mean, I think,  
8 also, you're better off talking to the Office of Planning  
9 when we get to this part. But what's your next question?

10 MR. HARRISON: So one last question, Mr. Rueda.  
11 When we were engaged in negotiations with Ms. Hernandez and  
12 Dr. Lee, upon their assertion that they will be able to bring  
13 all the three parties together into a common design, did we  
14 identify that the distance between the back wall of Ms.  
15 Hernandez's bedroom window and the front of this house was  
16 approximately 120 feet?

17 MR. RUEDA: I think we had some discussion about  
18 -- I think we agreed to disagree on the actual number, but  
19 it wasn't enough error to hang up the discussion on that  
20 point.

21 MR. HARRISON: So it was around 120 feet?

22 MR. RUEDA: Well, it depends on -- you know, if  
23 you look at the architect plans, they're shown in one  
24 location. If you look at the civil plans, it's shown at a  
25 different location. When we were going through negotiation,

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1 we had asked to have the property pushed back further, but  
2 instead, the house came back closer. So that number becomes  
3 kind of irrelevant, especially given the fact that it's sort  
4 of in the smaller group of distances between the properties  
5 when we identified on the --

6 BZA CHAIR HILL: Okay. Okay. Mr. Henderson,  
7 what's your next question?

8 MR. HARRISON: I think that's it, Mr. Chair.

9 BZA CHAIR HILL: Okay.

10 Did you have questions for -- Mr. Ferreira -- Ms.  
11 Ferreira? Catarina, do you have anything you want to ask?

12 MS. FERREIRA: I haven't introduced myself yet  
13 officially for the record. I'm Catarina Ferreira, and I'm  
14 the architect on the project. And I do have a couple of  
15 questions for Mr. Rueda, and I'll try to keep this to  
16 technical issues because I think we've discussed at length  
17 the various aspects of the projects, and I'll try to keep it  
18 as brief as possible.

19 So first question, Mr. Rueda, is what is the  
20 software that you used to create your -- the views that you  
21 have included in your presentation?

22 MR. RUEDA: It was Reddit.

23 MS. FERREIRA: Okay. And in your opinion, are  
24 those views accurate depictions of the houses as designed?

25 MR. RUEDA: What? Sorry.

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1 MS. FERREIRA: In your opinion, are the graphics  
2 in your presentation accurate depictions of the houses as  
3 designed?

4 MR. RUEDA: (Audio interference) information from  
5 the different presentations. So they're as accurate as we  
6 could -- not having been the actual designer of record, yeah.

7 MS. FERREIRA: Okay. Well, I happen to be pretty  
8 familiar with the houses and their proportions, and I can say  
9 that I was a bit surprised to see the proportions of the  
10 graphics on your presentation. And Board members could look  
11 into that on their own. I'm not going to ask for it to be  
12 pulled up, but I think it's pretty obvious that there's a  
13 vertical extrusion apparent that's certainly very different  
14 from the architectural drawings submitted into the record.

15 So I just want to point that out because we do  
16 have an obligation to provide accurate information to the  
17 Board as part of these proceedings, and I don't feel that the  
18 information is accurately depicting the houses as designed.

19 (Simultaneous speaking.)

20 MR. RUEDA: Well, I would disagree with you.

21 MS. FERREIRA: Okay. I think we can verify that,  
22 so no problem.

23 MR. RUEDA: That's fine. I'm just telling you we  
24 used the best information we had related to the information  
25 submitted to the Board.

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1 MS. FERREIRA: It's verifiable, so I have no  
2 issues with your objection. That's fine. So the next  
3 question, then, is would you say that in terms of use -- as  
4 an architectural expert and as a licensed architect, in terms  
5 of use, a rear yard is really where people convene and tend  
6 to occupy exterior spaces much more than the front of the  
7 house?

8 MR. RUEDA: Sure. In terms of privacy, yes.  
9 Absolutely. They would gather in the rear. I agree with  
10 you.

11 MS. FERREIRA: Thank you. So, as Mr. Harrison  
12 pointed out a few minutes ago, the distance between these  
13 houses from exterior wall to exterior wall is plus or minus  
14 around 120 feet. I have in my records that it's 112 in one  
15 case, 119 in the other. In between -- and thank you for  
16 including this information because I think it's actually very  
17 illustrative -- in between are garages, accessory structures,  
18 several layers of trees. And your presentation focused on  
19 the fact that there is a loss of privacy and enjoyment of  
20 these properties because of the fact that my client's  
21 proposed house 2 is facing their rear yard.

22 The reality is house 2 also has a very large rear  
23 patio, which is where people, for privacy reasons, will  
24 normally convene, as your clients currently do in their rear  
25 yards. The occupants of house 2 are very unlikely to be

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1 convening on the front yard. Why would they do that and lose  
2 privacy themselves when they have a large rear yard and patio  
3 to enjoy instead?

4 So that's -- it's a point and it's a question  
5 because the argument is that there's a loss of privacy. The  
6 reality is I could make the argument that because this house  
7 faces the opposite direction, there is actually --

8 (Simultaneous speaking.)

9 MR. RUEDA: You're going to have to slow down  
10 because I can't hear everything that you're saying.

11 MS. FERREIRA: Sure.

12 MR. RUEDA: And so it sounds like you're  
13 testifying. I don't hear a question.

14 MS. FERREIRA: The question is, in your opinion,  
15 is there greater privacy --

16 (Simultaneous speaking.)

17 MS. FERREIRA: Can you hear what I'm saying now?

18 MR. RUEDA: I heard that.

19 MS. FERREIRA: Can you hear what I'm saying now?  
20 Can everyone hear me?

21 MR. RUEDA: I heard that. Yeah.

22 MS. FERREIRA: Okay. Thank you. In your opinion  
23 --

24 (Simultaneous speaking.)

25 MS. FERREIRA: -- is there a greater degree of

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1 privacy being provided due to the fact that house 2 does not  
2 have a backyard backing onto your client's backyard?

3 MR. RUEDA: No. I disagree because you brought  
4 the public, sort of the -- you brought people back into  
5 private areas that ordinarily are held at street or at front  
6 porch. And so to bring --

7 BZA CHAIR HILL: All right. Give me a second.  
8 Now I'm confused.

9 Ms. Ferreira, you guys seem to be having a  
10 discussion back and forth. You had a question, again, which  
11 was where are people going to spend more of their time. Is  
12 that the question?

13 MS. FERREIRA: Right.

14 BZA CHAIR HILL: And your question -- can you say  
15 your question again? I'm sorry.

16 MS. FERREIRA: Yeah. My question is, in Mr.  
17 Rueda's opinion, whether there is a greater degree of privacy  
18 being provided with the house oriented as it currently is  
19 compared to if it were the other way around, meaning with the  
20 backyard facing his client's backyards versus the front of  
21 the house facing his client's --

22 (Simultaneous speaking.)

23 BZA CHAIR HILL: Mr. Rueda, do you understand the  
24 question?

25 MR. RUEDA: Sure. There's a distinction trying

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1 to be made between front-yard activity versus backyard  
2 activity.

3 BZA CHAIR HILL: The question that I understand  
4 is they're asking you, Mr. Rueda, if the house were turned  
5 around the other way, do you think your clients would have  
6 more privacy? Yes or no?

7 MR. RUEDA: If they flipped the house?

8 BZA CHAIR HILL: Yeah. The backyard was facing  
9 the other way.

10 MR. RUEDA: Do I think it would provide more  
11 privacy? I think potentially it would, except for the fact  
12 that you have windows, large-scale windows, facing from  
13 within the house out --

14 BZA CHAIR HILL: Okay. That's enough. Okay.

15 So, Ms. Ferreira, that's the answer you got. Do  
16 you have another question?

17 MS. FERREIRA: No, I don't have another question.  
18 That was really the --

19 BZA CHAIR HILL: Okay. All right.

20 Okay. Mr. Brown?

21 MR. RUEDA: But let me just clarify, then, because  
22 I think that in the previous exchange, there was some attempt  
23 to minimize front-yard interface with deliveries and people  
24 that come door to door as somehow being -- you know,  
25 uninvited people basically coming back into the private area

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1 of the adjoining home.

2 BZA CHAIR HILL: Mr. Rueda, she was just asking  
3 whether or not people spend more time in their backyard or  
4 not. She wasn't making --

5 MR. RUEDA: Yeah. Okay.

6 BZA CHAIR HILL: She wasn't giving any testimony.

7 MR. RUEDA: Okay.

8 BZA CHAIR HILL: So go ahead, Mr. -- I'm sorry.  
9 I'm blanking on the name again. Ms. Ferreira, you had your  
10 hand up?

11 MS. FERREIRA: Yeah. It was just another question  
12 was brought up by that statement, so I apologize, and I'll  
13 keep it brief.

14 The fact that deliveries will occur down that  
15 driveway towards the house is no different than the existing  
16 situation. That's already the case. There's already a house  
17 on the property that is accessed only from that pipe stem.  
18 So that's a situation that is --

19 MR. RUEDA: Yeah, except for the fact that the  
20 driveway now ends 20 feet from the pipe stem, whereas before,  
21 you had the entire driveway to receive people. It's not the  
22 same situation. It's completely different, and it completely  
23 --

24 (Simultaneous speaking.)

25 BZA CHAIR HILL: Can I point out something to you

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1 guys? We're the ones that are going to have to make the  
2 decision, right? So you guys don't need to argue about  
3 stuff, okay? So we're just having questions, and let's just  
4 kind of have an opportunity for the Board to hear all the  
5 testimony.

6 So go ahead, Mr. Brown. It's your opportunity now  
7 to give your clients' testimony.

8 You're on mute, Mr. Brown.

9 MR. BROWN: Hopefully my clients are still online  
10 from Italy. This will be very brief. Mr. Baringer has some  
11 concerns about the same thing, the overlord's house to go on  
12 lot 2. But his concerns are a little different. So he'll  
13 be brief, and I'll wrap it up with a brief comment on the  
14 legal issues.

15 So is Mr. Baringer available?

16 BZA CHAIR HILL: Mr. Baringer, can you hear us?

17 Mr. Baringer, can you hear us? Mr. Baringer?

18 MR. BROWN: I know they've been online all day.

19 MR. YOUNG: I do not see a Jack Baringer on.

20 MR. BROWN: It could be his wife, Michela Perrone.

21 BZA CHAIR HILL: Ms. Perrone, can you hear us?

22 MR. YOUNG: I do not see that name, either, on.

23 BZA CHAIR HILL: Okay, Mr. Brown. I'll tell you  
24 what. Either you can go ahead and give some of -- I mean,  
25 there is testimony in the record. However, if you want to

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1 go ahead and give testimony, you can, or I'll give you a  
2 moment and we can hear from the Office of Planning.

3 MR. BROWN: Can I basically tell you what my  
4 clients were prepared to say?

5 BZA CHAIR HILL: Sure. Sure.

6 MR. BROWN: They live at 4516 30th Street. They  
7 purchased the property and lived there since 1984. There is  
8 an 850-square-foot ADU unit, which has been an integral part  
9 of the property since 1970. It was there, and it remains  
10 compliant with the existing zoning regulations. It generates  
11 retail revenue for them, and the ability to generate that  
12 revenue was a significant factor in their decision to  
13 purchase the property. It remains a source of revenue and  
14 increases the value of the property.

15 Now, the Applicants propose to build a 6,000-  
16 square-foot, four-story house and place it on the new  
17 theoretical lot with the house line 13 feet from our ADU and  
18 abutting our back property line. If constructed, the house  
19 will have a dramatic and negative impact on the quality of  
20 life available to occupants of the ADU. They will surely  
21 feel confined by this huge house a few feet away from their  
22 small home. Furthermore, the vehicular movement of the house  
23 occupants will produce traffic congestion that's currently  
24 nonexistent.

25 The proposed actions by the Applicants will reduce

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1 the revenue potential of the ADU and reduce the market value  
2 of the lot property. And they add, finally, that they are  
3 not relying solely on these adverse impacts in opposing the  
4 theoretical subdivision, but rather on my analysis of the  
5 lawfulness of the subdivision under the zoning regulations.

6 My memorandum at Exhibit 107, included in the record,  
7 basically says that the subdivision cannot be approved  
8 without a variance and that the variance needed in this case  
9 should not be granted for the reasons that the Office of  
10 Planning has already expressed and are amplified and  
11 discussed further in Exhibit 107.

12 I will finally add that the notion that you don't  
13 need specific relief in addition to the variance from the  
14 requirement of a single primary house or structure on an R-  
15 zone lot is the only variance or the only alteration that you  
16 get from the special exception requirement in Section 305.1.

17 All of the other special exception or variance reliefs you  
18 need for your individual lots within the theoretical  
19 subdivision require separate attention and zoning relief.  
20 That has been the consistent practice and viewpoint of the  
21 Office of Planning not only under the 2016 regulations but  
22 on the prior regulations, as detailed in my memorandum and  
23 further detailed in additional comments that I provided you  
24 last night in Exhibit 157.

25 And Ms. Giordano also provided considerable detail

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1 on the practice under the 1958 zoning regulations. The whole  
2 point of putting the theoretical lot subdivision process  
3 through the special exception process instead of being by  
4 right, which happened in 1989, was to assert greater control  
5 over the process of subdividing and building on lots in the  
6 city. And the notion that the zoning administrator provided  
7 to Mr. Harrison in a two-hour turnaround yesterday doesn't  
8 deal with this history and simply is a non-binding opinion  
9 on the zoning administrator based on the information that Mr.  
10 Harrison provided and should be rejected.

11 So, unless Mr. Baringer has come online to add any  
12 additional comments, that's our presentation.

13 BZA CHAIR HILL: Okay. Thanks, Mr. Brown.

14 Mr. Young, did you get them yet? And if you do  
15 during the course of this, let me know.

16 MR. YOUNG: Will do. I don't see them yet.

17 BZA CHAIR HILL: Okay.

18 Mr. Harrison, do you have anything for Mr. Brown?

19 You're on mute, Mr. Harrison.

20 MR. HARRISON: Thank you, Mr. Brown. Can you cite  
21 your provision that allows an 850-square-foot ADU without  
22 special exception in the zone?

23 BZA CHAIR HILL: I guess, Mr. Harrison, that ADU  
24 is not before us. But you're trying to say that that --  
25 you're saying that --

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1 (Simultaneous speaking.)

2 MR. HARRISON: -- as a justification for saying  
3 that it's as a right.

4 BZA CHAIR HILL: Oh.

5 MR. BROWN: All of the provisions that I relied  
6 upon are stated clearly and cited in the memorandum that I  
7 filed in May in the letter that I filed last night.

8 BZA CHAIR HILL: I'm sorry. Now I'm trying to be  
9 clear again. Mr. Brown, you mentioned during your testimony  
10 that the ADU is a matter of right there. Is that what you're  
11 saying?

12 MR. BROWN: No. I did not say that at all. I  
13 said that the ADU that is on Mr. Baringer's property has been  
14 approved and is in no way in violation of the zoning  
15 ordinance.

16 BZA CHAIR HILL: Okay.

17 And, Mr. Harrison, you're saying it is?

18 MR. HARRISON: I'm not aware of a special  
19 exception that was issued after 2016 to allow an ADU over 450  
20 square foot in footprints, which -- and prior to 2016, ADUs  
21 were not allowed as rental units. But that's a different  
22 issue. I just want to understand --

23 MR. BROWN: I can tell you, Mr. Harrison, from a  
24 prior case that I was recently involved in that the ADU size  
25 limitation was imposed fairly recently and that in earlier

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1 times, under the 1958 regulations, when this ADU was built,  
2 there was no specific size limitation -- not that it matters  
3 or has any relevance to this case.

4 BZA CHAIR HILL: Okay. Mr. Harrison, what's your  
5 next question?

6 MR. HARRISON: I think we can move along.

7 BZA CHAIR HILL: Okay. All right. I'm trying to  
8 figure out what to do here now.

9 So, Ms. John, I'm going to have to leave at 4:00.  
10 And so I guess I can start to hear from the Office of  
11 Planning, and then maybe after the Office of Planning, take  
12 a break or turn it over to you or whatever you think -- I'm  
13 going to have to watch the rest of it. If you guys vote  
14 today, then you vote today. But I'm going to have to watch  
15 the rest of it if you all don't vote today.

16 Vice Chair John, do you have a preference as to  
17 how to continue? Want to hear from the Office of Planning  
18 now?

19 VICE CHAIR JOHN: We need to find out if the other  
20 parties have questions for Mr. Brown. We just heard from the  
21 Applicant. So I would want to go to Ms. Ferster and Ms.  
22 Giordano next and then hear from the Office of Planning.

23 MS. FERSTER: This is Andrea Ferster. I have no  
24 questions.

25 VICE CHAIR JOHN: Okay. Thank you. Ms. Giordano,

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1 do you have --

2 (Simultaneous speaking.)

3 VICE CHAIR JOHN: Okay. Thank you. So we can  
4 hear from the Office of Planning now.

5 Ms. Vitale?

6 MS. VITALE: Yes. Good afternoon, Madam Vice  
7 Chair and members of the Board. Elisa Vitale with the Office  
8 of Planning for BZA Case 20594. In the subject case, the  
9 Applicant has requested special exception relief via the  
10 theoretical lot subdivision provisions of Subtitle C. And  
11 in the alternative, the Applicant requested a lot-width  
12 variance to allow for a subdivision of the (audio  
13 interference) first.

14 The Office of Planning recommends denial of the  
15 requested lot-width variance request. OP does not believe  
16 that the Applicant has met the test for that relief. OP,  
17 however, does recommend approval of the official exception  
18 (audio interference) --

19 BZA CHAIR HILL: Ms. Vitale? I'm sorry. You're  
20 breaking up.

21 (Simultaneous speaking.)

22 BZA CHAIR HILL: Is it just me?

23 VICE CHAIR JOHN: No. Thank you, Mr. Chair.

24 Ms. Vitale, can you hear me?

25 (Simultaneous speaking.)

1 MS. VITALE: -- buildings on --

2 VICE CHAIR JOHN: Ms. Vitale, can you hear me?

3 MS. VITALE: Office of Planning (audio  
4 interference) lot-width variance request. OP does not  
5 believe that the Applicant has (audio interference). As  
6 you've heard from the Applicant, they (audio interference) --

7 VICE CHAIR JOHN: Ms. Vitale?

8 BZA CHAIR HILL: We lost -- Ms. John, can you hear  
9 me?

10 VICE CHAIR JOHN: Yes. We lost Ms. Vitale. I  
11 don't know if Mr. Reid or someone can call her back.

12 BZA CHAIR HILL: Maybe if somebody could try to  
13 reach out to Ms. Vitale. And I do apologize. This was  
14 something that I could not avoid. I'm going to have to  
15 leave. I'm going to let Vice Chair John take over in my  
16 stead, and I will watch this hearing. And thank you, Ms.  
17 John, for your help. And it was a pleasure hearing from  
18 everyone. Thank you very much.

19 VICE CHAIR JOHN: Thank you, Mr. Chairman. I will  
20 continue.

21 So, Mr. Young, is there any chance you can reach  
22 out to Ms. Vitale?

23 MR. YOUNG: I'll have staff reach out.

24 VICE CHAIR JOHN: So, while we're waiting for Ms.  
25 Vitale, let's take a five-minute break. We'll reconvene at

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1 4:00.

2 (Whereupon, the above-entitled matter went off the  
3 record at 3:55 p.m. and resumed at 4:01 p.m.)

4 VICE CHAIR JOHN: Okay. Please go ahead, Ms.  
5 Vitale.

6 MS. VITALE: Do you want me to begin at the  
7 beginning of my testimony? Madam Vice Chair, can you hear  
8 me?

9 MR. YOUNG: You're on mute, Ms. John, but, yes,  
10 we can hear you.

11 MS. VITALE: I was just removed from the meeting,  
12 so I can't hear the Chair or anything.

13 VICE CHAIR JOHN: Can you hear me now?

14 MS. VITALE: Yes, I can.

15 VICE CHAIR JOHN: So please go ahead. We did not  
16 hear most of your testimony, and I apologize for asking you  
17 to start over.

18 MS. VITALE: No, that's quite all right. I'll  
19 start at the beginning.

20 MEMBER BLAKE: Madam Chair, someone else may be  
21 off, as well. Mr. Smith.

22 VICE CHAIR JOHN: So in the interest of time, I'm  
23 going to ask Ms. Vitale to continue and ask Mr. Smith to  
24 review the record when he rejoins us.

25 Go ahead, Ms. Vitale.

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1 MS. VITALE: Oh, okay. Thank you. Good  
2 afternoon, Madam Vice Chair and members of the Board. Elisa  
3 Vitale with the Office of Planning for BZA Case 20594. In  
4 the subject case, the applicant has requested special  
5 exception relief under the theoretical lot provisions. The  
6 applicant also requested a lot with variance in the  
7 alternative.

8 I will dispense with the variance request first.  
9 OP recommends denial of the lot with variance request. We  
10 do not believe that the applicant has met the variance test  
11 for that relief request. OP does, however, recommend  
12 approval of the special exception relief to permit two  
13 buildings on a single lot. As you've heard from the  
14 applicant, they intend to apply for a record lot subdivision  
15 and will be submitting that information to the record.

16 The theoretical lot special exception criteria  
17 allow for multiple buildings on a single lot, provided that  
18 certain development standards are met, including side and  
19 rear yards, height, and access. The proposed development  
20 meets the development standards. As you've seen in the DDOT  
21 memo that's in the record, they have indicated that, you  
22 know, follow-on review would be required through the Public  
23 Space Committee review process. And I did want to clarify  
24 that a driveway is not included in the 24-foot minimum width  
25 requirement. That 24-foot minimum width requirement is

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1 exclusive of driveways. So the access to the subject  
2 property, you know, wouldn't be a street or an alley or  
3 anything of that sort but would be considered just a  
4 driveway. And I think, given that fact, DDOT is actually  
5 encouraging that curb cut to be reduced in width to be  
6 consistent with the DDOT driveway curb cut standards.

7           The special exception criteria also requires that  
8 the applicant submit other additional information, and the  
9 applicant has submitted the information required by Section  
10 305.4. You have heard reference to the access easements  
11 across the driveway. That information should be shown on the  
12 plans, and OP did note that in its report.

13           Section 305.5 of the criteria for the theoretical  
14 lot special exception relief requires referral of the  
15 application to OP and coordination with other District  
16 agencies for review. OP did refer the application out and  
17 coordinated with other agencies. In this instance, memos  
18 were received from fire and emergency medical services, as  
19 well as DDOT. And the letters from those agencies are in the  
20 record.

21           OP notes that the proposed single household  
22 dwellings would be consistent with the R-8 zone, and we  
23 believe that, you know, they meet the development standards  
24 that are required under the theoretical lot subdivision  
25 provisions and would be consistent with the zoning

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1 regulations and zoning map.

2 I will end my testimony there, and I am happy to  
3 answer any questions that the Board might have. Thank you.

4 VICE CHAIR JOHN: Thank you, Ms. Vitale. Does the  
5 Board have any questions for Ms. Vitale? Mr. Blake, do you  
6 have any questions for the Office of Planning?

7 MEMBER BLAKE: I do not have a question for the  
8 Office of Planning.

9 VICE CHAIR JOHN: Okay. I'll go to the applicant.  
10 Mr. Harrison.

11 MR. HARRISON: No questions, Madam Chair.

12 VICE CHAIR JOHN: Okay. Ms. Giordano, do you have  
13 any questions for the Office of Planning?

14 MS. GIORDANO: Yes, I do. Would it be possible  
15 to pull up the Office of Planning, page four?

16 VICE CHAIR JOHN: Mr. Young, are you able to pull  
17 up that report?

18 MS. GIORDANO: That's Exhibit 99.

19 VICE CHAIR JOHN: Okay. So while Mr. Young is  
20 pulling up the exhibit, would you like to go ahead and ask  
21 your question? Because the Board has the Office of Planning  
22 report.

23 MS. GIORDANO: Oh, okay. So page four. Ms.  
24 Vitale, you indicated that the applicant met the requirements  
25 of 305.4 with the exception maybe of the easements that have

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1 to be shown on the plans; is that correct?

2 MS. VITALE: Yes, I did.

3 MS. GIORDANO: Okay. What is the submission that  
4 meets the requirement of number one of 305.4, a plat of the  
5 record lots proposed for the subdivision?

6 MS. VITALE: The applicant submitted, and I don't  
7 have -- let me pull up the exhibit number. They did, they  
8 submitted a subdivision plat that showed the lines for the  
9 proposed theoretical lots. And as we indicated, we needed  
10 understanding that there was underlying record lot that could  
11 be recovered or resuscitated, if you will, that that's been  
12 common practice by the Office of the Surveyor and the Zoning  
13 Administrator. We believe that, by providing the proposed  
14 theoretical lots on the plat that showed, that matched the  
15 boundaries of the existing tax lot 818 and then also matched  
16 the boundaries of the underlying record lot, that that was  
17 sufficient, but we did note that the applicant would need to  
18 record, if you will, to subdivide and create or recreate that  
19 record lot.

20 MS. GIORDANO: Well, I think Exhibit 11, if you  
21 want to pull it up, is a proposed subdivision. It was never  
22 approved by DCRA. You can see that they did not sign it.  
23 But there is no underlying record lot.

24 MS. VITALE: There is an underlying record lot,  
25 and that could be recovered. Yes, no, what they submitted,

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1 the theoretical lot subdivision provisions, you aren't  
2 subdividing property through this process, and that's why  
3 we're not evaluating whether the, you know, lot width and lot  
4 area and lot frontage are met.

5 MS. GIORDANO: Did you obtain from the applicant  
6 a plat of the record lots that showed --

7 MS. VITALE: No.

8 MS. GIORDANO: -- her lot?

9 MS. VITALE: No, I did not.

10 MS. GIORDANO: Okay. Thank you.

11 VICE CHAIR JOHN: Was that your only question, Ms.  
12 Giordano?

13 MS. GIORDANO: Yes, it is. Thank you.

14 VICE CHAIR JOHN: Ms. Ferster, do you have any  
15 questions?

16 MS. FERSTER: Andrea Ferster. Yes, just a quick  
17 follow-up question with Ally, and that is did you hear Ms.  
18 Prince testify about the record lot issue where she said that  
19 she believed that, because a portion of the underlying record  
20 lot has been conveyed away, that the underlying record lot  
21 no longer existed? I believe that was a legal opinion that  
22 she provided for the Board. Did you hear that? Do you have  
23 a -- anyway, did you hear that testimony?

24 MS. VITALE: I did hear Ms. Prince's testimony,  
25 yes.

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1 MS. FERSTER: Okay. So do you disagree with that?

2 MS. VITALE: I do not -- I have not done the legal  
3 research into the, you know, the subdivision history for this  
4 property. As I stated previously, we raised the issue that  
5 there was not a record lot, you know, a plat of a record lot  
6 in the record for this case, and that would be necessary for  
7 the applicant to achieve in order to proceed with the  
8 theoretical lot subdivision. The applicant indicated that  
9 that would not be a problem and that they would be able to  
10 do that. And based on that information provided, we  
11 proceeded in reviewing the application as submitted.

12 MS. FERSTER: Okay. Thank you. I have no other  
13 questions.

14 VICE CHAIR JOHN: Thank you. Mr. Brown, do you  
15 have any questions?

16 MR. BROWN: Yes, I do. Can you hear me?

17 VICE CHAIR JOHN: Yes.

18 MR. BROWN: Ms. Vitale, you were served with a  
19 copy of Exhibit 107, my memorandum discussing the OP report  
20 and other parts of this case. Have you had a chance to  
21 review that memorandum?

22 MS. VITALE: Yes, I have.

23 MR. BROWN: I'd like to point your attention to  
24 footnote three in that memorandum, which identifies at least  
25 a half a dozen BZA cases under the 2016 zoning regulations

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1 in which the Office of Planning recommended approval of  
2 theoretical lot subdivisions and also recommended the  
3 granting of variances with respect to requirements for the  
4 sum of those lots. Have you had a chance to look at any of  
5 those BZA reports on those applications?

6 MS. VITALE: Yes, I have. And I would note that  
7 the variances referenced in the cases in footnote three are  
8 for side and rear yards frequently, lot occupancy or FAR  
9 height, and those are development standards which are  
10 required and anticipated to be met under the theoretical lot  
11 provisions.

12 MR. BROWN: So is it your understanding if the  
13 development standard isn't specifically mentioned in Section  
14 305, it doesn't have to be met or does the Board have to  
15 evaluate the departure from those standards?

16 MS. VITALE: Well, I can't make the determination.  
17 It's the Zoning Administrator that interprets the regulations  
18 and would apply the regulations in the review of any building  
19 permit. So I can't speak to that. Like I said, I've  
20 reviewed the memo that was submitted. This is a self-  
21 certified application. The applicant does, in fact, meet the  
22 side and rear yard requirements and is not exceeding the  
23 permitted height in the zone. So we reviewed the application  
24 as presented by the applicant, and they are not requesting  
25 other relief, with the exception of the alternate proposal,

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1 which requested relief under the minimum lot width provisions  
2 for a true subdivision, not a theoretical lot subdivision.

3

4 MR. BROWN: And you stand by your opinion that a  
5 variance for the minimum lot width would not be appropriate  
6 in this case; is that correct?

7 MS. VITALE: That's correct.

8 MR. BROWN: And you stand by your opinion that  
9 that particular difficulty can be obviated with the  
10 expedience of a special exception under theoretical lot  
11 subdivision; is that correct?

12 MS. VITALE: That's correct. The applicant has  
13 an approach that is available via special exception, and we  
14 would certainly, you know, I think, as stated in our report  
15 and in my analysis, you know, we would rather see an  
16 applicant request the minimum relief necessary. And if a  
17 project could be accomplished with relief via special  
18 exception, rather than relief via variance, that would  
19 certainly be preferable. And in this instance, the applicant  
20 submitted an application for special exception. They did  
21 also continue to include the alternative variance relief.  
22 You know, as is outlined in our report, we don't believe the  
23 variance relief can be met, but we do believe that the  
24 special exception test can be met for the theoretical lot.

25 MR. BROWN: So why is relief under special

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1 exception preferable to relief under a variance? Because  
2 it's easier to obtain?

3 MS. VITALE: Relief under special exception is  
4 generally for something that is contemplated as permitted  
5 within the zoning, whereas a variance is asking for something  
6 that's not generally, you know, kind of contemplated by the  
7 zoning. In this instance, the applicant would be subdividing  
8 the lot into two nonconforming properties that we did not  
9 believe the met the variance test to subdivide the lot.  
10 Theoretical subdivision allows multiple buildings on a record  
11 lot. This relief was available without even a special  
12 exception. You know, early, under the 1958 regulations, they  
13 could have proceeded to do a theoretical lot without even  
14 needing to go to the board for hearing and for the special  
15 exception process. That was modified and changed in the  
16 special exception as required interview that the criteria in  
17 the analysis allows for an evaluation of how those multiple  
18 buildings are sited.

19 In our higher-density zones, you can have multiple  
20 buildings on a lot. The theoretical lot subdivision  
21 provisions apply to the R, RF, RAR lower-density residential  
22 zones and allow for this very thing, provided that yards,  
23 side yards, rear yards, height, provided that all of the kind  
24 of development standards are met. And that ensures  
25 separation, light and air, and the other things that we look

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1 at often when we're reviewing development in these low-  
2 density residential zones.

3 MR. BROWN: And those development standards  
4 include quite a number of factors that are not listed in  
5 Section 305.3, right?

6 MS. VITALE: There are other standards, but 305.3  
7 outlines the development standards, the language reads the  
8 following development standards shall apply to theoretical  
9 lots: side and rear yards of a theoretical lot shall --

10 MR. BROWN: I understand the --

11 MS. VITALE: -- with the requirements of the zone.  
12 So we, our -- Office of Planning, again, it's the Zoning  
13 Administrator that interprets the regulations and applies the  
14 regulations when an applicant brings forward a building  
15 permit. Office of Planning is charged with reviewing the  
16 application against the criteria in the regulations, and  
17 that's what we have done in this instance and that's the  
18 analysis that's provided in our report.

19 MR. BROWN: Thank you for your understanding.

20 VICE CHAIR JOHN: Thank you, Ms. Vitale. So next  
21 I'll go to the ANC. Is the ANC here?

22 MS. MEHTA: Madam Vice Chair John, I am Dipa  
23 Mehta. I am the ANC commissioner representing single-member  
24 District 3F03.

25 VICE CHAIR JOHN: Thank you. So at this time, you

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1 can ask questions of the applicant and the parties in  
2 opposition, or you could give your statement.

3 MS. MEHTA: Thank you. I will go ahead and give  
4 my statement, if that's okay with you.

5 VICE CHAIR JOHN: Please, go ahead.

6 MS. MEHTA: Thank you. Thank you, members of the  
7 Zoning Board, for the opportunity to speak today. My name  
8 is Dipa Mehta, and I am commissioner for 3F03, the single-  
9 member district in which 3007 Albemarle Street is located.  
10 I first learned of the applicants' building plans when Mr.  
11 Harrison contacted me back in April 2021 to describe the  
12 project. Around mid-June 2021, a group of neighbors,  
13 including the three who have obtained party status in this  
14 matter, contacted me to discuss their concerns about the  
15 applicants' plans. Since then, I and my fellow commissioners  
16 have worked in a fair, transparent, and evenhanded manner to  
17 facilitate communication and to ensure that the legitimate  
18 concerns, particularly of those neighbors who are directly  
19 adjacent to 3007 Albemarle, were taken into account as the  
20 applicants proceeded to develop their plans.

21 I am here today to urge the BZA to take into  
22 account the extensive and thorough nature of the review  
23 process which took place over more than six months and  
24 included two public ANC meetings, site meetings with  
25 neighbors, and several iterations of detailed stormwater

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1 management and landscape plans, all of which I was privy to.  
2 I'm also here to share with the Board the reasons why ANC 3F  
3 voted unanimously to grant the release by applicants and  
4 ultimately to allow the proposed project to proceed.

5           As you can imagine, as an ANC commissioner in a  
6 single-member district that is comprised almost entirely of  
7 single-family houses, I routinely consider private property  
8 matters involving competing rights and interests of adjacent  
9 neighbors. My approach, which has been quite successful in  
10 such matters, is to examine the facts and the context of the  
11 applicable regulations, act as an arbiter, and encourage  
12 compromise.

13           I did exactly that with respect to the applicants'  
14 project over a many months' long process, during which  
15 directly adjacent neighbors voiced largely two sets of  
16 issues. First, concerns that centered around the post-  
17 development landscaping plans, especially in respective  
18 vegetation trees, including privacy screening; and, second,  
19 the post-development management of stormwater runoff on the  
20 site. I took these concerns at face value, and I  
21 participated in a lengthy site visit which included meetings  
22 with two of the three objecting individuals who have obtained  
23 party status, plus several other neighbors who did not seek  
24 party status and do not object to the applicants' plans.

25           Of the three individuals who are now party to this

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1 matter, only Ms. Lee and Ms. Hernandez attended that meeting.  
2 During the site meeting, Ms. Hernandez talked exclusively  
3 about her concerns regarding the stormwater impacts of the --

4

5 ZC CHAIR HOOD: There's a lot of disappearing  
6 going on. I guess there must be a storm or something coming  
7 up.

8 VICE CHAIR JOHN: Can you try to call in again?  
9 Mr. Young, can you reach out, please?

10 MR. YOUNG: Yes, I will.

11 VICE CHAIR JOHN: Thank you. So while we're  
12 waiting for the ANC, I need to let you know that Mr. Smith  
13 is joining us by phone. Apparently, there's been an internet  
14 outage because of a storm, and so he'll join us by phone at  
15 some point.

16 MS. MEHTA: Hi, I'm sorry. Can you hear me?

17 VICE CHAIR JOHN: Yes, we can hear you now.

18 MS. MEHTA: Okay. Maybe I should keep my video  
19 off to maximize the voice, or is this okay, Ms. John?

20 VICE CHAIR JOHN: That's fine. Please, go ahead.

21 MS. MEHTA: Okay. So I took the neighbors'  
22 concerns into account and, in doing so, I pressed the  
23 applicants to develop detailed stormwater management and  
24 landscaping plans that address their neighbors' issues.  
25 Applicants hired CAS, a reputable civil engineering firm

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1 which has also been retained by other neighbors for their own  
2 projects over the years, and Campion Hrubby, a landscaping  
3 architecture firm that has also done major projects for  
4 neighbors and other clients in Forest Hills. The applicants  
5 delayed their appearance before the ANC multiple times so  
6 that they could work with these firms to develop solutions  
7 that would address the neighbors' concerns.

8           In November 2021, Mr. Landsman of CAS Engineering  
9 presented site plans that detailed water capture devices and  
10 other mitigation measures that would reduce the longstanding  
11 problems of excess water flowing from the applicants'  
12 property. Similarly, Mr. Campion offered renderings of the  
13 post-construction site that included an increased number of  
14 trees, protection and preservation of heritage trees, privacy  
15 plantings, and more.

16           I also noted that experts at various district  
17 agencies would further examine the plans and may require  
18 additional measures during the project permitting process,  
19 including evaluation of the efficacy of the stormwater  
20 management plans and the vegetation replacement and  
21 restoration commitments. Ms. Hernandez attended that  
22 meeting, but Mr. Barringer and Ms. Lee did not. The  
23 applicants' detailed plans and commitments to working and  
24 compromising with neighbors satisfied several of the directly  
25 adjacent property owners. In fact, I received a message from

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1 one such neighbor, Mr. Swordlow, just hours prior to the  
2 November ANC meeting asking that I read the following into  
3 the public record, which I will share with you now, and I  
4 quote: Our family moved here in 1986 adjacent to what has  
5 been until now a large piece of land neglected by an absentee  
6 owner. That situation had to inevitably end. I have made  
7 an effort to get to know Nez and Paul and their son William.  
8 I think they will be wonderful next door neighbors, friends,  
9 and members of the community. They must solve their  
10 property's water problems while not creating new ones and  
11 work to enhance the tree canopy and sense of specialness that  
12 define our neighborhood and seem committed to spending the  
13 time, energy, and money necessary to do so. In my  
14 experience, Paul and Nez listen and work to address concerns,  
15 such as screening, noise, land integrity, and trees. End  
16 quote.

17           During the November ANC meeting, I and my fellow  
18 commissioners, including Chairman Cristeal who had attended  
19 the on-site meeting to review the applicants' stormwater and  
20 vegetation plans, listened carefully to the neighbors who  
21 expressed concerns about the project. At the ANC meeting,  
22 I was especially disheartened to hear Ms. Lee and Ms.  
23 Hernandez oppose the applicants' plans on the grounds that  
24 their project is inconsistent with the intent of zoning  
25 regulations and inconsistent with the character of Forest

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1 Hills. It seemed that once the applicants put forward  
2 comprehensive stormwater management and vegetation plans, the  
3 concerns of several neighbors were satisfied, while others  
4 looked for additional reasons to oppose the plans.

5           Nonetheless, I and my fellow commissioners voted  
6 unanimously in favor of granting the variances for three main  
7 reasons: One, the applicants invested substantial time and  
8 money to develop detailed stormwater and vegetation plans in  
9 response to neighbors' concerns. They conducted extensive  
10 community outreach, engaged experts to develop the plans and  
11 address the concerns raised by neighbors. Second, the  
12 applicants' plan to divide their lot of over 30,000 square  
13 feet into two lots and build a single-family home on each  
14 lot, one approximately 18,000 square feet and the other  
15 approximately 12,000 square feet, is entirely consistent with  
16 the character and integrity of Forest Hills where the minimum  
17 lot size is 7,500 square feet. I know this because I live  
18 there. The assertion that the applicants' plans are somehow  
19 inconsistent with the low-density nature of Forest Hills is  
20 simply wrong. The ANC fails to see how construction of two  
21 homes that meet or exceed the setback, height, and density  
22 regulations in zone R-8 in which are located on lots that are  
23 well over the minimum lot size in R-8 is inconsistent with  
24 the character of Forest Hills.

25           Finally, and perhaps most importantly the pipe

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1 stem driveway, which is a vestige from 1924, is already in  
2 existence and currently provides access to the only single-  
3 family house currently on that site. The applicants'  
4 proposal will continue to have that very same driveway serve  
5 only one single-family home, as it does today. A second  
6 driveway not located on Albemarle Street will serve the home  
7 on the other subdivision lot. If the BZA denies relief  
8 sought by the applicants, the practical import of such a  
9 decision is that the applicants or any future owner of 3007  
10 Albemarle would forever be precluded from subdividing a  
11 30,000 square foot lot. Such a precedent is inconsistent  
12 with the District's goals for density and housing.

13           It would also be inconsistent with the intent of  
14 the zoning regulations, as evidenced by the fact that there  
15 are numerous examples on Albemarle Street and throughout  
16 Forest Hills of similar lots that have been subdivided and,  
17 in many cases, in to even smaller parcels. The ANC simply  
18 does not believe that the zoning regulations were intended  
19 to preserve a lot that was created almost 100 years ago from  
20 ever being subdivided for the construction of two single-  
21 family homes that otherwise comply with zoning regulations  
22 in our neighborhood.

23           After applicants put forward detailed stormwater  
24 and landscaping plans to address neighbors' concerns, the  
25 three individuals who obtained party status shifted the

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1 ground to find additional reasons to object to the project.  
2 In retrospect, it was clear that, despite the considerable  
3 investment of time and money to address neighbor' issues, no  
4 amount of problem-solving, communication, or compromise would  
5 have satisfied the neighbors who obtained party status in  
6 this matter because their objective now appears to be to  
7 block the applicants' project.

8           To the extent that the Zoning Board is inclined  
9 to consider the many form letters submitted by other  
10 residents of Forest Hills in opposition to this project, the  
11 Board should ask those opposing residents what information  
12 and details were presented to them when they signed and  
13 submitted those form letters. During the conversation on an  
14 entirely unrelated matter, a couple who live several blocks  
15 from 3007 Albemarle on Davenport asked me about the  
16 applicants' project. I explained the location of the lot,  
17 the lot size, the plans to subdivide the lot and build a  
18 single-family home on each resulting lot. After hearing  
19 about the applicants' plans, the couple remarked that they  
20 regretted signing what they call the opposition petition, and  
21 they noted that they had not been offered the project details  
22 that I had shared.

23           I am also aware, I feel compelled, actually, to  
24 address the personal attacks on my motives and alleged bias  
25 in favor of the applicants. For the record, I had absolutely

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1 no association with the applicants prior to this matter. My  
2 only bias was in favor of a review process that is thorough  
3 and fair, and my motivation was to reach an outcome through  
4 thoughtful application of the zoning regulations with respect  
5 to the physical conditions of the site at 3007 Albemarle.  
6 I have no doubt that each of us here today would love to live  
7 on property adjacent to a bucolic green field, almost like  
8 a mini park in our back or side yard. In this case, that  
9 mini park is a private property owned by a family seeking to  
10 improve it by investing hundreds of thousands of dollars to  
11 address longstanding stormwater management issues to  
12 implement a robust vegetation plan while preserving heritage  
13 trees and, ultimately, to build a single-family home on each  
14 of the two lots that far exceed the size of the lots owned  
15 by the parties objecting to the project.

16           The individuals who have obtained party status in  
17 this matter have completed their various projects over the  
18 years: construction of an ADU, which apparently preceded this  
19 hearing or, sorry, preceded this matter; hardscape patios,  
20 pools, et cetera. Those same folks also had the opportunity  
21 to purchase 3007 Albemarle in 2020 but did not do so. And  
22 now they appear to be lobbying the Zoning Board to deny the  
23 applicants' request to subdivide their lot.

24           In my capacity as Commissioner for 3F03, I am  
25 urging the Zoning Board to reject delay and obstruction

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1 tactics and to grant the applicants' request for relief.

2           Finally, I'd like to close my reading an excerpt  
3 from an email sent to me the day after the ANC approved the  
4 applicants' variance request in favor of the proposed  
5 project. The neighbor who sent me this email would be  
6 directly impacted by the proposed property is located  
7 downhill and directly adjacent to the applicant's property,  
8 and I quote: Based on the several times that I have either  
9 attended ANC meetings in person or on Zoom, I have always  
10 been impressed at how well and appropriately the ANC handles  
11 conflicts and divisive issues in the neighborhood. You  
12 patiently listen to all sides, even when some folks  
13 repeatedly make the same point over and over again and often  
14 without any legal basis. Why it is often not recognized and  
15 not always successful. It is impressive how the ANC attempts  
16 to bring about compromise and resolve neighborhood issues,  
17 as you did last night with the Ellicott Street ADU issue.  
18 Yes, I would prefer to continue having a semi-wooded field  
19 in back of my home, rather than a swimming pool. But I  
20 strongly feel that the Harrisons should have the right to  
21 undertake their development as long as their plans address  
22 the water issue and the other city building and property  
23 development requirements. There were several negative things  
24 said last night as to how you handled this issue and treated  
25 people, and I just wanted to say that I thought you dealt

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1 with all speakers courteously and fairly and that your  
2 decision was a just and correct one.

3 I'm going to end my testimony there. I can  
4 certainly share more information, but I'm happy to respond  
5 to any questions from any of the parties present today.  
6 Thank you.

7 VICE CHAIR JOHN: Thank you, Commissioner Mehta.  
8 So does the Board have any questions for the Commissioner?  
9 Commissioner Hood?

10 ZC CHAIR HOOD: Thank you, Vice Chair John.  
11 Commissioner, I have been sitting here listening for most  
12 part of this proceeding, and I do recall Forest Hills, as  
13 mentioned, having large lots. I don't know how long you've  
14 been a commissioner, but I believe that this conversation  
15 comes around quite a bit about the large lots in Forest  
16 Hills. I remember we did the tree and slope over there, I  
17 remember the town homes that basically denied -- I don't know  
18 if that was part of that part of Albemarle. But either way,  
19 this goes back some time.

20 So what is, I'm just curious, what is the  
21 discussion as a really a pro or con in this particular case.  
22 What is the discussion? What is the discussion amongst  
23 neighbors, as you being one of the leaders, as far as the  
24 large lots? What is the discussion that you're hearing? Is  
25 it mixed, like I'm hearing here in this proceeding, or what

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1 is it like? If you could just help me go down the lines in  
2 your discussions, the community's discussions.

3 MS. MEHTA: I'm sorry, Mr. Hood, I'm not sure I  
4 understand your question. Are you asking with respect to  
5 this particular project or just in general about large lots  
6 --

7 ZC CHAIR HOOD: I'm talking just in general  
8 because I'm trying to figure out which way the community now  
9 -- and I know it's changed since we put the tree and slope  
10 and stuff overlays in place and taken them out and made them  
11 across the city. But I'm just curious what is the discussion  
12 -- it seems like this is going to come up over and over and  
13 over again, and I'm thinking probably down the road of how  
14 to mitigate some of this. I'm just curious. And if you  
15 don't want to answer it, I'll just leave it at that and move  
16 on.

17 MS. MEHTA: It's not that I don't want to. I'm  
18 not quite sure how to. I'm going to be transparent and  
19 simply say that I don't think that there's a way to  
20 generalize about these issues because I think that facts  
21 matter, and I think that the facts in each particular case  
22 should be looked at in the context of the physicalities of  
23 that specific situation, and that is precisely what we did  
24 in this case.

25 And you are correct, Mr. Hood, that there are lots

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1 of large lots in Forest Hills. There are also lots of much  
2 smaller lots in Forest Hills. I was struck, I hadn't seen  
3 before actually and certainly not in this way the plan that  
4 the applicants put up in their presentation where you look  
5 at the lots, the lots that they are proposing to create after  
6 the subdivision relative to the lots that are surrounding it.  
7 And what I was struck by was the fact that these lots, the  
8 applicants are not seeking to divide these lots into even  
9 smaller chunks, which, frankly, would not be inconsistent  
10 with that particular block. And so they are maintaining so  
11 much of the space around the houses that they're proposing  
12 to build, which is why I don't understand the arguments  
13 around privacy and infringement of privacy.

14 I live in this neighborhood. I have two houses  
15 on each side of me, and two houses in my backyard. That is  
16 a function of city living. We live in a city. And so long  
17 as those houses meet the setback requirements and the height  
18 and size restrictions that are part of the zoning regulations  
19 which we all, you know, which we kind of are all subject to  
20 by living in the District and especially in our zone, R-8,  
21 that has very specific ones, that's just a fact of life. I  
22 can see into my neighbor's house, my neighbor can see into  
23 my house. I can see into all my neighbors' backyards, they  
24 can see into our backyards. And so I wasn't terribly, I will  
25 be honest, I wasn't terribly sympathetic to the proposition

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1 that the neighbors that are adjacent to this particular  
2 property should be afforded a higher level of privacy or  
3 screening than the rest of us who live in this neighborhood,  
4 and I'm one of them, currently enjoy.

5 ZC CHAIR HOOD: Okay. Thank you for indulging me  
6 and answering a response in my inquiry. Thank you.

7 VICE CHAIR JOHN: Thank you. So does the  
8 applicant have any questions for Commissioner Mehta? Ms.  
9 Giordano, do you have questions? Okay. Please, go ahead.

10 MS. GIORDANO: Okay. So I think you indicated  
11 that you didn't understand or disagreed with the parties'  
12 contention that the variances were inconsistent with the  
13 intent of the zoning regulations. But isn't that what the  
14 Office of Planning also determined in their report regarding  
15 the variances?

16 MS. MEHTA: I'm sorry, Ms. Giordano, I wasn't  
17 speaking to the actual variance. I am not a zoning expert.  
18 Your expertise far outweighs mine in this matter.

19 What I was referring to is the fact that the  
20 proposed project, the size and --

21 MS. GIORDANO: I'm going to just interrupt you for  
22 a minute.

23 MS. MEHTA: I'm trying to answer your question.

24 VICE CHAIR JOHN: Just a minute, please. Just a  
25 minute, please. Ms. Giordano, please rephrase your question.

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1 MS. GIORDANO: Okay. Excuse me. What is the ANC  
2 support for? It's for the variances, right? The ANC has not  
3 considered the special exception application.

4 MS. MEHTA: You're welcome to go back to the  
5 minutes of the ANC's meeting. The ANC initially supported  
6 the application for the curb cut on Appleton Street and  
7 subsequently supported the applicants' request for the two  
8 variances in our November meeting. But that preceded the  
9 applicants' amendment to seek a theoretical subdivision. So  
10 that theoretical subdivision request has not been considered  
11 by the ANC. As a practical matter, Ms. Giordano --

12 MS. GIORDANO: So would you agree that the --

13 MS. MEHTA: I'm sorry. I'd like to finish my --

14 VICE CHAIR JOHN: Ladies, ladies --

15 MS. MEHTA: I would like to finish my sentence.

16 VICE CHAIR JOHN: I'm going to have to ask Mr.  
17 Young to cut your mikes. We can't have a cross conversation.  
18 So the question was, Ms. Giordano?

19 MS. GIORDANO: The question was whether the ANC  
20 had considered the special exception. It's just a simple  
21 question.

22 VICE CHAIR JOHN: The answer is a yes or no.

23 MS. MEHTA: I don't know which special exception  
24 she's referring to. Could you be more specific, Ms.  
25 Giordano? I'm not a zoning expert.

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1 MS. GIORDANO: Okay. The special exception that's  
2 before the Board today.

3 VICE CHAIR JOHN: Let me help you there. There  
4 are two requests. One is for a special exception for the  
5 theoretical lot division. So did the ANC consider that  
6 request?

7 MS. MEHTA: No, the ANC did not consider that  
8 request.

9 VICE CHAIR JOHN: The answer is no. Can you move  
10 on to your next question, Ms. Giordano?

11 MS. GIORDANO: Yes. Okay. You made the -- first  
12 of all, you said you're not a zoning attorney, but you also  
13 made the statement that, if the Board denies these variances,  
14 the applicant is forever precluded from developing this lot.  
15 How do you arrive at that conclusion? Are you aware that,  
16 first of all, there's a special exception, which is another  
17 alternative, and there are other alternatives for developing  
18 this lot besides the variance or even the special exception  
19 right before the Board?

20 MS. MEHTA: Ms. Giordano, let me clarify what I  
21 was saying, that denying the request for relief would  
22 preclude the applicants from subdividing their property into  
23 two lots and building a single-family home on each lot. Is  
24 that not correct? I believe that it is.

25 MS. GIORDANO: Well, the special exception

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1 demonstrates otherwise.

2 VICE CHAIR JOHN: Okay. What is your next  
3 question, Ms. Giordano?

4 MS. GIORDANO: Okay. So you also indicated that  
5 you are involved in arbitrating or encouraging compromises  
6 between the parties and the applicant. What compromises was  
7 it that you successfully obtained?

8 MS. MEHTA: Well, I don't think I was successful  
9 because that is why we're here, isn't it? I attempted to,  
10 but I certainly wasn't successful because we wouldn't be here  
11 today if I had been successful. I was referring to other  
12 matters in my ANC where I, along with my fellow  
13 commissioners, were successful in fostering compromise  
14 between various parties as a way to --

15 MS. GIORDANO: You answered.

16 MS. MEHTA: -- my approach in these matters.

17 MS. GIORDANO: Okay. I think you answered the  
18 question. You also indicated that you were supported because  
19 of the applicants' plans to landscape the property with  
20 additional trees and because of the stormwater management  
21 protections that the applicant was providing. But was there  
22 any, you know, within the variance, any oversight from the  
23 city in terms of actually seeing that those things were  
24 provided?

25 VICE CHAIR JOHN: Commissioner Mehta, I don't

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1 think the issue of oversight by the city is relevant right  
2 now. Do you have another question?

3 MS. GIORDANO: I'm just saying the variances did  
4 not ensure that those things would happen, and that was part  
5 of the issue with the parties.

6 VICE CHAIR JOHN: Okay. So what's your next  
7 question?

8 MS. GIORDANO: I think that's it, other than, so  
9 would you agree then, Commissioner Dipa, that the ANC is not  
10 entitled to great weight with regard to the special exception  
11 before the Board today?

12 VICE CHAIR JOHN: Ms. Giordano, that's a matter  
13 for the Board to decide. Did you have another question?

14 MS. GIORDANO: That's it. Thank you.

15 VICE CHAIR JOHN: Okay. Let's see who is left.  
16 Ms. Ferster, do you have any questions for the ANC?

17 MS. FERSTER: Thank you. This is Andrea Ferster.  
18 Commissioner Mehta, many advisory neighborhood commissions,  
19 even though they support the zoning relief that's before the  
20 Board, nonetheless condition their support upon the  
21 applicants' agreement to execute a construction management  
22 agreement which would deal with the construction impacts on  
23 the property, which can be significant and in this case  
24 probably will be, given, you know, the potential of large  
25 heavy construction vehicles rolling up and down a shared

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1 driveway.

2           So my question is why did you not, why did the ANC  
3 not require the applicant to enter into a construction  
4 management agreement to address what are likely to be the  
5 very significant construction impacts on nearby property  
6 owners?

7           MS. MEHTA: Oh, well, we were never asked to take  
8 that issue up, so I didn't fabricate new issues for folks to  
9 consider during the ANC process. None of the parties who  
10 were either in favor of or objected to the party ever raised  
11 that issue with I or, at least, certainly not with me and  
12 certainly, not to my knowledge, with any other commissioners.  
13 And, certainly, your client and anyone else who was an  
14 interested party was welcome to raise that, but that was  
15 never raised.

16           VICE CHAIR JOHN: Thank you. Do you have another  
17 question, Ms. Ferster?

18           MS. FERSTER: That's it. Thank you.

19           MS. GIORDANO: Ms. John, I forgot one question.  
20 I'm sorry.

21           VICE CHAIR JOHN: Who is speaking?

22           MS. GIORDANO: This is Cynthia Giordano; I'm  
23 sorry.

24           VICE CHAIR JOHN: Okay. Please make it --

25           MS. GIORDANO: Yes. Ms. Dipa, you indicated that

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1 the parties were unwilling to compromise. Were you aware of  
2 any of the negotiations following the amendment of the  
3 application to include the special exception, the protracted  
4 negotiations between the applicant and the parties?

5 MS. MEHTA: I'm sorry. I never said that the  
6 parties were unwilling to compromise. I stated that the  
7 parties didn't reach a compromise, which is why we're here  
8 today. And, no, Ms. Giordano, I was not privy to any of  
9 those negotiations. Those were private party negotiations  
10 that apparently took place after the public ANC processes  
11 were completed.

12 MS. GIORDANO: All right. I will check your  
13 statement. I think you did make that statement.

14 VICE CHAIR JOHN: Thank you. Mr. Brown. Thank  
15 you, Ms. Mehta. Mr. Brown, do you have any questions for the  
16 ANC?

17 MR. BROWN: I have one question. Ms. Mehta, I  
18 want to ask you one question about the advice you gave to the  
19 Board in your letter. This question only requires a yes or  
20 no answer, not a repeat of the long speech that you've given  
21 us today. Please answer this question yes or no. I'm going  
22 to quote you from your letter, page five. The BZA should be  
23 wary of yielding to the collective will of a small group of  
24 neighbors who, in their desire to maintain the status quo of  
25 a large undeveloped green space that is not owned or

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1 maintained by them, are now leveraging zoning rules and  
2 procedures to delay disposition of this matter.

3 My question is this: is this still your advice to  
4 the Board?

5 MS. MEHTA: I would not consider that advice to  
6 the Board, but it is my opinion, yes.

7 MR. BROWN: Thank you.

8 MS. MEHTA: I don't purport to advise the Board.  
9 I'm simply just sharing my perspective and the facts as I see  
10 them.

11 VICE CHAIR JOHN: Thank you, Mr. Brown. So, Mr.  
12 Young, has anyone signed up to testify?

13 MR. HARRISON: Madam Chair, before you proceed,  
14 can I ask one follow-up question of Commissioner Mehta based  
15 on one of the conversations with Ms. Giordano?

16 VICE CHAIR JOHN: Okay. I thought I had asked you  
17 if you had any questions.

18 MR. HARRISON: You had, but she raised a new issue  
19 on cross-examination of the ANC.

20 VICE CHAIR JOHN: Okay. So you could raise that  
21 in your rebuttal, but go ahead.

22 MR. HARRISON: My quick question to Commissioner  
23 Mehta is whether the ANC, when we came before it, saw the  
24 plans that are substantially the same as they are now and  
25 whether it considered the impacts on the neighbors, the

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1 community, and the zoning from granting approval for the  
2 physical plans that we presented to the Board.

3 MS. MEHTA: The answer is yes. We saw electronic  
4 plans, physical plans, and also those plans as they were  
5 presented by the people who created the plans, namely the  
6 experts, Mr. Landsman and Mr. Campion of Campion Hruby, the  
7 original source, I should say, of those plans. I spent  
8 considerable time listening to their explanation of the plans  
9 and, in particular, trying to understand the stormwater  
10 management devices.

11 So the short answer is, yes, absolutely and also  
12 not just me but also my fellow commissioners who are privy  
13 to those plans.

14 MR. HARRISON: Thank you.

15 VICE CHAIR JOHN: Thank you. Mr. Rueda, I saw  
16 your hand up. Mr. Rueda, is that you? I can't hear you.

17 MR. RUEDA: Sorry. I don't think that I raised  
18 my hand intentionally.

19 VICE CHAIR JOHN: Okay.

20 MR. HAMALA: Sorry. That was Me. Mr. Hamala. We  
21 do have --

22 VICE CHAIR JOHN: Sorry, Ms. Hamala. It's late.  
23 Go ahead. I'm sorry. What did you say, Mr. Hamala?

24 MR. HAMALA: Oh, I apologize. We do have Mr. Wall  
25 from the ANC here, as well.

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1 VICE CHAIR JOHN: Okay. And he signed up to  
2 testify?

3 MR. HAMALA: He has.

4 VICE CHAIR JOHN: Okay. Mr. Wall, please  
5 introduce yourself and give us your testimony.

6 MR. WALL: Thank you to the Board for allowing me  
7 to testify. My name is Stan Wall. I am the ANC commissioner  
8 for single-member district 3F04, which borders the northern  
9 edge of the applicants' project. I am also an individual  
10 whose profession focuses on housing and community  
11 development. And, lastly, I'm also a resident of a single-  
12 family home in Forest Hills, and I live about five blocks  
13 away from the applicants' project.

14 Commissioner Mehta has previously submitted a  
15 letter on behalf of ANC 3F expressing our ANC's unanimous  
16 support of this application, and she has spoken this  
17 afternoon to the very exhaustive and detailed engagement and  
18 deliberative process that led us to the ANC supporting this  
19 application. I continue to remain fully in support of the  
20 points raised in the ANC's letter of support, and I wish to  
21 supplement those points that were in that letter with my own  
22 professional and personal views on the application.

23 I am currently partner-in-charge of a real estate  
24 development and economic development consulting firm based  
25 here in Washington, D.C. I lead a staff of 20 people who are

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1 engaged in the business of helping cities, counties, and  
2 other municipalities advance equitable and inclusive growth.  
3 A lot of our work focuses on strategies to advance the  
4 preservation and production of housing for all incomes with  
5 a specific focus on preserving and producing such housing in  
6 transit-accessible communities, such as Van Ness and Forest  
7 Hills.

8           Additionally, I currently serve as vice chair of  
9 the Board for Greater Greater Washington, a volunteer-driven  
10 nonprofit organization that brings people online and offline  
11 to discuss, organize, and advocate for an inclusive, diverse,  
12 and growing Washington, D.C. region where people can choose  
13 to live in walkable communities. I love living in Forest  
14 Hills, and I hope to be in the neighborhood for many, many  
15 years to come.

16           Commissioner Hood mentioned the issue around lot  
17 size in Forest Hills. My own home sits on an 11,000 square  
18 foot lot. Zoning today would permit me to build a matter-of-  
19 right accessory unit behind my home, thus yielding two units  
20 on a 11,000 square foot lot, matter-of-right. I realize that  
21 there have been discussions around architectural character  
22 and the appropriateness of the proposed project throughout  
23 this afternoon, and one aspect that I think is quite amazing  
24 about Forest Hills is that there is, in fact, a very wide  
25 character of the neighborhood. We have massive embassy

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1 residents. We have large private homes. We have small  
2 bungalows. We have Tudor homes, Georgian homes, modern  
3 contemporary homes. As you tour through our neighborhood,  
4 all these homes have varying relationships to the street, and  
5 this all contributes to the very interesting character of  
6 Forest Hills. I think this is something that we want to  
7 continue to support, enhance, and sustain going forward.

8           The range of housing forms and sizes allows for  
9 all types of people to be part of our community. I celebrate  
10 this diversity and the amenities offered by our neighborhood,  
11 and I hope that we can continue to find ways to welcome new  
12 neighbors into our community.

13           As you all are probably all aware, the Mayor  
14 articulated a goal of creating 36,000 units of new housing  
15 in the District by 2025. This is an ambitious goal in and  
16 of itself, but it still won't meet demand as the District  
17 continues to grow new jobs at a rate that exceeds 35,000 jobs  
18 per year.

19           Further, these new units cannot be all small  
20 apartment units in large multi-family buildings. There must  
21 be a range of housing typologies that allow for different  
22 types and sizes of families to find opportunities to live  
23 across the city. There is some that believe that all units  
24 should be built as affordable units, but we need housing at  
25 all income levels, including new market rate housing units,

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1 to meet demand and help reduce the displacement of residents  
2 as higher-income residents bid up the cost of lower-priced  
3 units.

4           As articulated in October '19 in the Housing  
5 Equity Report, creating goals for our areas of our city, and  
6 by the D.C. Department of Housing and Community Development,  
7 the communities of Rock Creek West, such as Forest Hills, are  
8 deemed high-needs areas, defined as areas that have the  
9 highest dedicated affordable housing production goals. Once  
10 again, while the applicant is not specifically proposing  
11 affordable housing, each individual additional unit of  
12 housing of any type that is built in our community helps  
13 reduce the likelihood of displacement among existing,  
14 naturally-occurring affordable housing in the community.

15           The proposed project would also assist the  
16 District in advancing sustainability through increased urban  
17 density. Single-family home zoning is the least efficient  
18 land use and particularly when such land is located within  
19 a 15-minute walk of a metro rail station.

20           As I mentioned earlier, I'm the owner of a single-  
21 family home, you know, living nearby this project. I  
22 understand, respect, and support my neighbors' desire to  
23 maintain the character of our neighborhood. That said, many  
24 homes in Forest Hills, including my own, sit on lots that are  
25 less than a quarter-acre in size. The applicants' lot is

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1 currently over 30,000 square feet and, if the proposed  
2 project moves forward, each home will still exceed a quarter-  
3 acre in lot size, fully in line with the prevailing and  
4 varied lot sizes in the neighborhood.

5           In addition to the points above, I want to  
6 reinforce the points that my fellow commissioner, Dipa Mehta,  
7 has articulated that the ANC and very specifically  
8 Commissioner Mehta facilitated a very exhaustive engagement  
9 process to ensure all neighbors were heard and to push the  
10 applicant to tweak their plans to better address specific  
11 concerns raised by neighbors within the immediate radius of  
12 the property. I applaud the efforts of Commissioner Mehta  
13 in conducting such a diligent and deliberative engagement  
14 process, and I further applaud the applicant for their  
15 responsiveness and follow-up on the issues that were raised.  
16 As the applicant mentioned, they have worked with the ANC and  
17 neighbors exhaustively and the applicant, again, has made  
18 their plans to accommodate the very specific concerns of the  
19 immediate neighbors.

20           I, for one, am very excited to continue to support  
21 the District's goal of creating new housing in Rock Creek  
22 West, and I believe the applicants' project will be a step  
23 in the right direction. For this and the reasons above, I  
24 urge the BZA to grant the relief requested by the applicant  
25 so this proposed project can proceed to the next phases of

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1 permitting by the requisite District agencies.

2           Thank you for this opportunity to share my views  
3 and for your very careful consideration of this matter. I'd  
4 be happy to entertain any questions by the participants.

5           VICE CHAIR JOHN: Thank you, Commissioner. So,  
6 Mr. Young, is anyone signed up to testify? I'm sorry.  
7 Commissioner Hood, I see your hand up.

8           ZC CHAIR HOOD: I just want to ask Mr. Wall do we  
9 have your testimony -- I appreciate your thoughtful comments  
10 and I also would ask that we get a copy of your testimony.  
11 I looked for it, and I don't see it. Maybe somebody can tell  
12 me where it is.

13           MR. WALL: I have not submitted an electronic  
14 copy, but I'm happy to mail it immediately this afternoon.

15           ZC CHAIR HOOD: And I appreciate your comments  
16 about housing at all income levels. The folks in Ward 7  
17 stopped and said, basically said stop always asking for  
18 affordable housing, we want it at all levels. So it's good  
19 to hear from one side of the city to the other side of the  
20 city. So that's all I have to say. Thank you for your  
21 testimony, and thank you, Vice Chair.

22           MR. WALL: Thank you.

23           VICE CHAIR JOHN: Thank you, Commissioner Hood.  
24 I guess I should ask everyone if they have questions for the  
25 Commissioner. So starting with the applicant. Ms. Giordano?

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1 MS. GIORDANO: I have no questions.

2 VICE CHAIR JOHN: Ms. Ferster. Mr. Brown.  
3 Please, go ahead.

4 MR. BROWN: Mr. Wall, you talked a lot about  
5 affordable housing. This project proposes putting up a  
6 second lot for the purposes of adding a 6,500 square foot  
7 home to the property in Forest Hills. How does that project  
8 advance affordable housing goals?

9 MR. WALL: It advances the affordable housing  
10 goals by preventing displacement. So as I mentioned, the  
11 District needs 36,000 housing units as we've adopted as our  
12 goal. And if we don't build those units, you know, people  
13 still want to move into the District. And if someone who can  
14 afford, you know, a 6,500 square foot house, you know, isn't  
15 able to find and buy that house, they're still going to want  
16 to move into the District and they're going to go a block  
17 away and buy, you know, a 2,500 square foot house and  
18 essentially, you know, bump out someone, out-compete someone  
19 who might otherwise have wanted to, you know, purchase that  
20 smaller, more affordable home.

21 So, ultimately, it ends up displacing people at  
22 the bottom of the income tier who are at least able to  
23 compete because, you know, people who have means and want to  
24 be in the District and want to be in our community will find  
25 a way to do it. So by building these types of homes, again,

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1 provides opportunities for people of all incomes to find  
2 housing that matches their needs and income levels.

3 MR. BROWN: So you heard the testimony that there  
4 are a large number of lots in the Forest Hills area that are  
5 even larger than this one, right?

6 MR. WALL: I have that, yes.

7 MR. BROWN: So is it your testimony that  
8 affordable housing goals would be advanced if all of these  
9 lots were subdivided so that we had two large homes on each  
10 one of them?

11 MR. WALL: One-hundred percent yes, absolutely,  
12 because you're doubling the inventory of single-family homes  
13 that are available for some subset of the income spectrum to  
14 be able to live in our community. And, again, if that subset  
15 couldn't find a home in Forest Hills but they want to live  
16 in Ward 3 or 3F, they're going to go find a home and they're  
17 going to have the means to outbid and displace others who  
18 can't compete.

19 So absolutely. And I think, if we were able to  
20 do so in a way that is equally sensitive to the way that the  
21 applicants have approached this project, it can still create  
22 a very vibrant, harmonious, exciting, and, you know,  
23 distinct, diverse Forest Hills.

24 MR. BROWN: I appreciate your explanation. It's  
25 the first time I've heard the trickle-down effect applied to

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1 housing.

2 MR. WALL: It's not really a trickle down. It's  
3 more of like a displaced down. If you don't build housing  
4 for those income levels, people who have means will, again,  
5 they'll be able to buy. But, you know, as you kind of move  
6 down the chain at the very bottom, someone is going to get  
7 bumped out of their house and they won't have the means to  
8 compete. So that's why we need to be building, you know,  
9 housing of all incomes across the entire city.

10 VICE CHAIR JOHN: Thank you, Mr. Wall. Thank you,  
11 Mr. Brown. This is a very good philosophical discussion, but  
12 totally unrelated to what we're supposed to be doing.

13 So I would like to move on to Mr. Young, if I may,  
14 any witnesses who have signed up to testify.

15 MR. YOUNG: Three witnesses.

16 VICE CHAIR JOHN: Okay. What are their names,  
17 please?

18 MR. YOUNG: Kevin Batteh, Marlene Berlin, and Sam  
19 Buffone.

20 VICE CHAIR JOHN: I'm sorry. Sam. What's the  
21 last name?

22 MR. YOUNG: Buffone.

23 VICE CHAIR JOHN: Buffone? Okay. Could you let  
24 in Mr. Batteh, please? Mr. Batteh, can you hear me? Mr.  
25 Batteh? Mr. Buffone, can you hear me? Mr. Young, can you

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1 check to see if their mikes are muted?

2 MR. YOUNG: Mr. Buffone just unmuted himself.

3 VICE CHAIR JOHN: Okay. Mr. Buffone, can you hear  
4 me? Ms. Berlin, can you hear me?

5 MS. BERLIN: Yes, I can hear you. Can you hear  
6 me?

7 VICE CHAIR JOHN: Yes, now I can. Please state  
8 your name for the record and give us your address, and you  
9 will have three minutes to testify.

10 MS. BERLIN: Okay. I'm Marlene Berlin. I'm at  
11 4526 30th Street, around the corner from 3007 Albemarle.

12 VICE CHAIR JOHN: Okay. Go ahead, please.

13 MS. BERLIN: Okay. Thank you very much for  
14 letting me testify. I am a neighbor that was formally  
15 notified of the subdivision of 3007 Albemarle Street. Soon  
16 after the notification, I contacted Paul Harrison. We  
17 arranged a time for him to come over and show me the plans.  
18 I was particularly concerned about management of stormwater  
19 runoff from that location. I have lived in my house since  
20 1989, and every winter the water flowing from this property  
21 creates thick areas of ice both on the roadway and sidewalk  
22 at Albemarle Street. This makes traveling by car or on foot  
23 treacherous.

24 When Paul showed me the plans, I was delighted to  
25 hear that he had hired CAS Engineering to address this

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1 longstanding runoff problem. He also talked about his plans  
2 to heavily tree the lot, another big plus since we have lost  
3 a lot of our giant oaks in our neighborhood.

4 As plans were further refined, Paul would stop by  
5 and tell me of the progress he was making. It was clear to  
6 me that he was acting as a good neighbor and concerned with  
7 being a good steward of the land.

8 I realized if a real estate developer had bought  
9 this property they would be primarily concerned with making  
10 a profit, not with building good relationships with neighbors  
11 and ultimately developing the property in a manner that took  
12 into account interests and concerns of adjacent neighbors.  
13 A developer would most likely build as a matter-of-right,  
14 which would leave little room for neighbor input. This  
15 happens routinely in our neighborhood.

16 I was called by Mary Lee O'Hara who lived next to  
17 the affected property to support the fight to stop the  
18 Harrisons from subdividing the lot. I told her I would not  
19 support the effort. I believe the Harrisons, so long as they  
20 comply with building codes, setbacks, and other regulations  
21 that apply should be allowed to build two homes on a property  
22 that is over 30,000 square feet in size in a neighborhood  
23 that prescribes a minimum lot of 7,500 square feet.

24 Others called or stopped me in the neighborhood  
25 to get my views. Some had signed the letter that had been

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1 sent around to petition against the Harrisons plans. I told  
2 them if a developer had bought the property it could be much  
3 worse; and if neighbors did not want the land developed, they  
4 should have bought it.

5 The reality is that cities change and land gets  
6 developed. If people don't want building to happen around  
7 them, they need to control the land. That means purchasing  
8 the land, which I understand the complaining neighbors had  
9 ever opportunity to do. To quote an old saying, I thought  
10 the neighbors who are fighting this project were looking a  
11 gift horse in the mouth.

12 VICE CHAIR JOHN: Thank you, Ms. Berlin. Does  
13 anyone have quick questions for the witness? The Board? The  
14 applicant? Any of the parties?

15 MS. GIORDANO: No questions.

16 VICE CHAIR JOHN: Okay. Thank you. Mr. Young,  
17 can you let in, Mr. Buffone? Can you hear me, Mr. Buffone?

18 MR. BUFFONE: Yes, I can.

19 VICE CHAIR JOHN: Okay. Great. Please introduce  
20 yourself for the record, and you will have three minutes, and  
21 I'm going to ask you to abide by that time because of the  
22 late hour. Please, go ahead. Are you there, Mr. Buffone?

23 MR. BUFFONE: I'm here now.

24 VICE CHAIR JOHN: Oh, I can hear you.

25 MR. BUFFONE: Can you hear me now or no?

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1 VICE CHAIR JOHN: Yes, I can hear you. Are you  
2 choosing not to use your video?

3 MR. BUFFONE: Okay.

4 VICE CHAIR JOHN: Please introduce yourself and  
5 give us your address for the record, Mr. Buffone. Mr.  
6 Buffone, I'm going to try to go to Ms. Batteh while we try  
7 to get your audio fixed.

8 Can you hear me, Ms. Batteh? Can you hear me, Ms.  
9 Batteh? Ms. Batteh, you're muted.

10 Mr. Young, are you able to reach out to Ms. Batteh  
11 or to unmute her?

12 MR. YOUNG: I cannot unmute them, but I'll have  
13 staff reach out to see if they can call in.

14 VICE CHAIR JOHN: Okay. Thank you. Mr. Buffone,  
15 can you hear me?

16 MR. BUFFONE: Yes, I can hear you. Can you hear  
17 me now?

18 VICE CHAIR JOHN: Great. Yes, I can. Please  
19 state your name and address for the record and give us your  
20 testimony. You will have three minutes, and you will see the  
21 clock at the top of the screen.

22 MR. BUFFONE: Yes. I'll keep it brief, and  
23 apologies for my internet problems earlier. My name is Sam  
24 Buffone. I live at 5019 Linnean Avenue in Forest Hills in  
25 the neighborhood. I just want to speak briefly in support

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1 of the application. We are very lucky to live in this  
2 wonderful neighborhood that is surrounded by such green  
3 space, as well as a close Metro and numerous commercial  
4 districts around it. And it's a neighborhood that I want to  
5 share with everyone we can. D.C. has a problem that it needs  
6 more housing, and, to me, this application comes down to  
7 should we allow a property be subdivided to allow for two  
8 housing units, or should it be kept to have one housing unit?  
9 And I think when it comes down to a decision of should we  
10 have more housing in the city or less housing in the city,  
11 we should always weigh heavily in favor of more housing.

12           And so I just wanted to speak briefly and support  
13 the Board in approving this application, so we can have more  
14 housing and more people in our wonderful neighborhood. Thank  
15 you very much.

16           VICE CHAIR JOHN: Thank you for your testimony.  
17 Does the applicant have any questions? Does the Board have  
18 any questions? Do any of the parties have any questions?

19           MS. GIORDANO: No questions.

20           VICE CHAIR JOHN: Thank you.

21           MR. HARRISON: One quick question, Madam Chair.  
22 Mr. Buffone, is it true that you live across the street from  
23 a property currently being subdivided from one house into  
24 two, so this applies to your block, as well as others?

25           MR. BUFFONE: Yes. We have a house just across

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1 the street recently was sold that was a double lot. It was  
2 bought by a developer. They're in the process of tearing it  
3 down. They're building two new houses on it. We actually  
4 talked with the developer and told them we were happy about  
5 it. You know, we'll have to live through construction  
6 ourselves, but we're going to have more people on our block,  
7 which I think is better for our block.

8 VICE CHAIR JOHN: Okay. Thank you for your  
9 testimony.

10 Mr. Batteh, can you hear me now? Mr. Batteh  
11 appears to be muted. Mr. Young, can you try again to reach  
12 him or have staff reach him?

13 MR. YOUNG: Staff is attempting to reach out to  
14 him now.

15 VICE CHAIR JOHN: Thank you. So while we're  
16 waiting on Mr. Batteh to join us, so what we will do after  
17 this is to go through rebuttals. And I will start in this  
18 order: Ms. Giordano, Ms. Ferster, Mr. Brown, and ending with  
19 the applicant. And because of the late hour, 5:12, my plan  
20 is to ask all of the parties to submit written statements in  
21 lieu of oral statements for their closing arguments.

22 Does anyone have any questions? Okay.

23 Let's try again. Mr. Batteh. Okay. Let's take  
24 a quick five-minute break. Five minutes while we try to get  
25 Mr. Batteh. We're almost there.

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1 MR. YOUNG: We had staff reach out to him and he  
2 got no answer from him.

3 VICE CHAIR JOHN: Okay. Well, let's take a quick  
4 five-minute break to stretch our legs.

5 (Whereupon, the above-entitled matter went off the  
6 record at 5:13 p.m. and resumed at 5:19 p.m.)

7 VICE CHAIR JOHN: Okay. Mr. Batteh, can you hear  
8 me, please? Mr. Batteh, are you there?

9 MR. BATTEH: Yes. Hi, can you hear me? Hello,  
10 hello.

11 VICE CHAIR JOHN: Yes, I can hear you. Would you  
12 please -- great. We're all happy that you're able to join  
13 us. Can you give us your testimony and, before you do that,  
14 please introduce yourself for the record, giving your name  
15 and address, and you'll have three minutes to give your  
16 testimony.

17 MR. BATTEH: Absolutely. Thank you, and I will  
18 keep it to less than three minutes. My name is Kevin Batteh.  
19 I live in Forest Hills. My address is 2700 Chesapeake  
20 Street, and my testimony is on behalf of Mr. Harrison, and  
21 it's very brief.

22 My lot is not dissimilar to their lot. My house  
23 sits on just shy of one acre in Forest Hills, and I have  
24 followed their matter for some time. And I've followed the  
25 development that they intend to do. Quite honestly, I'm

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1 pleased that they're doing what they're doing, rather than  
2 what a developer might do in terms of building one massive  
3 structure on the lot. And I think it's important to maintain  
4 the integrity of the zoning rules and regulations as they  
5 currently exist.

6           So I'm just chiming in in support of their project  
7 and in support of their request. And I will leave it at  
8 that, unless you have questions for me.

9           VICE CHAIR JOHN: Okay. Thank you. Does the  
10 Board have any questions for the witness? Do any of the  
11 parties have questions for the witness?

12           MS. GIORDANO: This is Cynthia Giordano.

13           VICE CHAIR JOHN: Thank you. So we're going to  
14 move now to rebuttal testimony. And when I spoke earlier,  
15 I forgot to include the ANC, and the ANC is also a party.  
16 So the order then will be Ms. Giordano, Ms. Ferster, Mr.  
17 Brown, the ANC, and then the applicant.

18           So if you could please begin, Ms. Giordano.

19           MS. GIORDANO: Yes, thank you. I'm going to ask  
20 Mr. Guillermo, well, I'm going to ask Ms. Hernandez if she  
21 has any rebuttal comments and the shared expert architect,  
22 as well.

23           VICE CHAIR JOHN: Okay. Thank you.

24           MS. HERNANDEZ: This is Deb Hernandez again. I  
25 would just like to say that I wanted to refute the comments

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1 that were presented stating that we did not, that we were  
2 complaining, that our desire is to maintain the status quo,  
3 and disagreeing with development in general terms. This,  
4 again, is absolutely not true.

5 We entered into negotiations with the Harrisons  
6 in complete good faith with the hope that they would  
7 reconsider some of the impacts of house two onto our  
8 properties and the fact that we have never been opposed to  
9 the building of their family home. And that's all I have.  
10 Thanks.

11 VICE CHAIR JOHN: Okay. Thank you. And that's  
12 it for you, Ms. Giordano?

13 MS. GIORDANO: Yes.

14 VICE CHAIR JOHN: Okay. So, Ms. Ferster, do you  
15 have any rebuttal testimony?

16 MS. FERSTER: I'm going to ask either Mr. Rueda  
17 or Ms. Lee have any rebuttal comments they'd like to make for  
18 the record.

19 MR. RUEDA: Go ahead.

20 MS. LEE: Go ahead.

21 MR. RUEDA: I wanted to just state quickly that  
22 my involvement in this project has never been to oppose the  
23 second house per se. The questions from the client were  
24 always directed at the disproportionate adverse impacts that  
25 the house, as it was sited, create for them and the hope of

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1 negotiation, which was something that we pursued, never  
2 materialized. You know, there was concessions that they  
3 wanted to see that didn't happen for whatever reason, and I  
4 just, I feel like a lot of the rebuttal, a lot of the  
5 opposition testimony sort of focused on this idea that they  
6 somehow are opposed to development in some meaningful way.

7           So that's all I would have to say at this point.  
8 Thank you.

9           VICE CHAIR JOHN: Okay. Thank you, Mr. Rueda.

10          MS. FERSTER: I believe she had something she  
11 would like to add on rebuttal.

12          VICE CHAIR JOHN: Sure. Go ahead, Ms. Lee.

13          MS. LEE: Simply that I also was willing, very  
14 willing to negotiate and was unable to after very little,  
15 after the first round. It just didn't happen. And also I  
16 just wanted to correct Ms. Berlin. We never had a  
17 conversation where she told me that a developer would be a  
18 better or, you know, would be worse. She just told me, I  
19 asked her if she would like to look at a letter opposing this  
20 development. She said she didn't want to get involved, never  
21 that she was in favor of it.

22                So I just wanted to correct that inaccuracy.  
23 Thank you.

24          VICE CHAIR JOHN: Okay. So is the ANC still here?

25          MS. MEHTA: This is Dipa. I'm still here. I have

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1 no further comments, unless someone addresses something to  
2 me. Thank you.

3 VICE CHAIR JOHN: Thank you. And Mr. Harrison.

4 MR. HARRISON: Thank you, Madam Chair, and thank  
5 you, everyone, for a very long and substantive hearing. I  
6 really appreciate this, and, you know, we came here to be  
7 neighbors and we want to be neighbors.

8 With that point, I just want to, and we'll address  
9 this more in our closing, but we absolutely entered into  
10 negotiation in good faith with the understanding that the  
11 three party opponents needed to support any revised plans.  
12 In fact, as you can see, when this house moves or shapes in  
13 one direction, it goes in the other. And so we invested  
14 substantial effort on revised plans that address all of or  
15 certainly many of Ms. Hernandez's issues, but, eventually,  
16 the three party opponents could not agree to a common  
17 approach on that, which we couldn't proceed past.

18 I want to just hit a quick detail, which there's  
19 been this sort of an assumption in here that we have not  
20 included information about the existing easement in the  
21 record. That is indeed identified on Exhibit 2, the location  
22 surveyors plat. There are no new proposed easements, as  
23 often there are in theoretical subdivisions; hence, there's  
24 no additional information about more easements either in the  
25 record or needed.

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1           And, lastly, if we could turn it over to David  
2 Landsman again for one minute to talk about the scope.  
3 There's been some question as to whether the scope of the  
4 stormwater plan met requirements, and I want to let him talk  
5 about that for a second, if you can let him back in.

6           VICE CHAIR JOHN: Mr. Harrison, he's welcome to  
7 address that in your closing statements, which can be written  
8 submissions. And just for everyone's knowledge, the Board  
9 does not enforce stormwater management issues. So it's, for  
10 me, it's sort of a red herring because the Board doesn't  
11 really have that jurisdiction. It has to go through another  
12 process. But, please, go ahead and address it in your  
13 closing statement.

14           So if there's nothing else, then let me talk about  
15 where we are. So earlier in the hearing, it seems like such  
16 a long time ago, Ms. Giordano made two motions, which the  
17 Board, regarding dismissal of the application, and the Board  
18 will not take those motions up now but we'll discuss them  
19 during deliberations. And just from the way the hearing has  
20 gone, I doubt that there will be, at least I'm not inclined  
21 to grant that motion to dismiss, but that's for the other  
22 Board members to decide.

23           So I want to thank everyone for your patience and  
24 your testimony, and it's been a very long day. But I thought  
25 that this was helpful.

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1 Mr. Hamala, what did I forget?

2 MR. HAMALA: We just had several late submissions,  
3 including Commissioner Wall's written testimony. I wanted  
4 to ask whether those should be let into the record or not.

5 VICE CHAIR JOHN: Yes, please admit the written  
6 testimony which we heard during the hearing today. And what  
7 was the other late submission?

8 MR. HAMALA: From the applicant and from Ms.  
9 Giordano. They both submitted surveys showing the street and  
10 the block of the subject property.

11 VICE CHAIR JOHN: Okay. Please admit those into  
12 the record.

13 MR. HAMALA: All right. And that's it from me,  
14 Madam Chair.

15 VICE CHAIR JOHN: Thanks. And I forgot what I was  
16 saying, but I think I was thanking everyone for their  
17 testimony and wishing you all a very good evening.

18 MS. PRINCE: A date for submitting the closing  
19 statements?

20 VICE CHAIR JOHN: Oh, Mr. Hamala, can you offer  
21 any guidance?

22 MR. HAMALA: What date would the Board like to  
23 consider the decision?

24 VICE CHAIR JOHN: Now, we have a very tight  
25 schedule. Let's look at, I think we have nine cases on the

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1 27th.

2 MR. HAMALA: Actually, ten now.

3 VICE CHAIR JOHN: Okay. Let's go to the next  
4 hearing.

5 MR. RUEDA: Can I interject for a second, please?

6 VICE CHAIR JOHN: Yes.

7 MR. RUEDA: Can I submit my testimony for the  
8 record based on the fact that it was chopped up and sort of  
9 technically altered?

10 VICE CHAIR JOHN: Who's speaking?

11 MR. RUEDA: Oh, I'm sorry. This is Guillermo  
12 Rueda for Ms. Hernandez and Dr. Lee.

13 VICE CHAIR JOHN: Okay. Thank you. Now, is your  
14 written testimony going to be different than what was  
15 submitted earlier?

16 MR. RUEDA: I didn't include my written testimony.  
17 I'm just saying that, since it was hard to hear me, I'm  
18 wondering if you want to see it.

19 VICE CHAIR JOHN: Well, I believe the transcript  
20 will be sufficient. And, of course, you're welcome to  
21 include any information you may wish to include in your  
22 closing statement.

23 MR. RUEDA: Okay. Thank you.

24 VICE CHAIR JOHN: Okay. Was there another  
25 question from someone else? Okay. So, Mr. Hamala, we're

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1 looking at the meeting after. It would be September 14th.

2 MR. HAMALA: All right. So September 14th, there  
3 are nine cases, September 21st there are five but one of them  
4 is an appeal.

5 VICE CHAIR JOHN: Okay. Does the Board have any  
6 preference? I'm inclined to go with September 14th and not  
7 schedule the decision on the date of the appeal. And I'm  
8 closing the record in case I didn't say that before, except  
9 for the documents that we specifically requested, the closing  
10 statements and was there another one? I think that was it.

11 MEMBER BLAKE: Madam Vice Chair, would this just  
12 be a decision meeting? How many decisions do we have  
13 scheduled for the 27th and the 14th?

14 VICE CHAIR JOHN: So this is a decision meeting,  
15 so, Mr. Hamala, what do we have on the 27th? Does the Board  
16 have a preference for before the break or after the break?  
17 The 27th is looking really bad.

18 ZC CHAIR HOOD: I will say that, for me, with  
19 everything else going on in the Zoning Commission, you know,  
20 these cases sometimes start running together when you got  
21 that kind of load. The sooner the better while it's still  
22 fresh in our mind. That's just, that's my two cents' worth.

23 VICE CHAIR JOHN: Okay. Mr. Smith.

24 MEMBER BLAKE: How many cases are actually in the  
25 decision meeting.

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1 MEMBER SMITH: On the 27th so we can all get a  
2 good handle on how long they might be.

3 MR. HAMALA: There would be two decision cases on  
4 the 27th.

5 VICE CHAIR JOHN: Okay. Let's schedule this for  
6 decision on the 27th, unless someone from the Board objects.

7 MEMBER SMITH: No objection.

8 VICE CHAIR JOHN: Okay. And please bring your  
9 dinner for that meeting or prepare it from the day before.

10 MEMBER SMITH: It's an annual tradition.

11 VICE CHAIR JOHN: Yes, I guess. Okay, all right.  
12 So we'll continue this case for July 27th, right?

13 MS. FERSTER: This is Andrea Ferster. Could you  
14 provide that deadline for when our closing statements are to  
15 be submitted?

16 VICE CHAIR JOHN: I would think two days before.  
17 It's a decision meeting, and we're not asking for very much.  
18 Instead of giving your closing argument today and closing the  
19 record, we're just allowing you to submit your testimony in  
20 writing, the closing statements in writing. So I guess two  
21 days before. You should have your statements prepared by now

22 --

23 MS. FERSTER: Yes.

24 VICE CHAIR JOHN: -- so just submit them to the  
25 record, which means we won't stay here until 6:00 or 6:30

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1 just to go through this part.

2 MS. FERSTER: Okay. So by September 25th then?

3 VICE CHAIR JOHN: That's fine. Mr. Hamala.

4 MR. HAMALA: Oh, that's just what I was going to  
5 ask her to state. July 25th is the date.

6 VICE CHAIR JOHN: July 25th for closing statements  
7 and a decision meeting on the 27th, and the only thing we're  
8 asking for is closing statements, which is what you would  
9 give today, except the Board is allowing you to give it some  
10 more thought and submit it on the 25th. Okay.

11 All right. So I think I will again wish you a  
12 good evening and thank you for your patience and your  
13 testimony. Mr. Young, would you please excuse everyone,  
14 except the Board?

15 Okay. Mr. Hamala, do we have anything else for  
16 today?

17 MR. HAMALA: Madam Vice Chair John, that is it for  
18 today.

19 VICE CHAIR JOHN: Thank you. Does the Board have  
20 anything else? Okay. So thank you so much and have a good  
21 day, good evening. Enjoy your dinner. Bye.

22 (Whereupon, the above-entitled matter went off the  
23 record at 5:36 p.m.)

24

25



C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 07-20-22

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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Court Reporter

**NEAL R. GROSS**

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