

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 27, 2022

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 10:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairman
ROBERT MILLER, Vice Chairman

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
MATT JESICK
JONATHAN KIRSCHENBAUM
KAREN THOMAS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing or held on July 27, 2022.

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

(10:37 a.m.)

BZA CHAIR HILL: If we can get through without a break, if everybody needs, if anybody needs a break, let me know when we get to that point. But, otherwise, I'm going to try to get through the ones that Chairman Hood are on, and then take a break.

Mr. Moy, if you could call our next one.

MR. MOY: Thank you, Mr. Chairman.

So based on your direction, the next hearing case before the Board is Application No. 20524 of Gregory Potts.

This is an application for special exceptions from the rooftop and upper floor alteration restriction, sub-title E, section 206.1A. Which is pursuant to sub-title E, section 206.4, sub-title E, section 5207, and sub-title X, section 901.2. The property is located in the RF1 zone at 521 Florida Avenue, Northeast, Square 828, Lot 40A.

As the Board will recall, you last heard this application at your hearing on June 29, 2022. And participating on this continued hearing is Zoning Commission Chair Anthony Hood, Mr. Smith, Mr. Blake, Vice Chair John, and Chairman Hill.

BZA CHAIR HILL: Great, thank you.

Mr. Bello, can you hear me?

MR. BELLO: Good morning, Board members. Toye

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1 Bello, representing the applicant.

2 BZA CHAIR HILL: Great, thanks Mr. Bello.

3 Let's see, Mr. Bello, can you go ahead and give
4 me a update as to what happened since the last time you were
5 her?

6 MR. BELLO: Yes, sir.

7 So, there was some confusion about the as-built
8 condition, and the last iteration of elevation drawings that
9 the applicant provided.

10 I think it took after the hearing, for me to
11 actually understand that the Board was correct that there was
12 a discrepancy between what exists, as an as-built condition,
13 and what were we proposing.

14 So the Board granted us leave to reconcile those
15 documents, which we have. We've submitted reconciled
16 drawings with some slight changes from the recommendations
17 of the Board. And that we have submitted as Exhibit 74.

18 And we have Mr. Charles Warren, from the design
19 team to walk the Board through what those changes are.

20 BZA CHAIR HILL: Okay, give me one second.

21 Let's see who else is here. Okay, great.

22 Mr. Warren, could you introduce yourself for the
23 record, please?

24 MR. WARREN: Yes, good morning, Mr. Chair, members
25 of the Board. I'm Charles Warren, principle Teass Warren

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1 Architects here on behalf of the applicant.

2 BZA CHAIR HILL: Great. Mr. Young, could you pull
3 up Exhibit 74 for us, please?

4 Mr. Warren, you want go through, I don't know
5 which slide you want to go through just to show us what you
6 guys have done with the design.

7 MR. WARREN: Sure, we can probably go to page 3
8 of this exhibit. I think that the rest of it is, the Board
9 has seen before.

10 Next page, I'm sorry.

11 So this is the proposed work plan, and I'll just
12 walk you through the comments from the Board that we've
13 addressed here.

14 So, item, there was a couple of comments that came
15 from the Board from the last hearing. Item number 1 was to
16 clarify which proposal, which Mr. Bello illustrated here,
17 clarify which proposal the applicant wants the Board to
18 consider.

19 There was some inconsistency at the ground floor
20 on the images that we provided, where there was different
21 window configurations on the first floor, and second floor.

22 This exhibit has updated that to show the existing
23 conditions that are out there today.

24 So, there's a pair of windows and a single door
25 to the right on the first floor, and then three openings on

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1 the second floor, the third of which was converted to a door
2 opening.

3 So, that's the clarification, that's the area in
4 red. So, that's the existing facade that stayed.

5 But the proposed work that we are planning to do,
6 is to replace the smaller third floor window with a, with a
7 window that's a full-sized double-hung window, so all three
8 windows on the third floor, would be consistent with the
9 other double-hung windows on the building. And the other
10 double-hung windows that you see on adjacent properties.

11 We are also proposing to add a decorative lintel
12 element over those three windows on the third floor, and
13 that's a consistent detail that you see on this building, and
14 also on the adjacent properties.

15 One of the comments from the Board was to study
16 the third floor, including revisiting the feasibility of
17 adding a faux mansard roof and cornice line, which is what
18 we are proposing to do here. That's item number 2.

19 And then item number 3, we are proposing to paint
20 the entire facade a consistent color, to help mitigate the
21 differences in brick color and texture that you see on the
22 building.

23 But otherwise, we were proposing to keep the
24 existing openings on the ground floor, and the second floor,
25 as they stand today. And then proposing to keep the existing

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1 porch and railing as they stand today.

2 And, for that, that's the end of the presentation
3 here. I'm trying to keep it pretty short and sweet, and
4 happy to send it back, happy to answer any questions the
5 Board may have about this.

6 Otherwise, send it back to Mr. Bello for any
7 conclusions.

8 BZA CHAIR HILL: Before you go, Mr. Young, on this
9 one, and I can't see my fellow Board members. Does anybody
10 have any questions of Mr. Warren while this is up, and if so,
11 please speak up.

12 MEMBER SMITH: I do. And it's not in relation to
13 what he was speaking for, it's just for my own edification.

14 What is the height differential between the
15 building that you proposed with mansard roof, and the
16 existing row homes to the left or right of the building?

17 MR. WARREN: The distance, I'm sorry I'm so
18 understand your question, or the?

19 MEMBER SMITH: What is the height differential
20 between the existing buildings to the left and right, and the
21 building in question?

22 MR. WARREN: It's about 12 feet.

23 MEMBER SMITH: Thank you, that's all I wanted to
24 know.

25 And thank you for your presentation. That was

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1 much more helpful than the last time we heard this case.

2 So, thank you for explaining it in detail, the
3 changes.

4 BZA CHAIR HILL: I have a question, Mr. Warren.
5 So, the previous proposal did not have the faux mansard roof,
6 which I know that one of the Board members was interested in
7 seeing. And so, to kind of tack on to Mr. Smith's question,
8 how much taller is that building now because of the mansard
9 roof?

10 MR. WARREN: It's four feet taller. We're staying
11 within the parapet height to create that mansard. So, it's
12 a 35-foot tall building with the mansards moving about four
13 feet. So, there's a four-foot parapet.

14 So it's four feet taller basically, than what was
15 previously shown.

16 BZA CHAIR HILL: Okay, okay.

17 Does anybody have any more questions while this
18 drawing's up?

19 MEMBER BLAKE: Yes, I just had one question.

20 It was in an earlier presentation, but I just want
21 to make sure I'm clear on the color of the paint?

22 MR. WARREN: This is a placeholder color, but we
23 were looking at a, we're showing just a sort of, sort of
24 muted green color.

25 BZA CHAIR HILL: Muted green?

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1 MR. WARREN: That's correct.

2 BZA CHAIR HILL: Is that what you said?

3 MR. WARREN: Muted green color, yes.

4 BZA CHAIR HILL: Okay, I didn't hear what you
5 said, so that's all.

6 MEMBER BLAKE: Okay, thank you.

7 MR. WARREN: Sure.

8 BZA CHAIR HILL: Now I'm just going to go with
9 this, Mr. Warren.

10 So are you all going with muted green? Is that
11 what you all are planning on doing?

12 MR. WARREN: That was, you know, we haven't, you
13 know, honestly that was just one color we were looking at to
14 try to put the graphic together.

15 I mean we typically don't specify colors at a BZA
16 hearing, but happy to.

17 BZA CHAIR HILL: No, I'm just curious because
18 again I'm looking at, the this whole thing with the ANC and
19 the, you know, the scale and pattern. And, you know, a color
20 is something about, and I'm looking at the street scape now
21 that was, that the ANC had put forward.

22 And there are a variety of different colors
23 obviously. But I mean, I'm just curious. Like what would
24 you probably do? You don't know. How would you decide?

25 MR. WARREN: Well, I think we would, you know,

1 there was an exhibit in the earlier one, and we sort of
2 talked about there were sort of darker colors versus the
3 lighter colors.

4 And I think this is the one that we were looking
5 doing sort of a darker color, to kind of stay with the rhythm
6 of flows in the block. So, that's why we were looking at
7 this sort of muted green color as opposed to, like, another
8 color, another green shown there.

9 BZA CHAIR HILL: Right, but you take a look at the
10 block, and try to figure out what works out best, correct?

11 MR. WARREN: Yes.

12 BZA CHAIR HILL: Okay.

13 MEMBER BLAKE: Mr. Chairman, Mr. Warren, there was
14 a specific color that you selected in the last presentation.
15 I do, there was, we can look it up and see exactly, but there
16 was a specific color that you had put out there.

17 MR. WARREN: Yes, I would have to, I don't recall
18 offhand what it was.

19 BZA CHAIR HILL: What it had was that the brick
20 was all different, you know,?

21 MR. WARREN: Right.

22 BZA CHAIR HILL: It was like you had like whatever
23 brick you had from the original facade, which, you know, in
24 hindsight, the applicant wishes they had torn down.

25 And then now you got whatever's there now, you

1 know?

2 MR. WARREN: Right.

3 BZA CHAIR HILL: So the Board was concerned about
4 it being consistent, and then blending in with the block.

5 MR. WARREN: Right.

6 MR. BELLO: If I may add on to that. Actually,
7 the issue of a color was addressed in the previous
8 presentation, in Exhibit 69.

9 So it was more of a dark gray shade of a color
10 that was proposed then. That's what the applicant will be
11 sticking with, unless the Board has a recommendation, which
12 the applicant is not adverse to.

13 BZA CHAIR HILL: Okay, does anybody have any more
14 questions before I drop this slide?

15 MEMBER BLAKE: Yes, I'm going to just say yes.
16 I'm looking at that masonry paint, Sherman Williams slate
17 tile, whatever color.

18 It is a little much more green than this what you
19 have here. It would be nice just to get some clarification
20 on the color only because in this particular case, we've had
21 some, you know, we suggest certain things, we're not clear
22 on what we're doing.

23 So in the context is I'd be comfortable, but it
24 would be nice to have some clarification on what was going
25 on there.

1 MR. WARREN: Well, I think we'd keep that same
2 color to Sherwin Williams slate tile that was in Exhibit 69.

3 In my view of my screen, but it looks, it looks
4 pretty similar to what I see on the screen here now.

5 BZA CHAIR HILL: Okay, does anybody have any more
6 questions while I got this slide up?

7 Yes, go ahead.

8 VICE CHAIR JOHN: I'm having difficulty
9 visualizing the full mansard roof. Is there a side view as
10 to how that would fit with the existing roof line?

11 MR. WARREN: There isn't a side view.

12 BZA CHAIR HILL: Mr. Warren, can you describe
13 that? I don't think there's a side view anywhere in the.

14 MR. WARREN: Yes, it would slope back at a slight
15 angle from that cornice line, similar to the other buildings.
16 Maybe like a, you know, 15 degree angle or so.

17 So it would, you know, the top of the, the top of
18 the parapet would be set back from the cornice line, you
19 know, two or three feet.

20 VICE CHAIR JOHN: Okay, so I'm looking at the
21 photograph on Exhibit 10 of the ANC's exhibit. You might
22 have one similar with the scaffolding and all of that.

23 The face of the building goes straight up right
24 now with, with I can't visualize what you're doing.

25 So, the mansard roof would be an additional four

1 feet?

2 MR. WARREN: Correct. It would be four feet tall,
3 but it would be basically from the cornice line up, it would
4 angle back.

5 VICE CHAIR JOHN: Okay. And match the two
6 buildings on either side?

7 MR. WARREN: Yes, it would be similar to that,
8 that treatment that's on the two buildings on either side.

9 VICE CHAIR JOHN: And the total height would be
10 below 35 feet?

11 MR. WARREN: Well, the total height would be 39
12 feet, so it would be 35 plus the four foot parapet height
13 that the mansard would need, would occupy that four feet.

14 So, the total height of the building would be 39
15 feet.

16 VICE CHAIR JOHN: And so that's the only building
17 on the block that would be 40 feet high?

18 MR. WARREN: Yes, right now. As I understand it.

19 VICE CHAIR JOHN: Okay, well, thank you.

20 MR. WARREN: You're welcome.

21 BZA CHAIR HILL: Okay, Mr. Smith, you can drop
22 that down for a second. I'm sorry, Mr. Young, you can drop
23 that down for a second.

24 I know that like we get into, you know, we, the
25 Board, whatever. Sometimes we're, you know, I'm not talking

1 about design issues or anything like that, but I'm curious
2 of a couple of things.

3 Because I'm looking at my fellow Board members,
4 I know how this kind of happened, and I don't know where I
5 am exactly on this particular issue now.

6 The mansard roof, I think, was a suggested
7 something that a Board member wanted someone to look, right.

8 The mansard roof was taking a look at I think the
9 mansard roof looks nice. Now again, I'm not talking about
10 zoning, I'm just having a discussion, right.

11 Like it is now higher because of the mansard roof,
12 right. So again, one discussion is and I don't know what,
13 you know, in terms of the regulations, in terms of the
14 character and scale of the block, you know, if it's better
15 to not have the mansard roof and it be shorter, or have the
16 mansard roof and that's now the way this block may go.

17 I don't even know if this thing is going to get
18 approved or not. I'm just saying that this again, as a
19 fellow Board member has mentioned before, is how this now
20 will probably be a, something that will be copied throughout
21 the rest of the block, right.

22 So now you'll get this faux mansard roof the whole
23 way, right, which maybe I don't know. You know and, so I
24 don't know what to say about that, I'm just kind of floating
25 that out for a little bit of discussion on our point.

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1 I know that the, there was concern about the color
2 because it, or no, I'm sorry, not the color. Because again,
3 the bricks were different, and then the consistency of the
4 design. Not design, but how it looks with again, the
5 character and scale, and pattern of the block.

6 So I'm just throwing that out again.

7 Does anybody have any questions before I kind of
8 go around the table a little bit more?

9 Go ahead, Ms. John.

10 VICE CHAIR JOHN: So I don't think we should get
11 bogged down on the color. I mean on my block, there are like
12 10 different colors, every color of the rainbow. So, you
13 know, that's just my point of view.

14 I am concerned about the added four inches -- four
15 feet, and initially, this was supposed to be a raze. And,
16 you know, the applicant could have put forth this very same
17 design for a raze.

18 So we're here because the applicant didn't, didn't
19 do what he could have done, and ended up doing an alteration,
20 which has gotten us to this point. So, I just wanted to
21 throw this out there. I'm not deliberating; I'm just
22 ruminating.

23 BZA CHAIR HILL: Yes, yes, I understand. I'm
24 also, we're all just ruminating.

25 Go ahead, Mr. Blake.

1 MEMBER BLAKE: The height of the original plans
2 for the full new construction, because I think there's a
3 slight difference between that and what we actually produced.

4 MR. WARREN: Yes, I was just looking at the
5 drawings.

6 We had a parapet height in the permit set of
7 basically 38 feet 11 inches, so 39, same, essentially the
8 same height as what's proposed here.

9 MEMBER BLAKE: Okay.

10 BZA CHAIR HILL: So Mr. Warren, now I'm confused.
11 You're saying that it's the same height, with or without the
12 faux mansard roof, is that correct?

13 MR. WARREN: It's the same height as what was
14 originally permitted, not what's the existing condition
15 that's out there.

16 BZA CHAIR HILL: Right, because what's there now
17 is already been, it's already been built; it's already done.

18 MR. WARREN: Correct.

19 BZA CHAIR HILL: Right? I mean it's got the roof
20 on it, correct?

21 MR. WARREN: Correct. I think it was built to,
22 the parapet's a lower height than what was in the original
23 permit drawings.

24 BZA CHAIR HILL: Okay, okay.

25 All right, does anybody have any other questions?

1 Because I don't know what to do about this faux mansard roof
2 just yet.

3 Meaning I shouldn't say I don't know. I'm
4 completely up to like I know that, and Mr. Blake, I think it
5 was your, I didn't mean to call you out. I think it was your
6 curiosity about the faux mansard roof. And I'm not trying
7 to get stuck on this thing, it's just that I'm just trying
8 to figure out how much taller it is.

9 And what Mr. Warren here is saying is that right,
10 how tall is it now?

11 MR. WARREN: I believe it's right at 35 feet.

12 BZA CHAIR HILL: And so it's going to go to 39?

13 MR. WARREN: Correct.

14 BZA CHAIR HILL: Right? And it can go above the
15 35 feet because why?

16 MR. WARREN: It's just the parapet that we're
17 putting up there.

18 BZA CHAIR HILL: Right. I love this parapet word.
19 I'm going to have to look it up again.

20 MR. BELLO: Because it's an architectural
21 embellishment.

22 BZA CHAIR HILL: Right, right, architectural
23 impairment, right, okay.

24 Go ahead, Chairman Hood.

25 ZC CHAIR HOOD: So, just a couple things. Not

1 necessarily pertaining just to this case.

2 I do want to say though that I had put on our
3 list, Ms. John, about the construction management your point
4 and the relevance of another case, but that's something that
5 we want to look at for the BZA.

6 I do believe that the BZA to some point, I've been
7 saying this for years, should get somewhat into materials.
8 I'm sure, I believe the counsel has given me the answer that
9 I've been getting, I just can't remember what it was.

10 I don't know if we want to get into color of
11 bricks, but I think color to some factor, is key. Because
12 we deal on the Zoning Commission with light, and we get a lot
13 of light colors and five years later, it looks very dirty.

14 So those are some of the things that are going to
15 be coming up for discussion. I just want you to know I'm
16 putting it out there.

17 But as far as this goes, I'm confused. I've found
18 out now who mentioned the mansard, which I think is great,
19 but the ANC's position. I'm still trying to understand, what
20 does the ANC -- after the fact, I have problem with after the
21 fact. So I agree with that.

22 But I'm trying to figure out what is it that the
23 ANC, what is the remedy? And I'm not getting that through
24 Exhibit 75.

25 I don't know if Mr. Eckenwiler is going to come

1 up, but I'm just trying to figure out I don't know what the
2 remedy is. What is the remedy?

3 We're talking about the after the fact, the
4 symmetrical design of the street. I get all that. But what,
5 I don't see what the remedy is.

6 Maybe Mr. Bello, can you all help me with
7 understanding what, what is the remedy? I don't know if Mr.
8 Eckenwiler's on, but what is the remedy that the ANC is
9 looking for?

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

11 The, well, the ANC believes that denial of this
12 application as alternative response to what transpired, is
13 the remedy.

14 Now, the, this is not your classic after, after
15 the fact application, as was testified over time. So the
16 remedy to the applicant is basically that they have a raze
17 permit in hand at this point, right?

18 And if this application were to be denied, then
19 the applicant will be forced to demolish the front facade
20 that exists now so that we, we're at a point where one can
21 say the building is totally razed. And they reconstruct from
22 the same manner.

23 ZC CHAIR HOOD: Okay, so if we deny this, they can
24 reconstruct in the same manner, with the exception of the
25 four feet for the mansard?

1 MR. BELLO: Exactly. We can reconstruct to the
2 same line as the originally approved one is without, without
3 the mansard roof.

4 ZC CHAIR HOOD: Okay. All right, and I think that
5 the, if I remember correctly, I think the ANC or the
6 community, wanted to continue to see the mansards intact.

7 Is that a fair analysis or assessment, or recall?

8 MR. BELLO: Well, yes, because if this were a true
9 alteration addition, then the mansard roof on the second
10 floor would have been retained. And then the facade of the
11 building pushed back about three feet from that mansard roof.

12 I'm not so sure which is aesthetically better, but
13 we are where we are.

14 ZC CHAIR HOOD: Okay.

15 All right, thank you. Thank you, Mr. Bello, thank
16 you Mr. Chair.

17 VICE CHAIR JOHN: So I hate to speculate on, go
18 ahead, Mr. Smith.

19 MEMBER SMITH: Mine was more about this, this
20 discussion about the height in the parapet, and I can talk
21 about that later.

22 VICE CHAIR JOHN: Oh, I was just saying that
23 another applicant could come along with a raze permit, and
24 create the same project that's here, as a matter of right.

25 Would that not be true?

1 MR. BELLO: That's --

2 (Simultaneous speaking.)

3 VICE CHAIR JOHN: Mr. Warren, would you like to
4 take that one?

5 MR. WARREN: That's correct. We could have torn
6 down the building and --

7 VICE CHAIR JOHN: Right.

8 MR. WARREN: -- brought this exact design back
9 here.

10 VICE CHAIR JOHN: Right. Okay.

11 MR. WARREN: Without any relief.

12 VICE CHAIR JOHN: Okay.

13 BZA CHAIR HILL: Yes, with Mr. Warren, just with
14 the mansard roof, you could have done it with the mansard
15 roof?

16 MR. WARREN: Correct.

17 BZA CHAIR HILL: Right.

18 VICE CHAIR JOHN: Let me say that no, on the
19 original drawing without the mansard roof, if this had been
20 a very dilapidated structure, and the applicant got a raze
21 permit and did a raze, could this same design have been
22 proposed to the Board as a matter of right, assuming it met
23 all of the conditions?

24 MR. BELLO: And have cost will be before the
25 Board.

1 VICE CHAIR JOHN: That's what I'm trying to say.

2 PARTICIPANT: Exactly.

3 VICE CHAIR JOHN: You wouldn't have to come to the
4 Board on a raze permit if you did a raze, and you came with
5 this exact same design. It could be a matter of right,
6 correct?

7 MR. BELLO: Correct.

8 VICE CHAIR JOHN: Okay.

9 That's what I was trying to understand, Mr.
10 Chairman.

11 BZA CHAIR HILL: Yes, sure, that's okay, Ms. John.

12 Mr. Blake, I'm sorry just real quick. I just want
13 to be clear on what I'm saying.

14 I understand the drawings that were approved
15 before Mr. Warren. My question to you, and I don't know if,
16 if they were to have razed this, and they had done this with
17 the mansard roof, I'm just trying to understand the height.

18 And the mansard roof, they could have done this
19 by right, as far as you know, correct?

20 MR. WARREN: That's correct.

21 MR. BELLO: That's correct, sir.

22 BZA CHAIR HILL: Okay, all right, that's all I
23 need.

24 Okay, go ahead, Mr. Blake.

25 MEMBER BLAKE: The exhibit, I'm going to go way

1 back, Exhibit 9. I see the original permit version of the
2 approved building.

3 The height of that building, Mr. Warren said, is
4 roughly the same as the building that is now proposed with
5 the parapet wall that gives the faux mansard roof.

6 So, in Exhibit 9, that's the building that would
7 be razed and then erected. It would mimic that in Exhibit
8 9.

9 I think that you would compare that height and
10 that configuration, to the height and configuration of the
11 example that they just showed us in the most, Exhibit 74.

12 Can you see that exhibit? Mr. Young, would you
13 pull that Exhibit 9 up, just that permit version so we can
14 get a sense of what the actual raze requirement, or razed,
15 approved razed view was?

16 (Pause.)

17 MEMBER BLAKE: Mr. Chair, could you --

18 (Simultaneous speaking.)

19 VICE CHAIR JOHN: What page is that --

20 BZA CHAIR HILL: Yes, this is what --

21 VICE CHAIR JOHN: -- Mr. Blake? What page?

22 BZA CHAIR HILL: Mr. Blake, his Exhibit 9.

23 VICE CHAIR JOHN: What page would show the height?

24 BZA CHAIR HILL: Yes, Mr. Blake, do you know which
25 one you're looking at? Which slide?

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1 MEMBER BLAKE: It's page 32, CS.01 is what I see.

2 BZA CHAIR HILL: It's slide 32, Mr. Young, Exhibit
3 9.

4 (Pause.)

5 MEMBER BLAKE: So, Mr. Warren, you're saying that
6 this, the top of this line, this building, is at 39, 38, 39
7 feet at the end, rather at the top right there?

8 Is that correct?

9 MR. WARREN: That is correct with the, there's a
10 little bit of a setback that was on the original plan. So
11 that height that's set back is the 39 feet.

12 MEMBER BLAKE: So the 39 feet is the setback
13 portion?

14 MR. WARREN: Correct, so it's slightly set back
15 here, but that's the same height.

16 MEMBER BLAKE: And the cornice is at what height?

17 MR. WARREN: I believe it's right around 35 feet.

18 MR. BELLO: I can add to that. The top of the
19 cornice is 35 feet. The recessed portion of the building is
20 at 39 feet, is the, is the step enclosure penthouse.

21 MEMBER BLAKE: That building was 35 feet at the
22 top of the cornice, and the setback which is probably what
23 looks like is about five, six, some, it's more than three
24 feet back, that is where you hit the 39 feet?

25 MR. BELLO: That's correct.

1 MEMBER BLAKE: Okay.

2 VICE CHAIR JOHN: But there's no penthouse now,
3 right?

4 (No audible response.)

5 VICE CHAIR JOHN: So what they build was just the
6 35 feet without the penthouse?

7 MR. BELLO: Correct.

8 VICE CHAIR JOHN: So adding the mansard roof would
9 add another four feet to what they built?

10 MR. WARREN: It would. It would still there
11 currently, yes.

12 VICE CHAIR JOHN: Yes.

13 MEMBER SMITH: It would in theory, pass the four
14 feet height along the building's frontage. So it will read
15 from the street taller than what it is now, and what you
16 proposed previously for height?

17 VICE CHAIR JOHN: That's right.

18 MEMBER SMITH: I share the same concern at Ms.
19 John. About the parapet. For the full mansard roof that you
20 bring, sorry.

21 VICE CHAIR JOHN: So this is not a historic
22 building?

23 MR. BELLO: No, it isn't. Hold on, let me check.

24 (Pause.)

25 MR. BELLO: Well, just to the Chairman's point

1 earlier, I understand the concern with the additional height.
2 I think the applicant was trying to accommodate the Board
3 Member Blake's concern. And there's no way to add that
4 mansard roof any lower because of location of those windows.
5 So, the four feet --

6 BZA CHAIR HILL: Hold on, Mr. Bello. I got you.

7 Mr. Young, if you can pull back up, I think it was
8 49 was the exhibit that has the, Mr. Warren was originally
9 looking at? Thanks. Can you go up one slide, Mr. Young?
10 One more, please. Thanks.

11 So, right. And again, I very much appreciate and
12 the -- whatever, the question that Mr. Blake had in terms of
13 the mansard roof, and I (audio interference) question, and
14 I think that it is something that now we are kind of stuck
15 on a little bit.

16 But that mansard roof, Mr. Warren, is going to add
17 four feet to the height of that whatever it looks like, it
18 will be four feet taller, right?

19 I mean that's what's there now on the right. And
20 now the mansard you're just slapping a faux mansard roof on
21 top of that, correct, Mr. Warren?

22 MR. WARREN: Slapping it, yes.

23 BZA CHAIR HILL: Pardon me?

24 MR. WARREN: Yes, we're adding a mansard on top
25 of it.

1 BZA CHAIR HILL: That's an architectural term.
2 That's an architectural term, Mr. Warren. Slap, right?

3 MR. WARREN: Correct.

4 BZA CHAIR HILL: So, okay, so that's four and a
5 half feet. It's going to look four and a half feet taller.
6 Or it is going to be four and a half feet taller.

7 Whatever it looks like from the street, is what
8 it looks on the street.

9 MR. WARREN: Correct.

10 BZA CHAIR HILL: Okay, cool. All right, does
11 anybody got a question before I drop the slide deck?

12 (No response.)

13 BZA CHAIR HILL: All right, Mr. Young, you want
14 to drop the slide deck?

15 Oh, great, okay, there we go. I can see
16 Commissioner Eckenwiler now. Give me one second,
17 Commissioner Eckenwiler.

18 Before Mr. Young, well, okay, whatever.

19 Commissioner Eckenwiler, did you get sworn in
20 and/or first, could you introduce yourself for the record?

21 MR. ECKENWILER: Vice-Chair ANC 6C, authorized
22 representative for the ANC. And, no, Mr. Chairman, I'm not
23 sworn because I had no intention of testifying today.

24 But a member of OZ staff called me a few minutes
25 ago and suggested that my presence was desired --

1 (Simultaneous speaking.)

2 BZA CHAIR HILL: Well, you're here anyway, you're
3 here now. So apparently you've had a couple minutes.

4 So, what was I going to say? Oh, Mr. Moy, swear
5 in Commissioner Eckenwiler, please.

6 MR. MOY: Yes, sir, with pleasure.

7 Commissioner, do you solemnly swear or affirm that
8 the testimony you're about to present in this proceeding, is
9 the truth, whole truth, and nothing but the truth?

10 MR. ECKENWILER: I do.

11 MR. MOY: Thank you, sir. Also, while I'm on the
12 screen, Mr. Chairman, there's that issue, minor issue of --
13 I don't want to -- I shouldn't say minor. The applicant had
14 attempted to revise a notice posting the sign on the site
15 that reflects today's hearing.

16 BZA CHAIR HILL: Okay, I'll get to that one in a
17 minute, Mr. Moy. Thanks for bringing it up.

18 Well, Commissioner Eckenwiler, I guess they called
19 you. I don't know. So, since they did call you, I do have
20 a quick question. I mean, it's really clear, Commissioner
21 Eckenwiler. You guys were here the last time; you got the
22 two letters in the record, you know, the record with the
23 pig's ear or the pickled pig, or whatever it was.

24 You know, meaning I know your intentions, and I
25 know your opinions very clearly on this particular case. I

1 just have a quick question for you. But feel free to, you
2 know, feel free to elaborate however you like.

3 Do you guys -- do you think -- do you have an
4 opinion on the mansard roof and the additional four feet, or
5 the way it is?

6 MR. ECKENWILER: My opinion is aligned with that
7 of ANC 6C, which -- well, maybe I need to back up, Mr.
8 Chairman. Because I missed much of the discussion that
9 preceded this, and so I'm not quite sure. Is the concern
10 here about the 35 foot height requirement? Is it just about
11 visual intrusiveness of adding more height? So I want to
12 make sure what question I'm responding to.

13 BZA CHAIR HILL: Sure. I think probably everybody
14 has their own questions, and they will all have their own
15 questions.

16 My question is, and I know that you're not, you're
17 not the entire ANC, you're a representative of the ANC, so
18 I understand that you can't speak for the entire ANC. I
19 guess even as a member of the individual, as a member of your
20 ANC, I guess I have a question, right.

21 And one who knows the block, and by the way, I
22 know the block, too, right, is that the way this building is
23 right now, there's a certain height of 35 feet, right.

24 There was some question from a fellow Board member
25 about what a faux mansard roof might look like. I don't know

1 if you had seen the drawings or not, there's not a faux
2 mansard roof on there, or the possibility of a faux mansard
3 roof on there, that would add an additional four and a half
4 feet to the height, right.

5 And there would be a faux mansard roof on the top.
6 Do you have an opinion, or do you think your ANC would have
7 an opinion?

8 MR. ECKENWILER: So, two answers, Mr. Chairman.
9 One, I actually am authorized to speak on behalf of ANC, and
10 I'm happy to do so.

11 My personal view is adding that mansard does
12 nothing to address the underlying legal problem, but, you
13 know, if the question is just a narrow question of well, you
14 know, how does it look relative to the way it is constructed
15 now without the mansard, I think it just makes it work.

16 It makes the building appear taller, and there's
17 a really, really good question here because since it's out
18 of line with the other buildings, and it's a faux mansard,
19 are we just going to run those sides back along?

20 And what does it look from the side, as opposed
21 to straight on? Right, all those faux mansards that are
22 lined up with each other, you can't see that they're faux
23 mansards because they're all in a line.

24 Pop this one up, and suddenly you have a question
25 of what happens if I'm two houses over looking at this thing

1 from the side? And if it just has a parapet wall running
2 back, that looks even more terrible.

3 BZA CHAIR HILL: Got it. Okay, thank you.

4 All right, sure, go ahead Chairman Hood.

5 ZC CHAIR HOOD: So first, good morning
6 Commissioner Eckenwiler. You probably recall because I, in
7 that previous discussion, I asked, so I asked the applicant
8 I didn't know whether you were on or not, not that they have
9 to call you.

10 But and you probably had mentioned this to me
11 before, this was two months ago and I've heard many things
12 in two months I'm trying to figure out.

13 But my question was, what is the remedy? That was
14 the question I've asked. What is the remedy?

15 And I think you probably have mentioned that
16 previously, I just was trying to remember what, what you
17 thought the remedy, because the applicant has presumed that
18 they could tear down, and come back and build the same thing.

19 So, I was just trying to see where the ANC was,
20 what is the remedy they were trying to get? That's where I'm
21 trying to go. What does the ANC really want? What is the
22 remedy?

23 MR. ECKENWILER: Mr. Chairman, I think the answer
24 is simple, and I think I did give this answer in one of the
25 prior hearings. And that is ideally, they should put back

1 the mansard that was there.

2 And to expand on that a little bit, and this was
3 the very first point in our most recent submission, this case
4 should be under the Board's longstanding practice, analyzed
5 as if none of this work has been done.

6 As if this building had not been touched, and this
7 applicant were coming before you seeking relief in advance
8 of picking up the shovel or a hammer. And we would have
9 opposed any change to this, and so the mansard would have
10 stayed.

11 And so the remedy here to use your phrase, would
12 be to put this in the same position as if that original
13 application, you know, that notional application before any
14 work is done, were denied. That is, the status quo ante.
15 And since they've now done this unauthorized work after the
16 fact, that's on them, not on anybody else.

17 And I emphasized in our previous filing, not the
18 most recent one, that, you know, sometimes consequences may
19 seem harsh, but people make decisions, and they have to live
20 with the consequences.

21 So, I'm sorry, that was probably a little longer
22 an answer than you wanted.

23 ZC CHAIR HOOD: No, no. I don't disagree with
24 you. I'm just trying to figure out, and this is not the
25 first rodeo when things are done and then we have to, I

1 mentioned this before you got on, after the fact, the
2 applicant said that maybe it's not necessarily fully after
3 the fact.

4 So, basically even if this was no work was done,
5 the shovel was not put in the ground, and the application
6 came in front of this Board, and the Board, even if the
7 opposition, ANC opposition you all were going to oppose it,
8 the Board may still find the relief requested, and the
9 additional height that's being approved.

10 So I'm trying to figure out, we could still end
11 up in the same place. I hate to say that now we have to look
12 at it from something that's already been done. I hate that,
13 as well.

14 But looking back at it, even if this was, if this
15 shovel if it was before anything even started as you
16 mentioned, and this Board still may approve exactly what you
17 have in front of you.

18 So where does that leave us? I'm just trying to,
19 I'm trying to get there because I'm not. And not just from
20 Mr. Eckenwiler, I'm trying to get there for the whole piece.

21 How do we do this? Now we have a mansard roof
22 which now is four feet over, which to me I think it's just
23 totally out of character. So there are a number of moving
24 parts here.

25 And then I also want to ask the applicant, how did

1 we get here to begin with first off? So, I'm sorry, that's
2 a whole lot, it's not necessarily a response to you, Mr.
3 Eckenwiler, but I just wanted to put that out there.

4 Thank you, Mr. Chairman.

5 BZA CHAIR HILL: All right, go ahead, Mr. Blake.

6 MEMBER BLAKE: Mr. Eckenwiler, which kind of, it
7 kind of pushes on the point that Chairman Hood just
8 mentioned.

9 In the event that, you're saying the option for
10 the ANC would be to remove, to replace the existing mansard
11 roof.

12 The reality of it though, is the applicant has the
13 option of removing the existing construction, and, you know,
14 demo-ing it and redoing it, in which case there would still
15 be no mansard roof.

16 So, to the extent that we could come up with a
17 solution that, you're not going to get a mansard roof either
18 way we look at this if you think about it.

19 It's too high to be a third floor mansard roof,
20 and if you reconstruct this building, you don't have to put
21 a mansard roof in. There's no mansard roof.

22 So is there a compromise between the height and
23 the design that makes this work?

24 MR. ECKENWILER: I think the short answer is no,
25 and if the Board grants this application, than what the Board

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1 is doing is rewarding misconduct.

2 And the greater the misconduct, and the more
3 costly it would be to unwind that misconduct, the more you
4 are rewarding that and encouraging people to do this sort of
5 thing.

6 To simply violate the terms of the permit, do as
7 much work that they possibly can, invest a lot of money, and
8 then come crying to the Board after the fact, and saying
9 well, it would cost us too much.

10 So, all of this presumes that the Board, you know,
11 is going to approve the application. Obviously the Board has
12 discretion to approve it; the ANC opposes that.

13 I think it's pretty simple.

14 (Simultaneous speaking.)

15 VICE CHAIR JOHN: So Mr. Chairman, I'm in
16 agreement, I'm in agreement that this is pretty simple. The
17 ANC is opposed. So maybe we should just move on.

18 BZA CHAIR HILL: So let's see. All right, let's
19 see who else is going today. Let me look.

20 Okay, Mr. Young, is there anybody here wishing to
21 testify?

22 MR. YOUNG: We do not.

23 BZA CHAIR HILL: Okay. Is the Office of Planning
24 here?

25 MR. KIRSCHENBAUM: Good morning, I'm Jonathan

1 Kirschenbaum with the Office of Planning.

2 BZA CHAIR HILL: Hi, Mr. Kirschenbaum. I don't
3 have a lot of questions, Mr. Kirschenbaum. The only thing
4 --I had, like I'm not -- and I don't mean any, and I don't
5 think Mr. Blake will take offense to this. I'm not terribly
6 -- I don't know where I feel about this mansard roof thing.

7 But I'm just curious as to the height of that
8 mansard roof, and if you guys have had to take a look at it.
9 Like, they're not asking for additional relief because of
10 that mansard roof, correct, Mr. Kirschenbaum?

11 MR. KIRSCHENBAUM: No, they're not. They are
12 saying that that would qualify as a parapet. And if that is
13 a parapet, then Subtitle B, Section 308.3, states that you
14 do not include parapets within the total net zonal height of
15 the building. So, a parapet can go four feet above the 35
16 feet.

17 BZA CHAIR HILL: Okay, no problem. All right,
18 okay, does the Board have any questions for the Office of
19 Planning?

20 (No response.)

21 BZA CHAIR HILL: Okay, Commissioner Eckenwiler,
22 I thought I saw your hand up for a second. Did you have a
23 question for the Office of Planning?

24 MR. ECKENWILER: No, I don't. Mr. Kirschenbaum
25 added the important limitation there in his later remarks.

1 BZA CHAIR HILL: Got it, okay.

2 MR. ECKENWILER: The four foot restriction.

3 BZA CHAIR HILL: Okay, thank you. Okay, does
4 anybody have anything else they'd like to add?

5 (No response.)

6 BZA CHAIR HILL: Okay, all right, so I'm back to
7 mister -- okay, what am I back to? All right, well, I'm
8 looking at the fellow Board members. I mean, I can
9 deliberate on this, and I have my own opinions on this.

10 I mean, Mr. Blake, I'm looking at you and, I mean,
11 do you have a change of -- what's your opinion on the faux
12 mansard roof?

13 MEMBER BLAKE: The issues that everyone has raised
14 with regard to the faux mansard roof are valid. It does
15 create a very significant height, well above what we had
16 anticipated.

17 When I think about the issue of visual intrusion,
18 I think that some of the elements that we've talked about,
19 such as the lintels above the window, the design of the
20 porch, and, you know, all, and the color all bring together
21 something that does provide more harmony with that
22 neighborhood. With the adjacent buildings.

23 For example, I mean you continue those lintels
24 across with the same size windows, it does actually create
25 greater harmony than existed before.

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1 So that element, if you remove the mansard roof,
2 faux mansard roof, you do have a building that is more in
3 harmony in this configuration, than previously in design.

4 And so I don't have a problem removing the mansard
5 roof, with everything else that we saw in Exhibit 74.

6 BZA CHAIR HILL: 94.

7 MEMBER BLAKE: Yes, what is it?

8 BZA CHAIR HILL: Was it 94?

9 I mean I'm in agreement with you, Mr. Blake, I
10 just wanted to make sure I got the right exhibit. I think
11 it was 94.

12 MEMBER BLAKE: Is it 74? I have 74.

13 BZA CHAIR HILL: Okay, I'm sorry, 74.

14 Mr. Warren, do you understand what I think I'm
15 trying to say, which is that that slide 74, you do everything
16 that you're doing except for the mansard roof? Right, Mr.
17 Warren?

18 MR. WARREN: Be happy to do that.

19 BZA CHAIR HILL: And, all, it would look exactly
20 and I love it.

21 So, can you pull up 74 for me, Mr. Young, please,
22 and go to slide 4 just because I want to be clear? Thanks.

23 Mr. Warren, can you hear me?

24 MR. WARREN: Yes, sir.

25 BZA CHAIR HILL: It would look exactly the same,

1 except for you would remove number 2.

2 MR. WARREN: That's correct.

3 BZA CHAIR HILL: Okay. And it would have whatever
4 that line is at the top. I'm not an architect, the line up
5 at the top, right? The cornice.

6 MR. WARREN: The cornice line, yes.

7 BZA CHAIR HILL: Okay, all right. Thank you.

8 Did anybody need that slide up before I drop it?

9 VICE CHAIR JOHN: Are you proposing (audio
10 interference) new drawings without the cornice, since we
11 approve what's there?

12 BZA CHAIR HILL: Are you asking me, Ms. John?

13 VICE CHAIR JOHN: Yes, Mr. Chair.

14 BZA CHAIR HILL: I don't know. If we can get away
15 it, I would say no. I mean if that's good, if that works,
16 meaning for Ms. Nagelhout and if those are drawings, you
17 know, we could say that, that as an exhibit, as built in
18 Exhibit 74 with removal of the mansard roof.

19 And I can ask Ms. Nagelhout if that is clear
20 enough. Ms. Nagelhout, can you tell me?

21 (Audio interference.)

22 MS. NAGELHOUT: -- the applicant, but I think so.

23 BZA CHAIR HILL: Okay. Mr. Warren, do you
24 understand what the Board is speaking to?

25 (No audible response.)

1 BZA CHAIR HILL: Okay. All right, I'm going to
2 drop the deck then, unless anybody has a question?

3 Okay, does anybody want anything of anybody?

4 (No response.)

5 BZA CHAIR HILL: Okay, all right. Mr. Bello, do
6 you have anything you want to add at the end?

7 MR. BELLO: No, Mr. Chairman, we'll just rest on
8 the record.

9 BZA CHAIR HILL: Okay, great, all right, thank
10 you. I'm going to close the hearing of the record.

11 Okay, all right, so anyway, so I'm just going to
12 quickly kind of go to the standards a little bit.

13 Like, again, I don't think that this project has
14 anything to do with like light and air, privacy or enjoyment.
15 You know, the thing that it seems to again continue to be
16 circling around back to us, is the substantially visually
17 intrude upon the character scale and pattern of the houses
18 along the street or alley frontage.

19 And that even over my seven year tenure here, has
20 been difficult to sometimes walk through, and at other times
21 actually, I've been told is not really, we don't really, you
22 know, character and scale is something that is argued one way
23 or the other often here at the Board.

24 In this particular issue, I think there is a
25 complication that this could be built as a matter of right,

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1 if they had completed the raze permit.

2 So, I do think there is something to think of when
3 determining whether or not they're meeting this criteria.

4 I think that the design now, in terms of
5 character, scale and pattern of the houses, now that the
6 window has been addressed on that third floor, now that the
7 windows even on the first floor are now the same as the rest
8 of the block, I think that there, I would agree with the
9 Office of Planning. And that there is now a consistent color
10 of that brick.

11 I think that that row -- and I think a fellow
12 Board member might have mentioned this before -- that row is
13 a pretty old row, meaning I think the row will change. And
14 if the row changes, now given the fact that this BZA hearing
15 has gone the way it has gone, everybody's going to raze the
16 whole thing, right. Nobody's going to keep any part of
17 those, right.

18 And so they're going to build them the way they
19 can, matter of right. And so I think that now if you look
20 at it in hind, in long run, this might be the way that the
21 pattern and scale, might move forward as another Board member
22 has mentioned before.

23 I do appreciate the, taking a look at what a faux
24 mansard roof might look like, and I think that the applicant
25 did so, so that it could show the Board what it looked like,

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1 and possibly address some of the issues that the community
2 might have had.

3 I think that what we seem to have gotten to is
4 that that mansard roof, and even, even the testimony that the
5 commissioner has put forward, it would be worse.

6 I understand that, it's very clear that what the
7 ANC's position is to what the ANC. Again, I don't know what
8 the ANC exactly thinks would happen in that they're not,
9 they're not going to rebuild that mansard roof as we've now
10 spoken to, right.

11 They don't have to. They can build it the way
12 they want to, but they just didn't do the raze permit
13 properly. Which I understand is another issue.

14 Yes, so I would go ahead and approve the
15 application the way it's been now designed in Exhibit 74,
16 without the mansard roof is what I would be leaning towards,
17 and agreeing with the analysis of the Office of Planning as
18 I'm looking at their report right now.

19 And also note that DDOT didn't have any objection.
20 And I'm going to go around the horn and see what happens.

21 Mr. Smith?

22 MEMBER SMITH: Chairman Hill, this is a very, you
23 know, unique and interesting case for us. And I'll say that
24 I'm inclined to support the analysis of the Office of
25 Planning.

1 So, but before I do that, I completely understand
2 the position of the ANC. They're standing (audio
3 interference) and I completely understand that.

4 But here's the rub on that principle. They have
5 a raze permit. There is no doubt in my mind that if we were
6 to deny this, it's not going to be a situation where you can
7 tear off the third floor to put back on the mansard roof.

8 And setback and addition on the third floor
9 that's, you know, typically what the ANC has seen. That's
10 not going to happen. They're just going to tear off the
11 front facade and keep the existing footprint of the building,
12 of what's there now.

13 The question to me is, is that what you want to
14 see? Is that more out of character, and I think that's what
15 Mr. Blake was alluding, you know, alluding to with his
16 questions.

17 And I think Mr. Hood was asking with his line of
18 questions, is that what you want? Is that more in keeping
19 with the character, as opposed to what we'd see.

20 I think this exercise that we've been going
21 through, or this deliberation that we've been going through
22 with the applicant for months, was in recognition of that
23 hard and fast fact. It's an unfortunate fact, but that's
24 what will happen.

25 But I think the exercise that we're going through

1 was to make sure that with the special exception, that we can
2 ensure that the development would be as much in character,
3 as much in character with the neighborhood, as possible.

4 I do agree with Chairman Hill's analysis about the
5 mansard roof. I appreciate the applicant's architect going
6 through the process of designing something with a mansard
7 roof, to see how it would be more in character.

8 But, you know, with that we're getting some
9 additional home and instead of an eight foot differential in
10 the height of the building reading from the street, if we
11 didn't have that mansard roof, now we're getting 12 feet.

12 So, to me, that's more of a stark difference.
13 That's more out of character with the rowhouse along this
14 block. Granted, the rowhouses along this block as opposed
15 to some other rows within the neighborhood, they're taller.
16 They're taller than the other rows in this particular --
17 along this block.

18 But, nonetheless, I think it would be more
19 impactful with that mansard roof. So I would like to keep
20 the record open for the applicant to revise their plans. And
21 I'm not saying not to vote on it, but to keep the record open
22 for them to revise the plans to remove that mansard roof, and
23 they can proceed forward, if they were to receive approval
24 today.

25 And, again, the zoning does allow for rowhouses

1 of higher heights, and this building was demolished, as it
2 was supposed to have been underneath the original permit, it
3 would be taller regardless.

4 I did believe that, however, the applicant should
5 be required, if we're inclined to approve the permit, to
6 ensure that the front facade is in keeping with the character
7 of at least the historic facade along the first and second
8 levels of the block.

9 I believe, based on the new designs, they are
10 largely in compliance with that. They can remove the faux
11 mansard roof, with keeping of the lintel designs, the
12 historic lintel designs that are present along that block.
13 Keeping the window formation on the first floor as it
14 currently is, and what currently exists on along that block,
15 and having a uniform color for the facade.

16 They largely matched some of these questions that
17 were raised by the Board in the past three hearings we have
18 discussed this. So I am, in its current design, inclined to
19 support the special exception. I do believe that they met
20 the standard for us to approve that, and we'll stand on OP's
21 analysis of the special exception.

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

23 MEMBER BLAKE: Yes, I'd like to totally agree with
24 your comments, Chairman Hill, and that of Mr. Smith. I think
25 he addressed all the issues that I would have said. And I

1 do think it was a good attempt to do the faux mansard roof.
2 I do think the height issue, you know, outweighs that. And
3 I am very comfortable with that.

4 And I do think, like I said before, the lintels
5 and the coloring, et cetera, do tie it to some of the
6 existing properties more so than what we've had before. And
7 -- but then -- and I will not go any further into it, other
8 than to say the punitive nature of this, there is a punitive
9 element in this, which I don't think it's the Board's purview
10 to be punitive. But there is an element in the delay that
11 it's taken to get to this point. And part of that it is
12 started by the fact that, if it was supposed to be razed, it
13 should have been razed. It is, I don't know how many months
14 or years later that this has arrived; that's not a good
15 thing. So, but, with that, I would be in favor of voting in
16 favor of the applicant's request.

17 BZA CHAIR HILL: Thank you. Chairman Hood?

18 ZC CHAIR HOOD: I looked at this, and that's why
19 I was, in my line of questioning, was if this was -- as I've
20 had the colloquy with Commissioner Eckenwiler, what would I
21 do, pretty much, if this came to me fresh, had nothing been
22 done? Probably would have ended up in the same place.

23 So I think with the remedies -- punitive -- I
24 think the punitive is not necessary, as Board Member Blake
25 said. I think we were penalized, because I think that us

1 having to grapple through all this, and go through this, for
2 an applicant who didn't even do what should have been done
3 in proper order, actually takes up a lot of time on the
4 Board. We probably could have been -- you all could have
5 been on another case and dealing with that.

6 But I just want to implore this applicant, we got
7 to start doing things right in this city, and stop coming to
8 ask for it after the fact. And I know what the applicant
9 said, Mr. Bello said, about it's not all necessarily after
10 the fact, but I believe it is. And I think you shouldn't --
11 we could have gotten the approval if the raze permit was
12 handled properly.

13 So, I don't have anything else to add. I will be
14 voting in favor of it. I think with the exercise, as Board
15 Member Smith and others have mentioned, the exercise that has
16 been done got us to this point. I have a little more resolve
17 now, because I really didn't know which way to go, but I
18 think the exercise we have in front of us, what we came out
19 with I think is the best we could come out with, with the
20 situation at hand.

21 So, that's all I have. Thank you, Mr. Chairman.

22 BZA CHAIR HILL: Thank you, Chairman Hood. Vice
23 Chair John?

24 VICE CHAIR JOHN: Thank you. I agree with just
25 about everything that's been said. I would just add that

1 this project is not subject to HPRB regulations, and mansard
2 roofs can be removed by special exception, if I'm correct.

3 So, removal is allowed under the regulations.
4 We're not looking at a variance standard. And so we're left
5 with the subjective -- we all agree it's a very subjective
6 criteria that the project not substantially visually intrude
7 upon the character, scale, and pattern.

8 If we take this to the extreme, there could be no
9 changes on the block, because there would always be some sort
10 of intrusion. And frankly, the new design, in my view, is
11 quite nice. So, whose standard is it?

12 So, I would just throw that out. And others have
13 mentioned that the applicant had a raze permit, and if we
14 were to require the applicant to go back and redo it, then
15 the applicant could present what's there right now. It would
16 cost more and that additional cost would be punitive.

17 So, what I'm saying is, I don't see how this
18 applicant, or any other applicant, could be incentivized to
19 go through the horror -- not horror, to go through the
20 process it's had to go through because of that initial error.
21 It's had to go back to the DCRA, redesign the project, come
22 to the BZA, spend money, and now they have to make changes
23 so that the project can be more in keeping with what's on the
24 block.

25 So, yes, it intrudes on the character, scale, and

1 pattern, but I don't believe it is substantially intrusive.
2 And so that's where I am.

3 And I appreciate the ANC's issues. I don't want
4 to the ANC to think the Board does not listen to the ANC, but
5 as Chairman Hood says, this is a Catch-22 position. So we
6 say, oh, we slap the applicant on the wrist and we say, look,
7 you did a bad thing, so now you need to go back and remove
8 all of that and start all over. The applicant can come back
9 with the very same thing that the applicant has now.

10 Is it worth the waste of resources in a city
11 struggling for housing to require this kind of outcome? I
12 think the Board has discretion built in to come up with
13 results that while they may not satisfy everyone, they try
14 to strike a balance.

15 So, that's where I come down on this. And I'm
16 swayed primarily because the applicant could build this very
17 same design if the applicant were to come back to the Board.
18 The applicant might not even need to come back to the Board.

19 Those are my thoughts, Mr. Chairman, and I would
20 support the applicant, and I hope no one is incentivized by
21 this case, because I can see how you would want to spent
22 these additional funds to have to correct something later.
23 And I appreciate the ANC bringing it to the attention of the
24 Board so that we can send the same message.

25 BZA CHAIR HILL: This ANC is pretty involved, and

1 the commissioner -- we've seen this particular commissioner
2 often. And it's been helpful and I do appreciate that. I
3 don't know where Commissioner Eckenwiler is or isn't
4 listening anymore, but the fact that he did take some time
5 out of his day to get on the call was helpful to me, just in
6 terms of the request for that mansard roof.

7 That was something that I was really curious about
8 and had the ANC not done what they had done, they would have
9 the mixed brick right now and there would be that additional
10 weird window on the third floor. And so I think there was
11 some value in what the ANC has done to get to this point.

12 As far as, again, the criteria, I would agree with
13 what I originally started to say which is that even had this
14 come before us as a fresh application, I believe given what
15 we are seeing in the current design, it probably would have
16 been passed.

17 And so that's why I'm comfortable. Outside of,
18 again, beyond the fact that this could have been built matter
19 of right had they just gone ahead and done it, and then had
20 it been built matter of right, it would have been matter of
21 right the way it was proposed, which is just I think
22 disjointed.

23 And so this I think in the end is something that's
24 better for the block personally. But in terms of
25 regulations, they are the regulations. I'm going to make a

1 motion a leave the record open.

2 The one thing I did want to mention is Mr. Moy had
3 mentioned something about the applicant trying to get the
4 updated posting into the record.

5 I'm going to go ahead and allow that into the
6 record unless the Board has any issues with it and if so
7 please speak up. Hearing none, Mr. Moy, you can go ahead and
8 allow that into the record.

9 I'm going to make a motion about keeping the
10 record open for the plans but I'm going to specify exactly
11 what we are speaking of and normally we don't leave the
12 record open for this type of thing but I think it's pretty
13 clear as to what the Board is looking for.

14 And since this will be a while before the order
15 is done, it gives the applicant time to complete the record.
16 I'm going to make a motion to approve application 20524 as
17 captioned and read by the Secretary, with the design being
18 the way it is in Exhibit 74 with the removal of the mansard
19 roof, but keeping the other design elements, including the
20 cornice, the way they are, and leaving the record open for
21 the design to be specified in the way the Board has just
22 indicated. And ask for a second. Ms. John?

23 VICE CHAIR JOHN: Second.

24 BZA CHAIR HILL: Motion has been made and
25 seconded. Mr. Moy, can you take a roll call?

1 MR. MOY: When I call your name, if you would
2 please respond with your answer. This is on the motion made
3 by Chairman Hill to approve the application for the relief
4 requested as well as keeping the record open for my shortness
5 to allow a revised drawing or plan regarding the roof.

6 Zoning Commission Chair Anthony Hood?

7 ZC CHAIR HOOD: Yes.

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

9 MEMBER BLAKE: Yes.

10 MR. MOY: Vice Chair John?

11 VICE CHAIR JOHN: Yes.

12 MR. MOY: Chairman Hill? Staff would record the
13 vote as five to zero to zero. And this is on the motion made
14 by Chairman Hill. The motion was seconded by Vice Chair
15 John. Also in support of the motion: Zoning Commission Chair
16 Mr. Anthony Hood, Mr. Smith, Mr. Blake, Vice Chair John,
17 Chairman Hill. Motion carries with a vote of five to zero
18 to zero.

19 BZA CHAIR HILL: It's been two and a half hours,
20 so why don't we go ahead and take a break anyway, because I
21 think the next one is going to take a little bit of time.
22 And so let's take 10 minutes? Okay, thank you.

23 (Whereupon, the above-entitled matter went off the
24 record at 11:46 a.m. and resumed at 12:01 p.m.)

25 BZA CHAIR HILL: Mr. Moy, you can go ahead and

1 call our next case, please.

2 MR. MOY: After a very brief recess the Board has
3 returned to its hearing session and the time is at or about
4 12:01 p.m. The next case before the Board is Application
5 20612 of the Demetra Weir. Once again, this is a self-
6 certified application pursuant to Subtitle X Section 901.2
7 for special exception.

8 Under Subtitle E Section 5201 from the lot
9 occupancy requirements, Subtitle E Section 304.1 and the rear
10 yard requirements of Subtitle E Section 205.4 and pursuant
11 to Subtitle E Section 206.4, which is from the rooftop,
12 architectural requirements of Subtitle E Section 206.1.

13 The property is located in the RF1 zone at 647
14 16th Street NE Square 4540 Lot 293, and as the Board will
15 recall, it was last heard at its hearing on June 22nd and
16 this is a continued hearing.

17 Finally, participating on this continued hearing
18 is Zoning Commission Chair Anthony Hood, Mr. Smith, Mr.
19 Blake, Vice Chair John, and Chairman Hill. Thank you.

20 BZA CHAIR HILL: Ms. Weir, can you hear me? Can
21 you introduce yourself for the record, please?

22 MS. WEIR: Hi, I'm Demetra Weir.

23 BZA CHAIR HILL: Is it Commissioner Gilbert? Can
24 you introduce yourself for the record, please?

25 MS. GILBERT: Good afternoon, my name is Sondra

1 Philips Gilbert. I'm the ANC Commissioner for 6A07 in the
2 Rosedale Community.

3 BZA CHAIR HILL: Hi, and I think Mr. Greenfield,
4 as I recall, he's part of your zoning group, is that right?

5 MS. GILBERT: Yes, he is the Chair.

6 BZA CHAIR HILL: Mr. Greenfield, can you introduce
7 yourself for the record, please?

8 MR. GREENFIELD: Brad Greenfield and I am the
9 Chair of the Economic Development and Zoning Committee for
10 ANC 6A.

11 BZA CHAIR HILL: Ms. Weir, I remember the last
12 hearing, the Board asked for some information. Can you tell
13 us what's happened since the last hearing?

14 MS. WEIR: Last hearing I sat for over an hour and
15 a half listening to the ANC talk and when they called me they
16 couldn't hear me because I was on a family vacation and I
17 held on the whole time and they couldn't hear me.

18 BZA CHAIR HILL: What is it that the Board asked
19 you to do the last time?

20 MS. WEIR: The Board didn't ask me to do
21 anything. The last time, you had asked had they said
22 anything about what else they would want me to do, something
23 in that matter.

24 BZA CHAIR HILL: From my notes it says here that
25 the Board asked the applicant for a shadow study and update

1 on construction management and trash as well as photos and
2 reports possibly for the ANC, is that not what we asked you
3 of the last time?

4 MS. WEIR: That was before the last time.

5 BZA CHAIR HILL: What did we ask you the last
6 time?

7 MS. WEIR: The last time, they didn't offer
8 anything me to alter the project to move forward or something
9 like that and I had suggested to them reducing it by 5 feet
10 to try to appease them.

11 BZA CHAIR HILL: We asked you, you're saying, to
12 go back to the ANC, is that what you're trying to say?

13 MS. WEIR: Yes.

14 BZA CHAIR HILL: And then what you're saying is
15 you have created a new design reducing the extension by 5
16 feet or no?

17 MS. WEIR: I didn't create the design but prior
18 to the thing I did say to Mr. Greenfield basically cutting
19 and pasting what the architect had said about reducing it by
20 5 feet and it was he said a very short notice that I need to
21 redo all these plans and pay all this money to have all this
22 stuff done and do another sun study.

23 BZA CHAIR HILL: Your current plans are in Exhibit
24 24?

25 MS. WEIR: I can't see that exhibit.

1 BZA CHAIR HILL: Do you have a computer?

2 MS. WEIR: Yes.

3 BZA CHAIR HILL: Can you open your exhibits? Do
4 you know how to go to your record?

5 MS. WEIR: Mr. Reed did show me that.

6 BZA CHAIR HILL: I'm going to assume they're in
7 Exhibit 24 for now and you can take a look at that when you
8 get a chance. But what you have is the way we originally
9 proposed, not pulling it back 5 feet, correct?

10 MS. WEIR: Yes.

11 BZA CHAIR HILL: Does the Board have any questions
12 of the applicant?

13 VICE CHAIR JOHN: Are you proposing to pull it
14 back 5 feet?

15 BZA CHAIR HILL: I don't want to necessarily
16 because myself or the DCRA didn't have a problem with it and
17 it's just like the other two buildings that's attached to it.

18 But if that's what I have to do in order to
19 appease them because there was never a discussion about can
20 you alter it or what can you do? It was just all this
21 opposition, just no, no, no.

22 And that's what I threw out as a suggestion, to
23 see if that would be something they could say yes to.

24 VICE CHAIR JOHN: Before I ask the other question,
25 Mr. Young, can you please pull up Exhibit 29? Are you

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1 working on it, Mr. Young?

2 MR. YOUNG: The memo from DCRA?

3 VICE CHAIR JOHN: No, it's in my record Exhibit
4 29, the plans, that Ms. Weir submitted.

5 BZA CHAIR HILL: Maybe is it 24, Ms. John?

6 VICE CHAIR JOHN: Let me go back.

7 BZA CHAIR HILL: The one I've got is 24. Is this
8 it?

9 VICE CHAIR JOHN: It is 24, yes, sorry. And if
10 you scroll down to the plan showing the block, that's the
11 one. Can you enlarge that, please? Ms. Weir, I just wanted
12 to understand your lot, the current project, is a much larger
13 building than the one to the south, right?

14 MS. WEIR: When you say current you're referring
15 to 645 or 647?

16 VICE CHAIR JOHN: I'm referring to 293, the lot
17 that shows up.

18 MS. WEIR: Yes, it's the shorter house.

19 VICE CHAIR JOHN: The short house, which will now
20 be extended another 26 feet, right?

21 MS. WEIR: Yes, to the house next to it.

22 VICE CHAIR JOHN: So, you're trying to match the
23 one you developed previously in the rear?

24 MS. WEIR: Yes.

25 VICE CHAIR JOHN: So, the new project goes much

1 further to the street, all of those three lots. I don't know
2 if I'm reading this correctly but all those three homes are
3 closer to the lot line and yours is pushed back a little, is
4 that correct?

5 MS. WEIR: I'm listening.

6 VICE CHAIR JOHN: It seems to me the project that
7 you developed previously, Lot 230, is pushed back from the
8 lot line, is that true or is the diagram not correct?

9 MS. WEIR: I know this as far as the house on the
10 corner. I actually got the idea to do that plan because of
11 the house on the corner.

12 VICE CHAIR JOHN: So, the house on the corner and
13 the Lot 230 house are both close to the street?

14 MS. WEIR: It's backed up to the alley and those
15 are the parking pads, but are you talking about the front of
16 the house?

17 VICE CHAIR JOHN: The front.

18 MS. WEIR: Actually, 293 is right off the sidewalk
19 and the two houses, 144 and 292, they're pushed back because
20 of the steps to enter to go upstairs and downstairs.

21 VICE CHAIR JOHN: So, your project would be much
22 larger than those two to the south, right?

23 MS. WEIR: I see what you mean but the inside, it
24 will split so it will still be pushed back some because they
25 have to go into go to the doors so it's going to be more of

1 an entryway where there's a split to go inside.

2 But overall, what you're saying, it sounds like
3 yes.

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

5 BZA CHAIR HILL: You can drop that slide deck, Mr.
6 Young. Does the Board have any other questions of the
7 applicant? Commissioner Gilbert, can you hear me? I know
8 you guys are opposed to the project and I know that I talked
9 to Mr. Greenfield I think the last time.

10 Thanks you guys for all joining us, by the way,
11 I think last time we were all on the phone and it was harder
12 to see everybody and understand where we were. What are the
13 ANC's concerns about the project? Is it just the shadowing
14 on 649?

15 MS. GILBERT: Mr. Bradfield could speak to that.

16 BZA CHAIR HILL: Can you introduce yourself for
17 the record, please?

18 MR. GREENFIELD: Brad Greenfield, Chair of the
19 Economic Development and Zoning Committee for ANC 6A. And
20 yes, our concerns are primarily focused on the shading that's
21 thrown on the neighbor to the north, 649.

22 And we had asked after one of the previous
23 meetings that the shadow study for the project as it's
24 currently designed be shared with that neighbor, and that's
25 when that opposition came forward and we agreed with that

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1 resident's assessment that that would be a substantial impact
2 on the light and air available to their building.

3 BZA CHAIR HILL: 649 you mean?

4 MR. GREENFIELD: Yes.

5 BZA CHAIR HILL: And there's the increased
6 shadowing and do you know, did you guys take a look at the
7 impact that 645 currently has on 649?

8 MR. GREENFIELD: You mean the current building?

9 BZA CHAIR HILL: Yes.

10 MR. GREENFIELD: The existing shadow study showed
11 as-is versus --

12 BZA CHAIR HILL: I guess what I meant is that,
13 right, it does show the existing shadow. I guess I was
14 trying to understand whether 649 had any. When we're looking
15 at these extensions we also are looking at light and air and
16 also visual intrusion. It's not necessarily views per se.

17 MR. GREENFIELD: No, this wasn't a view, this was
18 shading that's being thrown on the back of that building.

19 BZA CHAIR HILL: Right, onto 649.

20 MR. GREENFIELD: Yes.

21 BZA CHAIR HILL: Does anybody have any questions
22 for the ANC or Mr. Greenfield? Mr. Blake?

23 MEMBER BLAKE: ANC, it seems that you guys have
24 been making progress towards some type of resolution in this
25 matter. Do you think that continued meetings would result

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1 in a favorable resolution?

2 MS. GILBERT: I don't know if you are aware of the
3 current information we submitted but it appears that Ms. Weir
4 is very difficult to work with and even though we had given
5 her an opportunity to make her suggestions --

6 MEMBER BLAKE: Let me rephrase that. Ms. Weir has
7 proposed potentially reducing the building by doing plans to
8 reduce the building by 5 feet. Now, my question to you was
9 does it appear if that was to take place and you reviewed
10 that, would that be something that would help move the needle
11 forward?

12 Or do you think your inability to communicate is
13 impeding that?

14 MR. GREENFIELD: If I may reply? That discussion
15 was very encouraging and we were optimistic that we had come
16 to it. We'd need to see a shadow study, we'd need to see what
17 the impact is.

18 I believe where it was left was Ms. Weir suggested
19 this and when we asked to see a shadow study so we could
20 assess it and see if that did resolve that issue, she refused
21 to do the shadow study.

22 That's the problem. We were very open to that
23 idea and I'm hopeful from the earlier discussion that this
24 may resolve it.

25 MS. WEIR: I refused to pay for it and shell out

1 more money for plans and studies just to be denied and
2 opposed again. And I made it clear that I didn't have the
3 funds to incur those fees. That was a discussion. Prior to
4 that, the sun study that I did pay for would have been taken
5 classroom then.

6 And the sun study wasn't an issue until one of the
7 Board Members had asked to do that. It was all about some
8 trash that it an alley problem, and before moving forward,
9 the neighbor, Anna, I've been speaking to her since 2006
10 since we've been neighbors and we moved in together.

11 She was fine with it. After she spoke to Mr.
12 Greenfield, she just stopped communicating with me
13 altogether. He was the one who told me that now she's in
14 opposition of it and she didn't tell me directly.

15 I even submitted with that response letter.

16 BZA CHAIR HILL: Thanks. Mr. Blake got his
17 question answered I think. Mr. Blake, did you get your
18 question answered?

19 MEMBER BLAKE: I think.

20 VICE CHAIR JOHN: I hear a clear answer. I'm
21 interested in that from Mr. Greenfield. The letter that was
22 submitted by the ANC was not clear to me. I understand Ms.
23 Weir's position. She is concerned about having to pay the
24 cost of another sun study only to have the ANC say again that
25 the five feet reduction is not enough.

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1 So, to me, I would like to have a sense of where
2 the ANC's position is on pushing back the rear of the house
3 by five feet. Bear in mind that OP has approved this
4 application even at the current length.

5 So, what Ms. Weir is saying, I'm sure that's what
6 she's saying, I hope I'm saying what I think she is saying,
7 that you would be prepared to pay the cost of changing the
8 plans to push it back five feet. So, let's not discuss the
9 sun study right now because I think the shadowing has to be
10 less.

11 If you move it back five feet there has to be less
12 shadow. OP is saying in the latest report that most of the
13 shadowing is towards the rear in some cases and I'll let OP
14 speak for itself later on. So, if you push the house back
15 five feet, the shadowing has to improve.

16 So, from the ANC, would that be a satisfactory
17 conclusion for the ANC, Mr. Greenfield?

18 MR. GREENFIELD: We would want to see the proof.
19 The zoning regulations call for a shadow study to show the
20 impact of the shadowing. Asking us to accept it without any
21 proof of what it is, I think it's probably going to resolve
22 it but we would want to see the impact of the reduction in
23 the shadow study.

24 VICE CHAIR JOHN: But you will stipulate it would
25 be less?

1 MR. GREENFIELD: I would think in all likelihood
2 it's going to be less.

3 VICE CHAIR JOHN: That's all I need to know.
4 Thank you, Mr. Chairman, I think I have asked the question
5 that concerned me.

6 BZA CHAIR HILL: Anybody else, questions? I'm
7 going to turn to the Office of Planning and I have a question
8 for the Office of Planning.

9 MS. THOMAS: Mr. Chair, good afternoon, Karen
10 Thomas with the Office of Planning sitting in for Brandice
11 Elliot on this application. Do you have a question?

12 BZA CHAIR HILL: Ms. Elliot I guess was here with
13 us last time. I can see the report. Can you summarize the
14 report for us again please, the way that Ms. Elliot has done
15 it at the existing length?

16 MS. THOMAS: Sure. We see that the existing
17 length, there is shadow being cast across the property, both
18 properties, by the home to the south of the subject property.
19 When we have addition as proposed, we see that the property
20 to the north would be impacted by shadowing in the later
21 afternoon.

22 But leaving approximately 10 feet of the yard and
23 in the north portion of the lot unaffected. The greatest
24 potential shadow and impact would occur during the winter.
25 In the morning we would see shadow appear to extend 10 to 15

1 feet beyond a matter of rights structure, leaving a required
2 20 feet unobstructed.

3 And in the afternoon, we would see shadowing
4 extending approximately 10 feet beyond a matter of right
5 structure and leaving the required 20-foot yard unobstructed.
6 So, there would be no additional impact in the later
7 afternoon due to the length of the existing buildings, the
8 result.

9 The proposed rear addition would impact primarily
10 on the property to the north, however, in most cases we would
11 see the required rear yard of 20 feet would not be impacted
12 and that ensures sufficient access to light and air.

13 So, as a result the rear addition would not unduly
14 impact neighboring properties. And that's as stated in our
15 report and we also included the applicant's statement about
16 a construction management plan being provided to the record
17 at Exhibit 39 to address the issue of trash that was
18 mentioned previously in the record.

19 And that the applicant would erect a fence and
20 have trash pickup two or three times per week. I will stop
21 here and take any questions.

22 BZA CHAIR HILL: Again, the Office of Planning
23 didn't have any concerns concerning the length. I'm just
24 speaking out loud contemporaneously, you don't have to
25 respond, that's where your report is. And so the Office of

1 Planning would have no difference in opinion it being 5 feet
2 shorter probably.

3 Correct, Ms. Thomas?

4 MS. THOMAS: That's correct.

5 BZA CHAIR HILL: Does anybody from my Board first
6 have questions for the Office of Planning? Commissioner or
7 Mr. Greenfield, do you have any questions for the Office of
8 Planning? Commissioner Gilbert, I see you shaking your head.
9 Ms. Weir, do you have any questions for the Office of
10 Planning?

11 MS. WEIR: No, sir.

12 BZA CHAIR HILL: Ms. Young, is there anyone here
13 wishing to speak?

14 MR. YOUNG: Someone has signed up, David Bob.

15 BZA CHAIR HILL: David Bob?

16 MR. YOUNG: Yes.

17 MR. BOB: This is David, I am the owner at 649
18 16th Street NE.

19 BZA CHAIR HILL: Hi, Mr. Bob, you're the building
20 right to the north?

21 MR. BOB: That's correct.

22 BZA CHAIR HILL: You just introduced yourself for
23 the record. Mr. Bob, you have three minutes to begin your
24 testimony and you can begin whenever you'd like.

25 MR. BOB: I guess I really have a question as much

1 as a statement but since it's time for a statement I'll just
2 make that. I'm not clear as to what summary statement was
3 just made about the light and air impact.

4 When I look at the plans that have been introduced
5 to the ANC the light and air impact was going to be
6 considerable. The morning light in the winter on a house
7 that has only two sides of exposure is already much reduced.

8 The living area, the kitchen, and the rear of 649
9 16th Street would be impacted. I think the light and shade
10 study clearly shows that. So, the summary that was just
11 introduced saying they wouldn't be a significant diminution
12 doesn't square with what we see as owners.

13 The proposal also exist for a reduction of five
14 feet but a refusal to provide a study for that, citing lack
15 of funds, I think we're not going to change our opposition
16 to the project unless we would see a reduced or a lessened --
17 a shade study that shows the five-foot reduction but we'd
18 certainly look at that.

19 I think it's only fair to think of a proposal that
20 would be submitted to neighbors that would show the actual
21 study. If you don't have enough money to do that, how are
22 you going to pay for the project as a whole?

23 BZA CHAIR HILL: Mr. Bob, you had a question I
24 think but in terms of the shadow study and I'll speak to the
25 people that are here, the Board is supposed to take a look

1 whatever the applicant, any application, any applicant, what
2 they come before us and determine whether or not we think
3 they are meeting the criteria for us to grant the
4 application.

5 Special exception, variances, whatever those may
6 be based upon the regulations. So, the applicant has put
7 forward something we think we have enough information on to
8 base our opinion.

9 The shadow study, whether or not the Board thinks
10 it's necessary for an additional shadow study, that would be
11 something that the Board would be -- the Board would
12 determine that based upon years of experience that I've had.

13 Sometimes we ask for additional shadow studies,
14 sometimes we don't. In this particular case, the building
15 will be less so therefore, the shadowing will be less.
16 There's not anything that -- how significantly less would it
17 be, that would be the only difference that I suppose you can
18 kind of sub-issue.

19 And then the plans, unfortunately that is
20 something we need to see in terms of the Board needs to
21 approve plans that we see one way or the other. So, those
22 are different situations, I'm just speaking to this whole
23 shadow thing.

24 Mr. Bob, what was your question?

25 MR. BOB: When the Members and the anonymity

1 within the ANC Board, as I understood it, they looked at the
2 shadow study and saw that as all they needed to see in terms
3 of deleterious impacts, sufficiently deleterious impact.
4 Does BZA have a different standard that you're looking at?

5 Because the summary statement that was just read
6 by the person who just gave the report indicated there wasn't
7 any adverse impact.

8 BZA CHAIR HILL: Mr. Bob, what was your question?

9 MR. BOB: That's my question, is there a different
10 standard?

11 BZA CHAIR HILL: No, the standard is what the
12 Office of Planning reviewed, that's the standard. Now,
13 whether or not the Board agrees with the analysis of the
14 Office of Planning or the ANC, that's the regulation.

15 If you have an opportunity to look at the Office
16 of Planning's report, that is actually the regulation so that
17 is what -- and the Office of Planning has given their
18 interpretation or recommendation I should say of that
19 regulation.

20 Again, whether or not the Board agrees with it,
21 that's what the Board is here for.

22 And so the ANC, they are at a little different
23 situation wherein they're really kind of down in the minutiae
24 with the community. So, they are also looking at the
25 regulations, however, at the community level there's a

1 variety of different things that get put into play at the
2 community level.

3 But it's the regulations that we're looking at.
4 Does the Board have any other questions of Mr. Bob? Mr. Bob,
5 I'm going to put you in the waiting room, if you want to just
6 stick around. If we do have any questions, we might bring
7 you back up, okay?

8 MR. BOB: Thank you.

9 BZA CHAIR HILL: Mr. Young, if you could please
10 excuse Mr. Bob and I assume the applicant nor the
11 Commissioners or anybody had any questions for Mr. Bob,
12 correct? Hearing none, everybody is saying no.

13 I don't know what to do a little bit. I will let
14 Ms. Weir, can you hear me? Does anybody have any questions
15 of Ms. Weir? Actually, what I'm going to do here is what's
16 going to happen. That's number one, the Board is not raising
17 their hand and telling me what we're going to do.

18 Ms. Weir, do you have any final comments?

19 MS. WEIR: Yes, so to address the money issue, I
20 don't have money to just throw away to keep paying for
21 reports just to be opposed. I'll just do another report, I
22 did the first study. Also, if I have to reduce it by five
23 feet to appease everyone I will but I don't necessarily want
24 to.

25 I wasn't being difficult, it's just I wrote

1 everything in my letter that I submitted. But I guess I just
2 wanted to add that I don't know Mr. Bob. Anna owned the
3 house and then she got married to him and they moved on.

4 But it seems like after he talked to Mr.
5 Greenfield, maybe he had his wife stop talking to me, I don't
6 know. And I agree with DCRA and also, 647 now is next to 645
7 and it's not this dark, gloomy, bad air, and it's just like
8 it's the same exact building style as 649 and it's fine.

9 I wouldn't want to build something that's dark and
10 that's going to be a horrible impact. And it just started
11 off as a trash issue and now it's going on to a sun shade
12 issue. And I was just trying to improve the area, not do
13 anything dark and gloomy.

14 BZA CHAIR HILL: That brings up another point.
15 Is the area clean of trash now?

16 MS. WEIR: There's an alley trash problem. I sent
17 Mr. Greenfield a picture of the house that's creating it,
18 there's no trash on my property. There's actually more trash
19 at Mr. Bob's in the backyard.

20 BZA CHAIR HILL: I'm asking Ms. Weir is there
21 trash on your property?

22 MS. WEIR: No, sir.

23 BZA CHAIR HILL: Does anybody have anymore
24 questions of anybody? Go ahead, Ms. John.

25 VICE CHAIR JOHN: Are you planning to build a

1 fence at the back of that property?

2 MS. WEIR: Halfway so no and the property on the
3 corner, that house has a driveway so no.

4 But I do agree that once approved to build 647,
5 I have included in my letter that I have no problem with
6 giving the ANC and the builders information and to work on
7 them having a fence so that when the trash is all over the
8 alley it won't blow onto my property and they try to blame
9 me again.

10 And I would appreciate their help in making the
11 builder accountable as well for anything on their part. So,
12 I would gladly give them that information whenever I select
13 a builder.

14 MS. GILBERT: Yes, I have a question and I have
15 a concern. If you approve of her plans with the reduction of
16 5 percent, my concern is, I want to know, will she or will
17 we have to come back to review to make sure that those plans
18 are going to include the 5 percent and not just take her word
19 for it?

20 I want to know will the Board have to look at the
21 new plans that she will present showing the five percent
22 reduction before giving approval to that.

23 BZA CHAIR HILL: I appreciate you taking the time
24 and we've been here now several times before so I'm kind of
25 looking at you just a little bit which is to say as you as

1 an ANC Commissioner, you have regulations that you look at.

2 We have the regulations that we're looking at
3 right now. As of right now, we're analyzing this application
4 the way it is, meaning not even talking about the 5 feet when
5 you're talking about the 5 percent.

6 My fellow Board Members haven't said anything yet
7 about the 5 feet so I'm just trying to figure out --
8 everybody's raising their hand. So, I'm going to figure out
9 what's going to happen in a minute with the 5 feet. If in
10 fact the 5 feet was something the Board wanted to look at
11 then we would have to take a look at the plans.

12 I don't know if we would need a shadow study or
13 not but we definitely have to take a look at the plans.

14 MS. GILBERT: My other concern is as I said, I've
15 known Ms. Weir for going on two years, the problem with the
16 trash and the debris, if you're familiar with the Rosedale
17 community, I have a high rate of low-income, drugs, trash
18 problems. And so I did reach out to Ms. Weir, I welcomed her
19 to the community.

20 We had a fantastic conversation and then I told
21 her at that time back in December of 2020 of the concern from
22 the neighbors. It just went downhill, it took so long for
23 her to get the trash up.

24 Recently I see she has removed the trash so even
25 if you give her this approval, my concern again is I've got

1 to deal with the lack of responsibility with the trash.
2 She's already indicated that she doesn't come by, she doesn't
3 look and see what's going on, she took the builders word with
4 it.

5 And I'm the one that gets all the calls from the
6 community. When you're dropping debris all over the
7 community it's not right and I support community over profit.
8 And so that is my concern. I want to know that my community
9 knows if she is given the right to build what she's
10 proposing, we don't have to worry about the debris.

11 And who's going to monitor that? I know you guys
12 don't want to hear about it but that's what I've got to hear.

13 BZA CHAIR HILL: We want to hear about it, that's
14 why we're here.

15 MS. GILBERT: I know, I mean last meeting I was
16 told I don't want to hear about that but that is what I'm
17 dealing with. I'm very concerned about the way my community
18 looks. I've got to deal with drugs and crime and when you
19 have someone that comes in your community who doesn't care
20 but the object is just for profit, and then they leave and
21 you are overwhelmed with that, that is very discouraging.

22 So, my concern is I'm hoping there is a reduction
23 because that neighbor should have the right to enjoy the sun,
24 the a little bit of sun that comes back here. And I'm also
25 hoping that Ms. Weir will work with us. And thank you for

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1 the opportunity to just share my feelings and concerns.

2 BZA CHAIR HILL: I got you, Commissioner. Now I'm
3 going to give Ms. Weir a chance to rebut your statements but
4 hold on a second, Ms. Weir, I'm just trying to figure out,
5 Commissioner, again, I don't remember the last time, I don't
6 think we said anything about we don't care about nothing.

7 I don't know what happened.

8 MS. GILBERT: It wasn't you didn't care, I think
9 Ms. John had made a statement and she had mentioned she
10 didn't want to hear about the trash but I'm sorry, that's a
11 part of it I've got to tell you.

12 VICE CHAIR JOHN: Mr. Chairman, I have to respond.

13 BZA CHAIR HILL: Of course.

14 VICE CHAIR JOHN: The discussion devolved into
15 what had happened in the past and my comment, to the best of
16 my recollection, was we are moving forward. We will take
17 care of the trash. In the record is there an agreement to
18 remove the trash three times a week or something like that?

19 Did you happen to notice that, Ms. Gilbert?

20 MS. GILBERT: Yes, that is current based on the
21 current project. And even after the meeting, Ms. John, the
22 trash was still there. Just within the past couple of weeks
23 has the trash been removed. That was my concern.

24 VICE CHAIR JOHN: I'm speaking. Ms. Gilbert, the
25 property to the south is not before the Board. Do you

1 understand that one?

2 MS. GILBERT: Yes, ma'am.

3 VICE CHAIR JOHN: I just want to thank you for
4 your service because your comments and your interest and your
5 dedication and your hard work matters to us but at the Board
6 we have to look at what is before us.

7 What is before us now is 647. Now we can put in
8 conditions that requirements were to take care of 647 because
9 it is before us. And so I asked her is there a way for her
10 to put a fence up that would prevent dumping onto her
11 property and I would encourage her if it is at all possible
12 to do something like that.

13 And so if you understood me to say I did not care
14 about trash, that's not what I intended.

15 MS. GILBERT: I didn't understand that. I didn't
16 say you said that. What I'm saying is you didn't want to
17 hear that. What my concern was, if her property at 645 is
18 next to the property that is going to be developed then there
19 would be trash on top of trash from the new development,
20 trash that hadn't been removed from 645.

21 And I understand what's before you is 647 but if
22 you see the back and how their trash was, her development
23 would also add to that trash, that was my concern.

24 VICE CHAIR JOHN: Ms. Weir, please explain to me
25 why you cannot put up a fence? I don't understand why you

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1 say it is an alley.

2 MS. WEIR: No, 645 is completed and it's a
3 driveway where cars will park on the pad. So, the new
4 construction, there will be a fence. I picked the wrong
5 builder, that's it, I wasn't happy about what I was hearing,
6 I was an bedrest, a high-risk pregnancy, first pregnancy.

7 It was a lot going on and at the beginning when
8 I spoke to Ms. Gilbert, it was fine but she started attacking
9 me as if it was my issue when it's a whole alley issue. And
10 I did address it and like you said before, it is in the past
11 but there's trash in -- I took pictures the other day -- Mr.
12 Bob's yard, the house on the corner.

13 I've expressed to Mr. Greenfield and showed them
14 a picture of the house, showed him the trash and it has
15 something to do with the trash contractor, the neighbors, I
16 don't know if people were just coming back there dumping.

17 And I do like Mr. Gilbert's passion and tenacity
18 when she speaks about the community. When I was on the phone
19 on my vacation all that time and she spoke to the police
20 officer, I want to like this woman but she treated me and
21 talked to me so bad and I understand where she's coming from
22 but it wasn't my fault.

23 And going forward I will work with them to make
24 sure that it doesn't happen like that again. This is my
25 first time building, I've learned a lot, it would be a way

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1 better experience and I hope going forward that we can talk
2 and she can speak to me in a more respectful manner so that
3 we can work together.

4 I don't want to dislike this woman, it's just when
5 I hear her voice, it makes me nervous and have anxiety and
6 I don't want it to be like that because it did start off
7 nice. So, I hope going forward we can make some changes,
8 positive ones.

9 BZA CHAIR HILL: I've got Chairman Hood now. Go
10 ahead. By the way, the Office of Planning, can you hear Ms.
11 Thomas?

12 MS. THOMAS: Yes.

13 BZA CHAIR HILL: Which exhibit was that thing in
14 again that had the trash in it?

15 MS. THOMAS: 39 it said in your report.

16 BZA CHAIR HILL: I'm sorry, I'm lost. I got it,
17 thank you, sorry, Chairman Hood, go ahead.

18 ZC CHAIR HOOD: Mr. Chairman, I want to respond
19 to the lady raising her hand now. It's just like going to
20 a Baptist Church and I'm a Baptist. We're waiting for the
21 sermon to get started in which case I'm waiting for the case
22 to get started. The case is not taken off like a case we
23 have to deal with zoning issues.

24 That's what I was waiting for, that obviously has
25 not started. I do understand the good neighbor policy,

1 Commissioner Gilbert, I do understand, Ms. Weir about the
2 issue of the shadow studies, what the Commissioner Greenfield
3 and Commissioner Gilbert are speaking about.

4 I do think and if I'm not incorrect I think the
5 Office of Zoning as a tool who can call Ms. Barden that you
6 don't have to pay. It was a tool she and I spoke about some
7 months ago and I may not be recalling it correctly.

8 But if I am not then I'll step back from it but
9 I believe there's a tool that you can use that will help you
10 that will deflate some of that cost. But even more than
11 that, I have a question for Commissioner Gilbert and
12 Commissioner Greenfield.

13 That 5 percent, and the Chairman started talking
14 about it, if I was to assume the movement, I think that goes
15 to the Office of Planning report, if I was to assume the
16 movement what would you explain to me about that 5 percent?
17 I'm going to Commissioner Gilbert and Commissioner
18 Greenfield, and I'm talking about zoning.

19 I understand about the good neighbor policy, the
20 trash, I agree, let's keep it clean, I agree with all that
21 in my own neighborhood. I live in D.C. too so I agree with
22 that and I agree with the passion that Ms. Gilbert is talking
23 about.

24 I concur with that, this Board knows that. The
25 5 percent is meaningless, if I had said that what would you

1 say back to me, Commissioner Gilbert and Commissioner
2 Greenfield?

3 MR. GREENFIELD: I agree it's a small change. The
4 layout in the building in relation to the neighbor to the
5 north meant that it was throwing a lot of shadow onto primary
6 living areas within that building. And that way, the impact
7 rose to the level of undue impact.

8 Reducing it by 5 feet as was proposed or discussed
9 is very likely to reduce it enough to make that doable it's
10 just all we have is a relief sentence from the architect --
11 we never even got a chance to ask the architect any
12 questions.

13 It would be nice if we looked at something that
14 would say, okay, this addresses your issues.

15 ZC CHAIR HOOD: Commissioner, did you have
16 anything about the de minimis question?

17 MS. GILBERT: My concern for the neighbor is if
18 that 5 percent makes a small difference it's better than
19 nothing. I know I mentioned this before, I'm a gardener and
20 I plant and in today's society we all better be planting some
21 kind of crop in our yard.

22 And so I believe that if that makes a difference
23 then I support that. So, like I said, I don't have the plans
24 in front of me to understand more how much difference it will
25 make but we know it will make a small difference and that's

1 what I support.

2 ZC CHAIR HOOD: My only issue I don't want to put
3 you all on promise land. De minimis means exactly you don't
4 expect the outcomes that you get. It sounds like to me and
5 others that there needs to be some more communication and
6 I'll leave it at that.

7 BZA CHAIR HILL: Thank you. Does anybody anymore
8 questions of anybody and if so, raise your hand? And then
9 I'm going to ask some questions of the Board before I let
10 everybody go. Ms. Weir, what's your question?

11 MS. WEIR: I just want to add that I have in
12 almost every email had sent to Brad and the rest of the
13 Agency that if you have any questions for the architect
14 please send them to me and I will have him answer them.

15 So, he could have had any questions answered, he
16 said he couldn't speak to the architect. I just wanted to
17 add that.

18 BZA CHAIR HILL: What I'm trying to clarify or
19 focus on is again I'm trying to focus on the zoning issues
20 that are before us and I'm trying to understand what my Board
21 has to do or say, what they think about stuff in terms of the
22 only thing that's not on the table right now is whether or
23 not we're going to debate this 5 feet issue, whether we think
24 that's something we the Board wants to see.

25 And so I'm on the fence about it myself, I've got

1 say and I'm looking at my fellow Board Members. And so I
2 don't know, because I can do this, I can close the hearing,
3 let everybody go, we can start deliberating and then bring
4 everybody back if there's something about this five feet.

5 We've gone through this a bunch of times and I'm
6 not opening this up to the people that are in the hearing,
7 I'm speaking to my Board Members.

8 I think the issues seem to be more related to
9 again the damage and the issues with construction that are
10 -- I would appreciate if the Zoning Commission gives us a
11 little bit more flexibility with construction management
12 plans. That would be great.

13 We don't have that authority really. We do
14 encourage things, we do encourage the good neighbor policy,
15 we're told that people have to call DCRA for them to have a
16 stake to get people to deal with trash, but unfortunately,
17 as the Commissioner notes of the ANC there, getting DCRA to
18 show up or anybody to actually do something isn't necessarily
19 as easy as one would think because there's a lot of other
20 things that are going on.

21 So, that's why we try to get ourselves involved
22 with this and try to put it in stuff like in Exhibit 49,
23 which to me, what's in Exhibit 49 doesn't necessarily specify
24 a whole lot of stuff.

25 But anyway, back to this with my Board, I'm

1 looking at my Board Members, do you all have any questions
2 about this 5B situation or are we going to deliberate where
3 we are? I'm looking at my Board Members, I've got Mr. Smith.

4 MEMBER SMITH: It seems to me that the five feet
5 seems very arbitrary, that's my concern about this and I do
6 share Mr. Hill's questions about whether it's de minimis and
7 if it's de minimis, we're not going to see too much of a
8 change in the shadow which I would assume I wouldn't be too
9 much of a change.

10 This is a 21-foot extension, this will only reduce
11 it to 16 feet. Based on the shadow studies, in order for it
12 not to be shadowed, at least half of it not to be shadowed,
13 it would have to be built in a matter of right manner.

14 So, there will be some level of shadowing. Again,
15 it seems to me that five feet is arbitrary and if we're going
16 to have an actual dialog about reducing the size of the
17 addition, then it needs to be done in more of a scientific
18 way than just saying we're going to lop off 5 feet.

19 It seems to me there needs to be more of a
20 discussion between Ms. Weir and her architect and you're
21 saying you have an architect, I think one of our questions
22 is why is the architect never here to communicate some of
23 this back to the ANC considering some of their concerns and
24 some of the concerns we've been raising and also that you did
25 propose to remove 5 feet.

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1 So, I think it would have been helpful for your
2 part of presenting this application to have the architect
3 here to have more of an architect dialog on the reason why
4 5 feet may address some of the ANC's concerns and address
5 issues of light.

6 So, I'm not prepared to say that we should just
7 debate the 5 feet, I think it needs to be more of an
8 architectural discussion about why the 5 feet is appropriate.
9 That's just where my thought is on this one.

10 BZA CHAIR HILL: Ms. John?

11 VICE CHAIR JOHN: I don't know if this should be
12 done during deliberations but I'm looking at the shadow study
13 and I don't remember the exhibit. During the winter, the
14 shadows are cast from 645 right now so 647 is not adding any
15 new shadow to 649 and I believe that's consistent with what
16 OP says.

17 During the summer at 3:00 p.m. is where I think
18 there may be a bit an issue and looking at a 12:00 p.m. and
19 at 3:00 p.m. there is shadowing and there is increased
20 shadowing but I don't believe that increase at 3:00 p.m. is
21 substantially different from what could be done as a matter
22 of right.

23 So, right now I'm agreeing with the Office of
24 Planning. 645 at 3:00 p.m. is casting shadow onto both 645
25 and 647 and 649. So, the entire backyard is not covered as

1 the Office of Planning said.

2 Now, I think a 5 foot reduction could be helpful
3 just to get more light in the backyard during that one time
4 when the Office of Planning says that only 10 feet of light
5 or areas not shadowed would be left. Those are my thoughts.

6 BZA CHAIR HILL: Let me ask one question.
7 Chairman Hood, did you have your hand up?

8 Ms. Weir, there seems to have been a lot of
9 questions concerning trash and how the previous project, you
10 did 640 -- which one was the one you finished already? You
11 finished 645. You said you learned a lot from 645, right?

12 What did you learn from 645 concerning trash that
13 you're going to do different in 647? Because your
14 construction management agreement or what you submitted into
15 the record, it doesn't tell me anything other than you're
16 going to pick up trash two to three times a week.

17 MS. WEIR: The driveway was done the next meeting
18 that we had when I came up with the plan and they had
19 actually had an alley clean-up done around that same time so
20 there was no trash in the alley and now the pattern is
21 starting again where there's trash in the alley.

22 BZA CHAIR HILL: What are you going to do?

23 MS. WEIR: I learned that picked the wrong
24 builder. Two, I learned that we're going to have a fence up
25 so that when the alley has trash, the trash is not going to

1 get onto my property and we're just going to clear the trash
2 that gets onto the fence.

3 And I'm going to pick up a better, more reputable
4 contractor that I've actually seen their work and how they
5 work, and I'm going to work with the ANC and hopefully me and
6 Ms. Gilbert, she can even come with me and meet with them and
7 make sure they have all the information.

8 And since I'm not going to be pregnant I'll be
9 there more physically.

10 BZA CHAIR HILL: So, you are putting up a fence
11 on 647 you're saying?

12 MS. WEIR: When the project starts we're going to
13 have a fence up on the property so that no trash can get on
14 it and it will be a totally different project because it's
15 not built from the ground up, we're just extending back and
16 up.

17 BZA CHAIR HILL: That's what you're telling the
18 Board, though, you're going to have a fence around the
19 property during construction?

20 MS. WEIR: Yes, and I even put it in writing with
21 the letter that I submitted to you all, I can put it in
22 writing to the ANC. And if me and Ms. Gilbert can work
23 together, I'm sure it would be a memory for both of us and
24 we'll end up having a better relationship that we probably
25 should have had anyway.

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1 BZA CHAIR HILL: I'll get you Commissioner.
2 Where's the letter that you're talking about?

3 MS. WEIR: It's the most recent one, I sent it to
4 the BZA this Monday, the Monday that just passed and it's at
5 the bottom of the letter that I state that.

6 BZA CHAIR HILL: Go ahead, Commissioner Gilbert
7 while I'm looking.

8 MS. GILBERT: I just want to say that I get
9 offered to assist with Ms. Weir last meeting we had and she
10 opposed it but I want to make sure that fence is 6 feet
11 because it was a little tiny fence with plastic and sticks
12 and that stuff, all of the debris just went over it.

13 If she has a fence that's high enough it can keep
14 her debris inside and the alley debris from getting onto her
15 property. I have text messages where I discussed that with
16 her and she refused to deal with it. My problem is I'm a
17 good person and I try to work with everybody in my community,
18 I've done it for 10 years.

19 And so if a developer is coming into my community,
20 every developer I work with has worked with me and if you're
21 blaming me because I'm holding you to your responsibility,
22 that's unfair because if any of you all were living in my
23 community, you would want to know somebody was representing
24 you too.

25 BZA CHAIR HILL: I wish that we were all together

1 in person, it's so much easier to talk to one another but
2 we're not, we're in this dumb, little, frickin' telephone
3 world and so I can't do anything about it.

4 Meaning it sounds like you all need to talk
5 together a little bit more and you all can maybe work out
6 some stuff, I don't know, in terms of things that actually
7 are more related to how this actually, to quote Chairman
8 Hood, the good neighbor policy goes and how this would
9 actually move forward and how the ANC might be more
10 comfortable with this development that are a little bit
11 outside of our zoning area but I wish that you all had talked
12 about it and there was something in the record that we can
13 see.

14 And I might want to see something in the record
15 before I can actually decide to be quite honest. So, what
16 I want to do and this is why I'm confused, like I said, I
17 don't like this virtual thing. I'm going to close the
18 record, I'm looking at my Board Members, close the hearing,
19 have a little bit of a discussion, reopen the record, bring
20 people in and see where we are.

21 Let's finish this and see what's going on. Is
22 everybody okay with what I do? I see at least one person
23 raising their hand. You all stick around because I'm going
24 to reopen this record but right now I'm closing the record
25 and the hearing.

1 I'm excusing everybody, thank you.

2 (Whereupon, the above-entitled matter went off the
3 record at 1:00 p.m. and resumed at 1:12 p.m.)

4 BZA CHAIR HILL: Ms. Weir, can you hear me?

5 MS. WEIR: Yes, I can hear you.

6 BZA CHAIR HILL: This is what the Board would like
7 to see. The Board would like to you to communicate with the
8 ANC and see if you can come up with some kind of a plan as
9 to how you're going to address their concerns during your
10 construction and management of trash and all those issues for
11 your new project, okay?

12 MS. WEIR: I'm more than happy to do that.

13 BZA CHAIR HILL: Commissioner, this is where it's
14 on you all and whatever you all submit is whatever you all
15 submit and we're going to make a decision. So, if you have
16 an opportunity, Commissioner, to speak with Ms. Weir there
17 would be great and if you don't, you can still submit
18 something into the record that says you tried but couldn't,
19 whatever the case may be.

20 So, you guys try to communicate with one another
21 and hopefully we'll get something into the record, and I'll
22 give you a chance, Commissioner, that says that you all have
23 come to some understanding as to how the construction and the
24 trash will be managed.

25 Commissioner, does that make sense?

1 MS. GILBERT: Yes.

2 BZA CHAIR HILL: Ms. Weir, it's on you to reach
3 out to the Commissioner and get something to us. I'm going
4 to give an opportunity, the ANC always has an opportunity to
5 respond to whatever you put into the record.

6 I'm going to give you a date to put something into
7 the record for us as to how you're going to deal with your
8 project and how you're going to work with the community on
9 their issues. We're off the month of August. Commissioner,
10 you guys are off August too, right?

11 MS. GILBERT: Yes, we are.

12 BZA CHAIR HILL: When is your first meeting back
13 again?

14 MS. GILBERT: The second Thursday of September.

15 BZA CHAIR HILL: The 15th?

16 MS. GILBERT: The second Thursday is the 8th.

17 BZA CHAIR HILL: I'm just saying however your
18 Commission works I don't know, your ANC, but if you can get
19 us something into the record -- go ahead, Commissioner.

20 MS. GILBERT: Mr. Bradfield's Committee, they
21 would be the Committee that would meet to discuss any of
22 those changes with Ms. Weir and I was listening to the
23 conversation you guys had and I just want to say that Mr.
24 Smith raised a very important question.

25 We really do need to see new plans and we really

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1 need to see more involvement of the architect. That is where
2 the problem is, we're not getting anything and the letters
3 that are being given to us, a lot of it has been very
4 disrespectful.

5 And that's why I had mentioned I believe Mr. Blake
6 if you had read that because I'm being attacked and I have
7 not been rude. It's just that we're not getting the
8 information we need.

9 BZA CHAIR HILL: Commissioner, I appreciate it and
10 you guys have to understand also where we are right now. We
11 really do our best, we're all citizens of this city also and
12 we're all trying to do our best within the regulations and
13 we have like 10 more cases.

14 This is our last day before we also get to take
15 a break so what I'm trying to say is we could vote right now
16 on the zoning issues and so I'm leaving this opportunity
17 because we're uncomfortable with how much discussion has gone
18 on between the applicant and the ANC.

19 Mr. Bradfield, there are three people right now
20 ready to vote on this and one person, and I lost the
21 applicant, was interested in if the applicant wanted to
22 consider a five-foot reduction they could.

23 I've lost the applicant. Mr. Moy, while I'm doing
24 this, I'm trying to figure out dates that we can get back
25 here for a decision on the 14th.

1 MR. MOY: I have a suggestion for you. My sense
2 is it would be helpful if you set the decision on September
3 21st, that way the applicant can make their filing for all
4 the information the Board is asking by September 1st and then
5 the ANC can reply to those filings by September 14th.

6 That I think should give ample time.

7 BZA CHAIR HILL: Ms. Weir, can you hear me? By
8 September 1st, if you could go ahead and meet with the ANC
9 and figure out if you can come up with a construction
10 management agreement, something that explains how you're
11 going to -- this is what I want to hear, how you're going to
12 deal with the trash, how you're going to deal with the
13 construction, how you're going to deal with keeping the
14 neighbors in form.

15 That one thing, I want to see that and not just
16 one email with three or four little lines, really
17 specifically how you're going to deal with these issues. And
18 then the ANC is going to have until the 8th to respond to
19 that filing.

20 MS. WEIR: Can I ask a question?

21 BZA CHAIR HILL: One second. And then we're going
22 to come back and make a decision on the 14th. What's your
23 question?

24 MS. WEIR: My question is the ANC, can you all
25 send me what you would want done and I'll just do it?

1 Whatever you want done in the plan --

2 BZA CHAIR HILL: We're really trying to do a lot
3 of stuff here for you. I don't know if you guys are
4 understanding, I've got three people that are ready to vote
5 right now. I'm trying to help.

6 MS. GILBERT: You're doing a great job. I want
7 to say something because I'm willing to work with her.

8 BZA CHAIR HILL: Whatever you all do, we're going
9 to have filings by the 1st. Ms. Weir, can you hear me?

10 MS. WEIR: Yes.

11 BZA CHAIR HILL: You need to submit something by
12 the 1st of September that to me shows how you're going to
13 deal with trash and construction management on this project.
14 Does anybody else of my the Board, do any of my Board Members
15 need anything else from Ms. Weir for the 1st?

16 I see nobody is raising their hands so, Ms. Weir,
17 that's all you have to submit. Then the ANC will have an
18 opportunity to respond to whatever you submit by the 8th,
19 meaning if you have talked to the ANC and you guys are both
20 on the same page by the 1st with what you submit, they won't
21 say anything.

22 And then we'll decide on the 8th or Commissioner
23 Gilbert, you can submit whatever you want on the 8th that
24 says, yes, we agree, we've talked, we're all on the same
25 page.

1 MS. GILBERT: I think Ms. Weir said she would be
2 willing to see what we were interested in --

3 MS. WEIR: Whatever you guys want --

4 MS. GILBERT: I think that would be better for us
5 to submit to her.

6 BZA CHAIR HILL: Whatever you all do between now
7 and the 1st is on you. Ms. Weir is supposed to submit
8 something to us on the 1st as to what you all did, and then
9 you guys will have an opportunity to respond to by the 8th.

10 And just so you know, Mr. Greenfield, we haven't
11 asked for additional plans for the reduction of the 5 feet,
12 that's not what we've asked for so far. But if you all come
13 to some kind of decision, whatever, that's all on you. I've
14 made it very clear what I'm looking at.

15 I'm interested in how this project is going to
16 move forward and the trash issue is going to get resolved and
17 the things that the Commissioner has brought up that is the
18 concern of her community. Ms. Weir, you got me?

19 MS. WEIR: Yes.

20 BZA CHAIR HILL: Mr. Moy, what have you got?

21 MR. MOY: I thought Ms. Gilbert said that the ANC
22 meets on September 8th.

23 BZA CHAIR HILL: I'm sorry.

24 MR. MOY: If that's the case then --

25 BZA CHAIR HILL: Commissioner, if you could give

1 us something by the 12th of September. I don't know if you
2 guys are going to have a meeting or not about this on the
3 8th, we don't know, but we'll give you a little bit more time
4 if this gets brought up in your ANC again.

5 MS. GILBERT: I think Brad was trying to say
6 something. I don't know because we're not meeting in a room.

7 BZA CHAIR HILL: He seem to be letting me try to
8 at least get on with my day.

9 On the 1st, I just want to be very clear to
10 everybody, meaning Commissioner and Mr. Greenfield, September
11 1st is when Ms. Weir is going to give us her information so
12 you all had to have had your discussion before then.

13 And then the ANC, whatever, you all get to say
14 whatever you want to say by the 12th if you all don't agree
15 by the 1st. And then we're going to make a decision on the
16 14th. Mr. Moy, did you have a question?

17 MR. MOY: You've answered it so we're good.

18 BZA CHAIR HILL: You all have a nice summer and
19 good luck. I'm sorry to my fellow Board Members, I'm trying
20 and you all are very patient. Do we want to do lunch?

21 Chairman Hood is done with us now.

22 ZC CHAIR HOOD: You all have a great day and month
23 off. Vice Chairman, thank you for being so patient, keep
24 pressing on, I'll be watching.

25 BZA CHAIR HILL: Goodbye, Chairman Hood. Now

1 there's a decision. We could take a quick break just for
2 reasons that we all know and then we could come back and have
3 our decision and then take lunch, which I guess would be my
4 vote. I don't know what you all want to do.

5 Do you just want to do the decision? Do we need
6 a break?

7 VICE CHAIR JOHN: Mr. Chairman, I'm not on that
8 decision so I will be turning off my video and microphone.

9 BZA CHAIR HILL: In that case, I need a quick
10 break.

11 VICE CHAIR JOHN: I'm wishing you all God speed.

12 BZA CHAIR HILL: Vice Chair John, we're probably
13 going to take lunch after the decision, right?

14 VICE CHAIR JOHN: Yes.

15 BZA CHAIR HILL: Vice Chair Miller, let's take a
16 quick five-minute break, come back, do the decision, then
17 we'll have lunch. Okay, Commissioner Miller?

18 COMMISSIONER MILLER: Yes.

19 BZA CHAIR HILL: Sorry, Commissioner, you've been
20 there a long time, we know.

21 COMMISSIONER MILLER: That's fine, I was happy to
22 be not on that case.

23 BZA CHAIR HILL: We'll be right back.

24 (Whereupon, the above-entitled matter went off the
25 record at 1:24 p.m. and resumed at 3:10 p.m.)

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1 BZA CHAIR HILL: Okay, Mr. Moy, you can call our
2 next case.

3 MR. MOY: Thank you, Mr. Chairman. The Board has
4 returned to its Public Hearing session after a lunch recess,
5 and the time is now at or about 3:10 p.m. We're in the home
6 stretch, Mr. Chairman.

7 All right, the next case before the Board is
8 Application No. 20777, Rusmir Music, M-U-S-I-C. This is a
9 self-certified application for a special exception pursuant
10 to Subtitle A, Subtitle E, Section 206.4, Subtitle E, Section
11 5207, and Subtitle X, Section 901.2. This is from the
12 rooftop and upper floor requirements of Subtitle E, Section
13 206.1. Property is located in the RF1 zone at 206 P Street,
14 Northwest, Square 553, lot 141. And that's it from me, Mr.
15 Chairman.

16 BZA CHAIR HILL: Great. Thank you, Mr. Moy. Mr.
17 Bentley, can you hear me? And if so, could you introduce
18 yourself for the record?

19 MR. BENTLEY: Philip Bentley with Merrick Desai &
20 Build, representing Rusmir Music on this application.

21 BZA CHAIR HILL: Great. Thank you, Mr. Bentley.
22 Mr. Bentley, if you could walk us through your client's
23 application, and what you're doing, and why you believe
24 you're meeting the criteria for us to grant the relief
25 requested. I'm going to put 15 minutes on the clock there

1 so I know where we are, and you can begin whenever you like.

2 MR. BENTLEY: All right, sure. So, I think the
3 photograph exhibit really kind of explains what we're trying
4 to do.

5 BZA CHAIR HILL: Which exhibit, Mr. Bentley? You
6 cut off for a second.

7 MR. BENTLEY: I'm sorry, the existing photographs
8 exhibit. I want to say 13.

9 BZA CHAIR HILL: I think it was 9. The ones I've
10 got are 9.

11 MR. BENTLEY: It's called Exhibit 13 on the tab
12 I have open.

13 BZA CHAIR HILL: It's 9, Mr. Young.

14 MR. BENTLEY: It's 9, okay. So, essentially, we
15 have two dormers on the front of the house that we want to
16 combine into one dormer. It didn't seem like a big deal when
17 we started off the process, but here we are many months later
18 trying to get it done still.

19 BZA CHAIR HILL: Mr. Young, don't worry about
20 pulling it up. Go ahead, Mr. Bentley, sorry.

21 MR. BENTLEY: Essentially, as far as the criteria
22 it's meeting, this will have next to zero impact on the light
23 and air available to neighboring properties due to the siting
24 of our property and the neighboring properties, which are
25 sited in front of ours. As you stand on the street, looking

1 at the photographs, you will be able to see that the
2 neighboring properties sit proud of ours.

3 And, therefore, that same reason, standard two,
4 privacy and enjoyment of the neighboring properties should
5 not be unduly compromised. Again, we are not able to see any
6 more into existing neighboring properties than we can right
7 now.

8 And standard three, the view from the street or
9 alley, it's not going to affect the character or scale,
10 pattern of houses along the alley. It's not going to affect
11 anything.

12 If you look at the image of the houses along the
13 street, there is probably 12 different styles on this side
14 alone, including the school and apartment buildings, modern,
15 old, tall, short, it's all over the place. So, therefore,
16 I feel like our project will have next to zero impact
17 aesthetically on the neighborhood. And through the drawings
18 and the written statements here, I think we're satisfying the
19 provided documents to prove our point.

20 BZA CHAIR HILL: All right. Thank you, Mr.
21 Bentley. Does the Board have any questions for the
22 applicant? I'm going to turn to the Office of Planning.

23 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
24 and members of the BZA. Maxine Brown-Roberts on Case Number
25 20772 for special exception relief to replace an

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1 architectural element on an existing row building at 206 P
2 Street Northwest. Subtitle E, Section 206.1 requires the
3 rooftop architectural elements be retained. However, Section
4 206.4 allows removal by special exception subject to the
5 provisions of Subtitle E, 5207, and Subtitle X, Chapter 9.

6 The proposal is to remove the existing dormers and
7 construct a new single shape dormer on the third floor to
8 provide more comfortable space on the interior. Regarding
9 the requirements of Subtitle E, Section 5207, the building
10 on the west protrudes past the subject building, and has no
11 windows on its side facade. And there are no openings on the
12 side of the proposed dormer which would allow views into the
13 building to the east.

14 Views to the north along P Street should be no
15 more than which exist today, therefore the dormer should not
16 unduly compromise the light, air, or privacy of the adjacent
17 properties. This block of P Street has a variety of
18 architectural styles, as the applicant just stated, and with
19 third floors, and with dormer additions, or some without.
20 The replacement dormer should not therefore visibly intrude
21 upon the character, scale, and pattern of houses along P
22 Street, and no special treatment is recommended at this time.

23 Regarding Subtitle X, Chapter 9, the proposed
24 shape dormer would not change residential use, and proposed
25 purposes of the RF1 zone. The building would continue to be

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1 used as a residential use in the RF1 zone. Proposed relief
2 meets special exception conditions specified in E5207 as
3 demonstrated, and the proposed shared dormer should not
4 adversely affect the use of the neighboring property.

5 The Office of Planning therefore recommends
6 approval of the requested special exception. Thank you, Mr.
7 Chairman, and I'm available for questions.

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

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

11 (No response.)

12 BZA CHAIR HILL: Mr. Bentley, can you tell me how
13 the outreach went with the ANC?

14 MR. BENTLEY: It went great. We have some letters
15 of support in our application, and we got zero push-back from
16 anybody. Both the architecture board for the ANC and the ANC
17 proper both were fully in support.

18 BZA CHAIR HILL: Okay, thank you, Mr. Bentley.
19 All right, I'm going to go ahead and -- I'm sorry, Mr. Young,
20 did I ask if anyone wants to speak?

21 MR. YOUNG: You did ask. We do not have anyone.

22 BZA CHAIR HILL: Thank you. All right, I'm going
23 to go ahead and close the hearing on the record. Thank you
24 all very much. I thought this was really straightforward;
25 I didn't have any issues with it. I would agree with the

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1 analysis that the Office of Planning has provided, and give
2 them great weight in terms of their report, as well as that
3 of ANC 5E. And also there were, I would note, people in
4 support. And DDOT had no objection. I will be voting to
5 approve.

6 Mr. Smith, do you have anything you'd like to add?

7 MEMBER SMITH: I agree with your comments and your
8 analysis of this case, and support the applicant.

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

10 MEMBER BLAKE: I concur with the analysis, and I
11 will be voting in support of the application.

12 BZA CHAIR HILL: Thank you. Mr. Commissioner Vice
13 Chair Miller?

14 COMMISSIONER MILLER: (Audio interference.) Thank
15 you.

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

17 VICE CHAIR JOHN: I concur as well.

18 BZA CHAIR HILL: Thank you. All right, I'm going
19 to make a motion to approve Application No. 20777 as
20 captioned and read by the secretary, and ask for a second.
21 Ms. John?

22 VICE CHAIR JOHN: Second.

23 BZA CHAIR HILL: Mr. Moy, the motion has been made
24 and seconded. If you could please take a roll call?

25 MR. MOY: Thank you, sir. When I call your name,

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1 if you would please respond with your vote on the motion made
2 by Chairman Hill to approve the application for the relief
3 requested. The motion was seconded by Vice Chair John.
4 Zoning Commissioner Rob Miller?

5 COMMISSIONER MILLER: Yes.

6 MR. MOY: Mr. Smith?

7 (No audible response.)

8 MR. MOY: Mr. Blake?

9 MEMBER BLAKE: Yes.

10 MR. MOY: Vice Chair John?

11 MEMBER BLAKE: Yes.

12 MR. MOY: Chairman Hill?

13 (No audible response.)

14 MR. MOY: Staff would record vote as five to zero
15 to zero, and this is on the motion made by Chairman Hill to
16 approve, the motion to approve seconded by Vice Chair John.
17 Also in support of the motion to approve, Zoning Commissioner
18 Rob Miller, Mr. Smith, Mr. Blake, Vice Chair John, Chairman
19 Hill. Motion carries, sir, on the vote of five to zero to
20 zero.

21 BZA CHAIR HILL: Thank you, Mr. Moy. When you're
22 ready you can call the next one.

23 MR. MOY: The next case before the Board is
24 Application No. 20744 of On Fourteenth NE, LLC. This is a
25 self-certified application for special exception pursuant to

1 Subtitle X, Section 901.2. Under Subtitle C, Section 909.2
2 from the loading requirements of Subtitle C, Section 901.1,
3 and under Subtitle H, Section 901.1, Subtitle H, Section
4 1200, and Subtitle H, Section 1202, to allow a new building
5 on a lot larger than 6000 square feet.

6 Property is located in the NC-15 zone district.
7 Property located at 814 14th Street, Northeast, Square 1026,
8 Lot 66, 177, and 173. And that's all I have. Thank you,
9 sir.

10 BZA CHAIR HILL: Thank you. Mr. Dupont, can you
11 hear me? And if so, could you introduce yourself for the
12 record?

13 MR. DUPONT: Good afternoon. his is Stephen
14 Dupont, I'm the architect for the project at 814 14th Street
15 Northeast.

16 BZA CHAIR HILL: All right, Mr. Dupont, I think
17 maybe you have your phone and your computer on at the same
18 time.

19 MR. DUPONT: I got removed from my other computer,
20 and the speaker is blown on this one.

21 BZA CHAIR HILL: Okay.

22 MR. DUPONT: So, I'm going to be a bit rumbly, I
23 think, or you will be.

24 BZA CHAIR HILL: We can hear you. You were having
25 feedback there for a moment.

1 MR. DUPONT: I had two computers running, because
2 I was getting audio from the other computer.

3 BZA CHAIR HILL: Okay, can you hear us now?

4 MR. DUPONT: Yes.

5 BZA CHAIR HILL: Can you see us?

6 MR. DUPONT: Yeah, I just had a bad speaker, let
7 me start video. I have a bad speaker, but it seems to be
8 okay today.

9 BZA CHAIR HILL: All right, Mr. Dupont, if you
10 could go ahead and walk us through your client's application,
11 and why you believe they're meeting the criteria for us to
12 grant the relief requested. I'm going to put 15 minutes on
13 the clock so I know where we are. And I don't know what
14 exhibit you'd like to pull up, but you can begin whenever
15 you'd like.

16 MR. DUPONT: The easiest thing for me to do is to
17 share my screen.

18 BZA CHAIR HILL: You can't, I don't think, Mr.
19 Dupont. Is there an exhibit?

20 MR. DUPONT: I don't know the exhibit number.
21 There's a plan set and a rendering set that are fairly
22 recent.

23 BZA CHAIR HILL: Okay. I see updated renderings.
24 Do you want the renderings or do you want the plan set first?

25 MR. DUPONT: Plan set, I think.

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1 BZA CHAIR HILL: Okay, I think that is probably,
2 Mr. Young, number 22.

3 MR. DUPONT: Sorry about that, I wasn't expecting
4 to use the exhibit numbers.

5 BZA CHAIR HILL: That's all right. Just, Mr.
6 Dupont, I think we've done it in the past, but we don't
7 normally let people share their computer because it's kind
8 of a pain.

9 MR. DUPONT: Okay. Anything with the electronics
10 is difficult.

11 BZA CHAIR HILL: As it is with me. But let's see
12 what Mr. Young has there.

13 MR. DUPONT: So, the -- it's a file of about seven
14 plans. The first plan would be cellar level. Cover, next
15 sheet, please. Okay, so that's the cellar level. OP noticed
16 that I had not provided bicycle space, so that space is now
17 included in the upper left portion of the sheet. 17 spaces,
18 including two full personal-sized bicycles. Next sheet
19 please. This sheet uses site plan, at the upper center is
20 an odd gray shaped thing.

21 That's actually the official alley. It's ten feet
22 wide on the wide part, and seven feet wide on the narrow
23 part. There's no possible way to beat the zoning code for
24 loading docks. The street front on the right is Florida
25 Avenue. The street front down sheet is 14th Street. Again,

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1 no possible curb cuts or loading at those locations. We are
2 at the moment 52 units, which is only two over the trigger.

3 And I would add that in looking at the NC zone,
4 which is a very small zone, it's the most easternmost section
5 of the 8th Street design areas. I can't really find anywhere
6 in the NC15 where a loading dock would fit, without
7 significant change to property lines that would affect alley
8 access. So, for that reason, we would like to be excused
9 from the loading dock requirement. We do have -- you see the
10 two elevators, and to the upper left of the elevators are two
11 dumpsters in a separate enclosure.

12 They would be accessed to a smallish truck by way
13 of the alley. We have cars coming in by way of the alley,
14 we have a back door, which immediately accesses the elevators
15 for occupant loading, and unloading. So, we believe we can
16 handle the requirements of a loading dock in this relatively
17 small building pretty easily, beyond the fact that we simply
18 can't get a loading dock in. As far as the other special
19 exception for the 6000 square feet, the lot size is I think
20 6201.

21 I heard the term de minimis used earlier, I'm
22 hoping that the supplies in this case, I don't otherwise know
23 why the 6000 feet is a trigger, but it is. That's all I
24 really have to say until you have questions.

25 BZA CHAIR HILL: Mr. Dupont, you're saying that

1 you don't agree with the regulation.

2 MR. DUPONT: Well, I can't fit a loading dock in,
3 there's no way.

4 BZA CHAIR HILL: I was speaking to the 6000,
5 you're like why is that the trigger.

6 MR. DUPONT: Well, I don't understand the purpose
7 of that. It is a trigger, and I assume there's a reason for
8 it, but I don't know what it is.

9 BZA CHAIR HILL: I don't know the reason either,
10 but it is the trigger. Okay, and as is 50 units, that is the
11 trigger also.

12 MR. DUPONT: Yes, it is, I understand that, we
13 have 52 units at the moment.

14 BZA CHAIR HILL: You guys are under both triggers.
15 All right, does the -- Mr. Dupont, how did the ANC go, how
16 did your public outreach go?

17 MR. DUPONT: We did ANC, and Capitol Hill
18 Restoration Society, CHRS, had effectively no comments. They
19 were interested. And the -- Mr. Greenfield of the 6A had a
20 zoning hearing, and then they followed that up with a general
21 meeting, and the comments are that mostly they're interested
22 in more affordable housing, and fewer units. And as those
23 two are sort of competing with each other, we just kind of
24 left it that that's what they're requesting.

25 More affordable housing and fewer units. And they

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1 had one other request, I forget what it was exactly. Zipcar,
2 they were interested in Zipcar.

3 BZA CHAIR HILL: Well, actually, the one I see,
4 is they're talking about the RPP, and that --

5 MR. DUPONT: That was it. They're not allowed --

6 BZA CHAIR HILL: They're not allowed to get Zone
7 6 RPP, and unfortunately it's not something that we as the
8 Board in the past have been able to do.

9 MR. DUPONT: I assume that's DDOT.

10 BZA CHAIR HILL: DDOT can't single out one
11 building. I've never understood why, but that hasn't come
12 up in a while, so I should stay quiet.

13 Let's see, all right, does the Board have any
14 questions of the applicant? Mr. Smith?

15 MEMBER SMITH: Sure. Where would -- I see that
16 you have a trash enclosure. What kind of trash pickup would
17 you be -- assuming it's not (audio interference).

18 MR. DUPONT: One moment, please. I said I had a
19 bad speaker, and I need to --

20 BZA CHAIR HILL: I find if you turn off your video
21 sometimes it helps.

22 MR. DUPONT: No, it's the speaker. Try it again,
23 Mr. Smith?

24 MEMBER SMITH: Okay, so all of your back of house
25 is currently in the alley.

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1 MR. DUPONT: Through the alley, yes.

2 MEMBER SMITH: And alley access for your property
3 looks to be about seven feet wide.

4 MR. DUPONT: It's seven feet after it reaches our
5 property line. Prior to reaching our property line, it's
6 actually ten feet. So, where it gets to be seven feet, we
7 can trespass on our own property.

8 MEMBER SMITH: Okay, how would a trash truck be
9 able to access?

10 MR. DUPONT: Well, it's going to have to be a
11 commercial hire anyway, it's not going to be city trash, so
12 it's going to have to be a small truck.

13 MEMBER SMITH: Have you done any modeling of how
14 a small truck may be able to access the trash enclosure in
15 light of the width of the alley access, and any car that
16 would be parked in those two parking spaces that are touching
17 that alley access?

18 MR. DUPONT: I have driven my own car back in
19 there, and it's a ten foot wide access. The code requires
20 12 feet. I think with a commercial hauler, and a smaller
21 truck, it should be not a problem. I mean, I know they have
22 smaller trucks for narrow alleys.

23 MEMBER SMITH: I'm saying with a moving van,
24 because I don't believe that a moving van would be able to --

25 MR. DUPONT: I don't know how a moving van -- no

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1 moving van is coming in here, no. Maybe a smaller box truck
2 like a U-Haul would be fine, but not like a Mayflower, no.

3 MEMBER SMITH: Even a smaller box truck --

4 MR. DUPONT: A U-Haul would do it, yes. I've done
5 plenty of U-Hauls. They would want to back in, but that's
6 not a problem. The alley is a T bone alley coming off of H
7 street, and it's wider to the west rather, so a truck can
8 come in, and turn to the west, and then back in that short
9 distance back to us. It's not very far from the entry off
10 of H street, it's only like two lots off of H street that the
11 alley comes in, and T bones into this alley, it's quite a
12 short distance, and that alley is fairly wide.

13 MEMBER SMITH: I hear you, Mr. Dupont, but my
14 question is: was there any type of modeling scenario?

15 MR. DUPONT: I have not, but I would be happy to
16 do it.

17 MEMBER SMITH: Yeah, that would be something that
18 I would like to see.

19 MR. DUPONT: That would be fine.

20 BZA CHAIR HILL: Mr. Blake?

21 MEMBER BLAKE: So, as we looked down that alley,
22 I was curious to know if the other residences would be
23 impacted by the trucks coming in, or out, or loading -- we
24 don't have any alley, I didn't see any clear shots of the
25 alley to give me a better sense of that. Can you kind of

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1 give us a narrative of what the alley --

2 MR. DUPONT: I think there's some photos in the
3 submittals in the file of the alley.

4 MEMBER BLAKE: How many homes will you be
5 impacting when you're loading?

6 MR. DUPONT: Well, there are two commercial
7 properties that face H street toward 14th, and there's one
8 rowhome I think after the T intersection, between the T
9 intersection and our property. It would be 1363 Florida
10 Avenue.

11 MEMBER BLAKE: And if the truck is backing in,
12 would it be blocking any of those properties in any way for
13 a period of time?

14 MR. DUPONT: They might temporarily, but it
15 certainly would be possible to move one of those smaller
16 trucks far enough in not to block it, and they would be
17 temporary. I will do the loading study.

18 MEMBER BLAKE: Thank you, that'd be perfect.

19 BZA CHAIR HILL: Anyone else? Mr. Miller, and
20 then Vice Chair John.

21 COMMISSIONER MILLER: Thank you, Mr. Chairman. And
22 thank you, Mr. Dupont, for bringing this application forward.
23 On the RPP issue, residential permit parking issue, DDOT's
24 report on pages two and top of page three says that if the
25 building chooses a Florida Avenue address, future residents

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1 will be eligible to obtain Zone 6 parking permits. However,
2 if a 14th Street address is chosen, residents would not be
3 able to obtain a parking permit from DMV, because the 800
4 block of 14th Street, Northeast is not in the DDOT and DMV
5 residential permit parking database.

6 Are you going to be using -- I assume you are
7 going to be using a 14th Street address, since the
8 applicant's name is on 14th?

9 MR. DUPONT: I would assume so. It makes sense
10 to address this type of building off of 14th, and not
11 Florida. Furthermore, I don't know of any objection that my
12 client has to the parking restriction. It's a very tight
13 environment anyway, and there's lots of transport in the
14 area. There's the streetcar, there's the Metro, there's all
15 sorts of stuff going around there. So I don't really see
16 that as being an issue. I think 14th Street would be the
17 likely address, and that would solve the ANC problem right
18 off the bat.

19 COMMISSIONER MILLER: Thank you for that response.
20 Did you just say that your client does not have a problem
21 with the lease restriction that has been suggested by the ANC
22 in terms of the RPP?

23 MR. DUPONT: I don't have any -- I haven't heard
24 anything from the client objecting to that, no. In fact,
25 when I mentioned Zipcars, I think he was fairly happy with

1 that idea.

2 COMMISSIONER MILLER: Okay. And then another
3 question is Office of Planning, in their report, and we're
4 going to hear from them shortly, cited one of the special
5 exception criteria for, I guess, the relief from the loading
6 dock requirement is that this proposal advances, among other
7 things, some of the purposes of the Northeast neighborhood
8 mixed use zone that's on page four of their report, saying
9 that the development would advance the residential purpose
10 of this mixed use zone.

11 By providing 52 units with affordable housing
12 where no housing currently exists. Can you just, if you have
13 this information --

14 MR. DUPONT: I don't have it in front of me, but
15 I have read it.

16 COMMISSIONER MILLER: Can you provide what the
17 number of, or what percentage of the 52 units are being
18 offered at affordable levels?

19 MR. DUPONT: I have not done the CIZZ, and the
20 penthouse calculation worksheets yet. Typically, this is not
21 a type two, or type one building, so it would be on the basis
22 of ten percent of the net residential area, with the
23 penthouse of course mixed in. And some pro rata for
24 quarters, and things of that nature. Roughly five units.

25 COMMISSIONER MILLER: And so you are compliant,

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1 you will have to comply with --

2 MR. DUPONT: Yes, yes.

3 COMMISSIONER MILLER: Requirements. And that's
4 what you're --

5 MR. DUPONT: Not looking for a waiver from IZ.

6 COMMISSIONER MILLER: Thank you. Okay, thank you
7 very much.

8 BZA CHAIR HILL: Sorry, I was on mute. I think
9 Ms. John was next, and then Mr. Blake.

10 VICE CHAIR JOHN: Was your response to DDOT's
11 comment that there should be no move-in or outs in the alley,
12 and --

13 MR. DUPONT: I'm not aware of that comment.

14 VICE CHAIR JOHN: So, it's in the DDOT report.

15 MR. DUPONT: I did not read that, and it's
16 impossible to do otherwise for any use. I mean, you can't
17 have move in on 14th or Florida Avenue, that's just
18 impractical.

19 VICE CHAIR JOHN: So that's something that has to
20 be resolved with DDOT.

21 MR. DUPONT: I have a number of things to resolve
22 with DDOT, but it's impossible in the NC zone, NC-15, to do
23 otherwise. I mean, you have to use the alleys. What else
24 are the alleys for?

25 BZA CHAIR HILL: I don't know, Mr. Dupont, we have

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1 to talk about it, and figure out what DDOT is trying to ask
2 us about. So, I guess they're saying that it's -- I don't
3 know what the alleys are for Mr. Dupont. They're for a
4 variety of things, but we have to listen to the different
5 organizations that we have to listen to within the city.
6 They're telling us that it is a concern of theirs that we
7 then have to ask questions about.

8 MR. DUPONT: Well, I would be happy to work with
9 DDOT on that.

10 BZA CHAIR HILL: It looks like we're at least
11 needing one other piece of information from you anyway, so
12 we'll see what happens. Ms. John, did you have further
13 questions?

14 VICE CHAIR JOHN: No, I didn't have any other
15 questions. I just wanted to draw the applicant's attention
16 to the comment from DDOT.

17 MR. DUPONT: I thought I had read the DDOT report
18 more thoroughly. If I may comment, the trigger is 50 units,
19 and we're at 52. So, again, it's a pretty minimal situation.
20 I mean I could --

21 BZA CHAIR HILL: Mr. Dupont, we'll get back to
22 you.

23 MR. DUPONT: All right, thank you.

24 BZA CHAIR HILL: Go ahead, Mr. Blake.

25 MEMBER BLAKE: Yeah, on my question, Mr. Dupont,

1 you mentioned 52 units, and the trigger is 50. I'm curious
2 to know about the unit size, and why you chose 52 when you
3 could do 49, just a couple slightly larger.

4 MR. DUPONT: We started with 73. The idea several
5 years ago was all micros. The developer and the financing
6 team and I are not necessarily on the same page with this.
7 The developer and I think that all micros -- we were
8 borderline with that several years ago. We're more
9 borderline with that now, so we've knocked it down to 52.
10 It's not unlikely that we will be below 50 by the time we're
11 done. But I don't want to throw away the special exception
12 just yet.

13 MEMBER BLAKE: Thank you.

14 BZA CHAIR HILL: Vice Chair John, I'm sorry, I
15 didn't know if you had another question there.

16 VICE CHAIR JOHN: No, I don't. I was trying to
17 find the information in the DDOT report again, but I'm still
18 looking, so please go ahead.

19 BZA CHAIR HILL: Thank you, Vice Chair John. Was
20 there another question from the Board?

21 MEMBER BLAKE: I have one more question, when you
22 define micro apartment, what is the average square footage
23 of these apartments?

24 MR. DUPONT: Well, some of the micros are under
25 300 square feet, they're really tiny.

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1 MEMBER BLAKE: Of the 52 that you have, what's the
2 average square footage?

3 MR. DUPONT: If you look at that plan set, and you
4 look at the second floor, you'll see, I think some of the
5 smallest ones. If you look at the third floor, you'll see
6 how some of the smallest ones have been combined into larger
7 ones.

8 MEMBER BLAKE: Okay, what do you think the average
9 square footage is?

10 MR. DUPONT: For the micros, around 300 square
11 feet. And there are other apartments that are a couple
12 hundred square feet larger.

13 MEMBER BLAKE: Okay, so the range is from three
14 to five?

15 MR. DUPONT: Three to 550, say almost 600.

16 MEMBER BLAKE: Okay, thank you.

17 MR. DUPONT: There's one two-bedroom, I think.

18 MEMBER BLAKE: One two-bedroom?

19 MR. DUPONT: I think. Maybe one or two.

20 MEMBER BLAKE: Thank you.

21 BZA CHAIR HILL: Anyone else? Sorry, Vice Chair
22 Miller?

23 COMMISSIONER MILLER: My question that Mr. Blake
24 just elicited a response from, the size -- since the ANC did
25 ask for more (audio interference) and more affordable units,

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1 a greater number of affordable units, do you have the actual
2 number of micros, one bedrooms, two bedrooms? You just said
3 one or two two-bedrooms.

4 MR. DUPONT: I do have a chart for that. I don't
5 have it right in front of me. Again, if you look at the
6 second floor plan, you'll see they're all quite small, except
7 at the corner of the building, where there's a larger one.
8 And those units are -- there's a unit area written on each
9 one. So, one is 268, the other is 258, 247, 368, and then
10 the larger one is 559, and 508, and 419 on the second floor.
11 On the third floor they're larger, but the two bedroom is
12 538.

13 And then there's another which is not a two
14 bedroom, 518, 421, 513, 569, and then, two, three, four
15 smaller units that are in the 360, 343, and 350 range. Which
16 would very easily be combined into 700, or something like
17 that. Take two 350s, and combine them into 700, and make it
18 two bedroom. And as I say, there's a pretty good chance that
19 that will happen, but I just don't want to give up the
20 loading dock issue prematurely.

21 I also was trying to explain to the ANC that if
22 they have more larger units, fewer of the units are going to
23 be IZ, just because of the way the calculations work. But
24 it may be preferable, and it's all a marketing, and survival
25 decision.

1 COMMISSIONER MILLER: Okay, thank you for that
2 response.

3 MR. DUPONT: You can see in those plans that each
4 of those plans has a square footage in it, it's in small
5 print, but it's there.

6 BZA CHAIR HILL: Anyone else? Go ahead, Vice
7 Chair John.

8 VICE CHAIR JOHN: I just wanted to correct
9 something I asked earlier. The DDOT report does not say what
10 I thought it did, so Mr. Dupont is correct.

11 MR. DUPONT: Thank you. I feel relieved.

12 BZA CHAIR HILL: Thank you, Vice Chair John. All
13 right, I'm going to turn to the Office of Planning.

14 MS. THOMAS: Good afternoon, Mr. Chair, members
15 of the Board. Karen Thomas with the Office of Planning for
16 this application of 20744. And here the applicant is
17 proposing to redevelop three existing lots with a new
18 building, and the combined lots would be greater than 6000
19 square feet. So, the design requirements of Section 901,
20 Subtitle H is being requested, and also from the loading
21 requirements for a building of 52 units.

22 The site, as stated in our report, you can see
23 that the site is not located on an alley with a prescribed
24 alley width of 15 feet, which is prescribed under the
25 regulations. The alley behind the property is also

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1 irregularly shaped. But, however, we see that trash trucks
2 are able to access the alley for trash removal, and the
3 applicant is proposing onsite parking access from this alley.
4 The applicant indicated that, in discussions with DDOT, that
5 smaller trucks would be able to access loading for the
6 building from the rear.

7 And to the extent that loading for move in and
8 move outs could be managed, which is what DDOT is requesting,
9 the request would be in harmony with the intent of the
10 regulations. And we had caveated that with subject to DDOT's
11 review, and comments on this request. And again, DDOT is
12 suggesting that the applicant submit a loading management
13 plan to manage move in and outs for these units, and for the
14 retailer that may be proposed.

15 We don't believe that the relief should adversely
16 impact the use of neighboring property. The proposed grant
17 for commercial space would not accommodate large scale uses
18 that could require large loading docks, and in any event, the
19 size of they cannot be altered to accommodate loading access
20 required by the regulations. There would be only two more
21 units, more residential units than the minimum of 50, so it
22 is not anticipated that there should be a significant adverse
23 impact to the use of neighboring property.

24 Especially when the unit sizes, from our
25 calculations, seem to range between 312 square feet and 569

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1 square feet, which typically do not use large loading trucks
2 for move ins and outs.

3 With respect to the requirements of Subtitle H for
4 the NC zone (audio interference) through the criteria, and
5 where he may not have provided information directly in his
6 written submission, reviewing the plans a little bit more
7 carefully, we thought that the application satisfied this
8 request.

9 And, with that, I'll be happy to take any
10 questions. Thank you.

11 BZA CHAIR HILL: Okay, does anybody have questions
12 for the Office of Planning? Mr. Smith?

13 MEMBER SMITH: Hello, Ms. Thomas. I just have
14 some questions regarding the Office of Planning's analysis
15 of this case. On the trash pickup, which I see there's a
16 trash enclosure, how would anyone else access this facility?
17 So, if I'm moving in, or if there's a commercial tenant here,
18 they're receiving deliveries, where are they accessing this
19 from the alley?

20 MR. DUPONT: At the --

21 BZA CHAIR HILL: Mr. Dupont, that was for the
22 Office of Planning.

23 MR. DUPONT: I'm sorry.

24 BZA CHAIR HILL: It looks like Ms. Thomas is
25 having a problem. Ms. Thomas, you're on mute.

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1 MS. THOMAS: I'm sorry. I said I couldn't
2 understand the question, you seem to be going in and out.

3 MEMBER SMITH: Okay. Beyond the removal of trash,
4 where would everyone else access this facility? The
5 residents moving in, or any deliveries that would be going
6 to the residential portion, and the commercial portion of the
7 building, where would they access it? Where's the access for
8 the building?

9 MS. THOMAS: Where is the pedestrian access?

10 MEMBER SMITH: No, any deliveries, the loading,
11 where is the access to --

12 MS. THOMAS: Well, DDOT is suggesting that it
13 comes from the rear.

14 MEMBER SMITH: Okay.

15 MS. THOMAS: At present, the alley already --
16 there are people who use the alley, and they already have
17 trash from the rear in some portions of that alley. There
18 are two access points from the alley, one on 8th Street, and
19 another one off of the parallel street, I forgot what street.

20 MEMBER SMITH: For the building itself, I
21 recognize that they're going to do all of this in the alley,
22 where are they accessing -- where am I dropping off, and
23 loading, where is the door, where is all of that?

24 MR. DUPONT: Maybe I should answer that?

25 MS. THOMAS: Yes, please.

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1 MR. DUPONT: Should I answer that?

2 BZA CHAIR HILL: Go ahead, Mr. Dupont.

3 MR. DUPONT: Next to the loading -- next to the
4 trash enclosure is a door into the back of the lobby, and
5 it's immediately next to two elevators, and that lobby
6 accesses both commercial areas. In addition there's another
7 door at the southern emergency egress stairway, and that door
8 can also access the building.

9 MEMBER SMITH: That looks reasonably --

10 MR. DUPONT: There's a cellar entrance also for
11 the bicycles, and that can access the building at the cellar
12 level.

13 MEMBER SMITH: But you also have a parked -- I'll
14 ask a question about that later. Ms. Thomas, also you had
15 stated within your report, trash trucks appear to be able to
16 access the alley for trash removal, and the applicant
17 indicated this was discussed with DDOT. Was there any
18 internal analysis done by the Office of Planning to confirm
19 that the access is adequate for trash trucks, and any other
20 vehicle accessing through the alley?

21 MS. THOMAS: Mr. Smith, as stated in our report,
22 we had, like I said, we had relied on DDOT's analysis to make
23 that final determination of whether that's possible. Looking
24 at it on the face just from daily activity, trash trucks
25 access the alley, and other vehicles access the alley as

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1 well.

2 MR. DUPONT: There are city trash containers back
3 in the alley. I have photographs of that. And the previous
4 use of the building was sort of a halfway house with many
5 occupants. This alley has been heavily used for these kinds
6 of uses.

7 MEMBER SMITH: Okay, that's the only questions I
8 have for now.

9 BZA CHAIR HILL: Thanks, Mr. Smith. Anyone else
10 for the Office of Planning on my Board? Does the applicant
11 have any questions for the Office of Planning?

12 MR. DUPONT: No, thank you very much, Ms. Thomas.

13 BZA CHAIR HILL: Mr. Young, is there anyone here
14 wishing to speak?

15 MR. YOUNG: A witness signed up.

16 BZA CHAIR HILL: Okay, bring that person in
17 please. And what's their name, is it Lee?

18 MR. YOUNG: Mr. Lee.

19 BZA CHAIR HILL: Great, thank you. Mr. Lee, can
20 you hear me? Mr. Lee, can you hear me? Hello? Mr. Lee?
21 Hello? Mr. Lee, are you on mute maybe? I've lost Mr. Lee.
22 Mr. Young, do you see Mr. Lee?

23 MR. YOUNG: It looks like he just dropped off.

24 BZA CHAIR HILL: Okay. Well, let me know if you
25 get him in a minute, because it looks like we're going to

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1 have -- at least I thought we had one item of information
2 that some Board members were still interested in looking at.
3 Mr. Smith, you had wanted to see what again from the
4 applicant?

5 MEMBER SMITH: I wanted to see some additional
6 information about -- I want to see some additional documents
7 that show the turn radiuses, and how these vehicles can fit
8 back here. It seems like the applicant is going to have to
9 provide that to DDOT at some point for verification purposes,
10 so I want to see some additional detail on that.

11 BZA CHAIR HILL: Okay. Was there anything else,
12 or that was it Mr. Smith? Mr. Dupont, do you understand?

13 MR. DUPONT: Yes. My only comment is that the
14 residences along Florida Avenue are serviced by D.C.
15 Municipal Trash, so that's already going on. And we're going
16 to have to have a commercial service, and I would be happy
17 to give whatever study is needed to Mr. Smith.

18 MEMBER SMITH: And when I mean the study, it's not
19 just the trash truck, it's also moving vehicles. I want to
20 see the largest vehicle that you would project to access this
21 building.

22 MR. DUPONT: I will go to the U-Haul site, and
23 find the biggest box truck that will fit, and give you a
24 turning radius for that.

25 MEMBER SMITH: All right.

1 BZA CHAIR HILL: Okay, Mr. Blake, you also had a
2 question, or was that the one?

3 MEMBER BLAKE: The information on that loading
4 truck would be very helpful. It does sound like a very busy
5 alley though. So, the other question I had was to just kind
6 of make sure I understood what else was going on in that
7 section towards the end of that building. If you've got city
8 municipal garbage trucks, your private trucks, you've got
9 people trying to park in their units. I mean there's a lot
10 going on in that very small part of the alley, so I'm just
11 curious to know some more details on that.

12 MR. DUPONT: From me? You're talking to me? I
13 don't see -- I mean obviously there's move in, and move out,
14 but these are going to be fairly small apartments. So, the
15 amount of furniture is not going to be excessive. The
16 smaller apartments will likely have a more frequent turnover.
17 We're likely to have --

18 BZA CHAIR HILL: Let me interrupt you Mr. Dupont,
19 because it looks like we're trying to get information from
20 you anyway, so you're going to have to come -- we need some
21 submittals. So, I'm a little unclear as to what Mr. Blake --
22 Mr. Blake, what did you want Mr. Dupont to give you?

23 MEMBER BLAKE: I was trying to just get a little
24 bit more information on the other occupants of the alley
25 specifically. And what might be impacted by that, that's

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1 what I want.

2 MR. DUPONT: Okay, that I can give you. The alley
3 off of H is -- I think there are two properties between --

4 BZA CHAIR HILL: Mr. Dupont, that's okay, just go
5 ahead, and submit it in writing.

6 MR. DUPONT: That'll be fine.

7 BZA CHAIR HILL: Because we're going to have to
8 get the diagram from you that Mr. Smith is interested in.

9 MR. DUPONT: I'm happy to.

10 BZA CHAIR HILL: Mr. Smith, you had your hand up
11 again?

12 MEMBER SMITH: Really quickly, when I say
13 modeling, it's based on the largest truck you would presume
14 to get back there. You also are proposing a commercial space
15 within this building, so we have a future tenant space here.

16 MR. DUPONT: Yeah, it's required actually by the
17 NC15 zone.

18 MEMBER SMITH: Correct, so there could be a range
19 of different users that may utilize different trucks that may
20 not be of the size of a U-Haul truck.

21 MR. DUPONT: Anybody who runs a commercial
22 business is going to have to accommodate themselves to
23 reality. They're not going to --

24 MEMBER SMITH: You're asking for special
25 exceptions sir, from loading -- to relieve yourself of a

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1 loading requirement. So, it is up to you to justify us
2 waiving that provision.

3 MR. DUPONT: I understand.

4 MEMBER SMITH: So, I would welcome you providing
5 the additional details.

6 MR. DUPONT: I understand. And my comment to D.C.
7 Zoning for the last year has been what am I supposed to do
8 at a site where there is no possible loading dock in the
9 entire zone? And yet this building is an allowed building
10 by D.C. building code. I could knock the unit count down to
11 49, and that's actually fairly likely. But I don't want to
12 be in that kind of an argument with you. I just think it's
13 a reasonable request that we're making.

14 BZA CHAIR HILL: Mr. Dupont, you're almost there
15 Mr. Dupont, you're talking yourself out of this. So, go
16 ahead, and provide the diagram that Mr. Smith is interested
17 in, or drop your count down below 50.

18 MR. DUPONT: I'll give you the diagram, I don't
19 think it's difficult, I'd be happy to do that.

20 BZA CHAIR HILL: Do what you need to do then,
21 okay?

22 MR. DUPONT: Yeah.

23 BZA CHAIR HILL: So, go ahead, and give Mr. Smith,
24 I think Mr. Smith is trying to figure out how you're going
25 to be able to turn around the trucks that you think --

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1 whatever the biggest truck is you think you can get in there
2 to make Mr. Smith comfortable to give you a yes vote, because
3 you're trying to get a yes.

4 MR. DUPONT: Yes sir.

5 BZA CHAIR HILL: So, you're just trying to get a
6 yes.

7 MR. DUPONT: I will do that.

8 BZA CHAIR HILL: And so, go ahead and give him his
9 diagram, and go ahead and see what other things there are in
10 the alley there that Mr. Blake seems to have concerns about,
11 or who else is using that alley so you can get his yes. Who
12 else -- Vice Chair John, you look like you might have
13 something you wanted, or no? You're on mute, Vice Chair
14 John.

15 VICE CHAIR JOHN: Mr. Lawrence, but he's
16 submitted, Mr. Lee, his name is Lee. He submitted a letter,
17 and he has concerns about the loading areas, and the
18 potential for solar panels on adjoining properties. And I
19 wondered if Mr. Dupont had any comments, or if he had seen
20 that letter.

21 MR. DUPONT: No, I have not.

22 VICE CHAIR JOHN: Okay.

23 MR. YOUNG: I actually have him calling in now.

24 VICE CHAIR JOHN: Okay, that's great, thank you.

25 BZA CHAIR HILL: Okay, great. Mr. Young, can you

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1 let in Mr. Lee then? Mr. Lee, can you hear me? Mr. Lee?

2 MR. LEE: This is Mr. Lee.

3 BZA CHAIR HILL: Okay, great, can you introduce
4 yourself for the record please?

5 MR. LEE: Yeah. Larry Lee. I live at (audio
6 interference) Florida Avenue. There will be one townhouse
7 in between me and this new development --

8 BZA CHAIR HILL: Okay, Mr. Lee, can you hear me?
9 Hello?

10 MR. LEE: Hello?

11 BZA CHAIR HILL: Hello, can you hear me? I can
12 kind of hear you, can you hear me?

13 MR. LEE: I can hear you very clearly.

14 BZA CHAIR HILL: Okay. You're breaking up, but
15 I heard your introduction. You will have three minutes to
16 give your testimony, and you can begin whenever you'd like.

17 MR. LEE: Okay. I live one townhouse away from
18 this proposed development. I am not against this development
19 per se. It is a great improvement over what is there now;
20 rats live there. What I'm concerned about is the alley is
21 going to be oversubscribed. If even one moving truck parks
22 in the alley, it will block access to my property, and those
23 of my adjoining neighbors, and we will not be able to get out
24 of our driveway.

25 I do not see any service area on those plans for

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1 this development where those trucks can park and unload. I
2 think they are going to use the alley as a loading dock, and
3 that is unacceptable to the neighbors.

4 The other thing that I have is that it says there
5 is no solar on adjoining properties. That is correct.
6 However, my condominium association is actively soliciting
7 proposals this year. And we were turned on by the fact that
8 the condominium association on I street nearby is putting up
9 solar on their condo roofs. And that got us thinking, so we
10 are actively considering that. We also have a rooftop garden
11 on our property, and I am concerned that there is no sun
12 study as part of this. I'd want to see how much sun we are
13 going to lose at different times of the year. I'm concerned
14 about the loading dock, I'm concerned about the sun. I am
15 for this development, but I am concerned.

16 BZA CHAIR HILL: Okay, all right, great. Thank
17 you, Mr. Lee.

18 Does the Board have any questions for the witness.
19 Mr. Dupont, do you have any questions for the witness?

20 MR. DUPONT: No, I have no questions.

21 MR. LEE: One thing I want to add --

22 BZA CHAIR HILL: Go ahead, Mr. Lee.

23 MR. LEE: Another thing I want to add, there are
24 three residential properties on the stub end of the alley who
25 would be impacted by any trucks parked there, not just one.

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1 There are three residential properties on the Florida side,
2 and there are at least three commercial properties on the 8th
3 Street side, who would be similarly blocked if the alley
4 behind our property was to be used as a de facto loading dock
5 from this new development.

6 BZA CHAIR HILL: Okay, thank you, Mr. Lee. All
7 right --

8 MR. LEE: Thank you all for your service.

9 MR. DUPONT: Thank you, Mr. Lee.

10 BZA CHAIR HILL: Thank you.

11 MR. DUPONT: I just looked at a survey, and he's
12 correct that there are three residential, his is the second
13 one away. There's no way a big moving truck is going in that
14 alley. I will provide the study that Mr. Smith has asked
15 for.

16 BZA CHAIR HILL: Yeah, I guess the problem, Mr.
17 Dupont, that I'm even trying to follow along with, is how are
18 people going to move in and out of there? That's what we're
19 trying to understand. And so whether -- I'm kind of smiling
20 a little bit, like it's not going to be -- everybody is not
21 just going to have a pickup truck that we just --

22 MR. DUPONT: No, it's not a pickup truck, but my
23 daughter just moved back and forth to Texas a couple of
24 times, and she's done it with a U-Haul box truck.

25 BZA CHAIR HILL: I got you, Mr. Dupont, but we

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1 have to vote on this.

2 MR. DUPONT: No, I'll give you the study.

3 BZA CHAIR HILL: All right, okay.

4 MR. DUPONT: I'm not arguing with that at all.

5 BZA CHAIR HILL: All right, okay.

6 MR. DUPONT: And I understand Mr. Lee's concern,
7 and I'm also very much in favor of PV, so I will do that.

8 BZA CHAIR HILL: Okay, PV?

9 MR. DUPONT: Photovoltaic, the solar panels. He
10 wants a sun study, I will make a sun study.

11 BZA CHAIR HILL: Okay. Well, I don't think you
12 need -- well, all right, anyway. So, Ms. John?

13 VICE CHAIR JOHN: So, Mr. Dupont, if there are
14 these residences that use the alley to get in and out of
15 their parking lots, what accommodations can be made for those
16 residents?

17 MR. DUPONT: We're just not going to block their
18 properties. The trucks cannot be so big that I can't get
19 them past those properties. There's just not going to be a
20 51 foot 18 wheeler going in there, it's not going to happen.

21 VICE CHAIR JOHN: So, explain to me how this will
22 work. The smaller trucks will go in through the alley, and
23 go --

24 MR. DUPONT: Turn to the west, and then back into
25 this property.

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1 VICE CHAIR JOHN: Okay, and then go back out front
2 ways?

3 MR. DUPONT: And go back out the way they came in.

4 VICE CHAIR JOHN: Okay, and that's for commercial,
5 as well as residential?

6 MR. DUPONT: I'm sure some people will try to do
7 it the other way, and then they'll have to back out, and turn
8 around, and come back in. The air conditioning guy is going
9 to drive in there in his little transit truck and say, darn,
10 I've got to get to my back doors, and he'll turn it around.
11 These things will happen, yes. But those are small vehicles,
12 and it's going to have to be small vehicles.

13 VICE CHAIR JOHN: And that's true of the seven
14 foot wide portion as well?

15 MR. DUPONT: The ten foot wide portion?

16 VICE CHAIR JOHN: I thought -- isn't a portion of
17 the --

18 MR. DUPONT: Yeah, a portion of it is ten feet,
19 but that's beyond our property. Where it hits our property
20 line, it reduces to seven feet. But since that seven foot
21 reduction is made by our property line, we can trespass
22 across that line without a problem. So, the effective alley
23 width is ten feet.

24 VICE CHAIR JOHN: Okay. Because I have a 15-foot
25 alley, and I just watched a delivery truck get stuck, not

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1 just -- a couple weeks ago get stuck by a tree, almost
2 pulling down all of the cables. So, I do have real world
3 experience from which I speak.

4 MR. DUPONT: Yes, I understand these problems,
5 they're legitimate problems. This is a very old part of the
6 city, it's really changing. You can see the buildings that
7 are going up just on that island across the street, and as
8 you get over towards Hechinger Mall, it's a really different
9 part of the city than it used to be. And we will make the
10 accommodations necessary not to impinge on the neighbors more
11 than appropriate.

12 VICE CHAIR JOHN: All right.

13 MR. DUPONT: Commercial properties facing H Street
14 already handle their issues successfully. In fact, one of
15 them has a trash right on the 14th Street, right on our
16 property line, which we're going to have to deal with
17 somehow.

18 MEMBER SMITH: To assist Ms. John with her
19 question, can I request Mr. Young to pull up Exhibit No. 3,
20 surveyor's plat?

21 MR. DUPONT: To what?

22 MEMBER SMITH: Exhibit No. 3 --

23 BZA CHAIR HILL: He's talking to Mr. Young.

24 MR. DUPONT: Yes, I'm sorry.

25 BZA CHAIR HILL: Mr. Young, Exhibit No. 3 is what

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1 he was asking.

2 MEMBER SMITH: Mr. Young, are you pulling it up?
3 Okay, can you zoom in on the plat? So, this is what Ms. John
4 was raising the question. So, I do recognize that the alley
5 is seven feet touching your property, but what's also a
6 hindrance to any vehicle accessing the alley, or using a
7 portion of your property to get closer to where the access
8 points would be into the building is the parking spaces that
9 are located there. So, how would you negotiate that issue?

10 MR. DUPONT: Well, again, those are six cars,
11 three full size, and three compact. And I can substitute a
12 Zipcar, and eliminate the problem completely. But for the
13 sake of permitting, I'd rather present it with six cars.
14 Cars move and people accommodate. And I also would have to
15 say that things always look much tighter in plan view than
16 they do in real life.

17 MEMBER SMITH: So, just looking at this diagram,
18 this is the reason why I'm requesting some additional
19 information from you. It would be great if you can properly
20 show how you propose to navigate the largest truck that could
21 presumably fit back here.

22 MR. DUPONT: I will do that.

23 MEMBER SMITH: What looks to be an eight foot wide
24 access point between the car and your parking lot.

25 MR. DUPONT: I will do that.

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1 MEMBER SMITH: Okay. Ms. John, did you have any
2 questions in light of seeing this?

3 VICE CHAIR JOHN: I was -- as Mr. Dupont was
4 saying he would eliminate the parking required, I was
5 wondering how much was required. I see that there are six
6 proposed, but is it four that are required?

7 MR. DUPONT: Well, it's six until I go to Mr.
8 LeGrant and ask for a credit for the rowhome that's there.
9 Or if I put Zipcars in, I can reduce from six fairly easily,
10 but I just didn't want to. I mean, parking is a problem in
11 the city, and if I can accommodate and allow for more, I'd
12 just as soon allow for them, even if I want to reduce that
13 legal requirement later on. It's a way of providing wiggle
14 room for myself down the road.

15 VICE CHAIR JOHN: Okay. So, I will wait to see
16 how you show the turning radius with the cars there. Because
17 I agree that six parking spaces would be helpful in that
18 area. So, I would be interested to see how you could do the
19 turning with the cars in place.

20 MR. DUPONT: Yeah, I'd be happy to do that.

21 VICE CHAIR JOHN: Yeah, thank you.

22 BZA CHAIR HILL: Okay. Ms. Thomas, can you hear
23 me? There's been a lot of talk about this alley, and moving
24 trucks, and vans, and whatever. So, Office of Planning
25 doesn't have any -- they're just relying on DDOT?

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1 MS. THOMAS: Yes. I mean, you know, the applicant
2 could provide the information that you're requesting in terms
3 of turning radius, and stuff. All of this would be required
4 for final permitting DDOT. And one thing we're not
5 mentioning a lot is that there must be a loading management
6 plan, and a loading manager to help with that. So, that you
7 won't have conflicts. Not everybody is going to be moving
8 in at the same time, but when you do have move ins, that it
9 is under control with a loading manager.

10 So, it's not a free for all in terms of movement
11 in the rear of the alley with respect to loading, and move
12 ins, and move outs. So, I believe it's really important that
13 we focus as well, on the loading management plan, and having
14 a loading manager as stated in DDOT's report. Because yes,
15 indeed it is a small alley, and there will be conflicts. I
16 don't think there's any getting away from that, but it could
17 be managed effectively to reduce the adverse impacts that is
18 expected.

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

20 MEMBER BLAKE: I believe the loading management
21 plan does focus on the combination of retail use, and
22 residential use in that building. It doesn't necessarily
23 look at the rest of the alley in coordinating the use of that
24 I don't believe, does it?

25 MS. THOMAS: I'm not sure what DDOT, how they

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1 reviewed it. Maybe we can find that out.

2 MR. DUPONT: If I may? I would assume that a
3 management plan would have a chronological component, a
4 timing component. And that would also affect the alley. You
5 can't have three people at the same time, so there shouldn't
6 be three people in the alley at the same time.

7 MEMBER SMITH: The management plan in here does
8 not.

9 MR. DUPONT: Well, I will talk to my client about
10 that, but it makes sense to me.

11 BZA CHAIR HILL: I'm smiling because this has gone
12 longer than I thought. Go ahead, Ms. John.

13 VICE CHAIR JOHN: So, I wanted to ask about the
14 construction management plan, considering that Mr. Lee had
15 so many issues. Had you planned to offer something like that
16 in coordination with the ANC perhaps?

17 MR. DUPONT: I first heard the term today, and I
18 don't know exactly what's intended by it, but clearly we're
19 going to have to have some pretty serious construction
20 management.

21 VICE CHAIR JOHN: So, essentially it's an
22 agreement to manage the construction in such a way that it
23 is not -- it does not create any adverse impacts on the
24 neighbors.

25 MR. DUPONT: Well, this particular property has

1 a rather large public space in front, so there are certain
2 times in the process where that can be utilized for staging.
3 However, not the entire process. So yes, we will have to
4 develop a plan.

5 VICE CHAIR JOHN: Okay, thank you.

6 BZA CHAIR HILL: Okay. All right, so Mr. Dupont,
7 I think again what I would do is when you submit the
8 information specifically that Mr. Smith was starting to ask
9 for, go ahead, and take a look at all these other items that
10 you've probably made a list of, and anything that you can do
11 to put the Board's concerns at ease are the best things that
12 can happen for your client, so that we can get it to a yes,
13 right?

14 MR. DUPONT: Yes, yes.

15 BZA CHAIR HILL: So, Mr. Smith is interested in
16 turning radius, and how you're going to use that alley. Mr.
17 Blake is interested in who else is using that alley, I think
18 the loading management plan that DDOT has already submitted
19 that your client has agreed to is in exhibit -- was it 45?

20 MR. YOUNG: Twenty-five.

21 BZA CHAIR HILL: Thank you. And if you wanted to
22 add whatever that comment was, and I can't recall now, there
23 was something that Mr. Blake was interested in, had concern
24 about that was in addition to DDOT's issue, is that correct
25 Mr. Blake?

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1 MEMBER BLAKE: Yeah, it was in regard to the
2 timing, and also the interaction with the community. But
3 there is a comment here that it says they will resolve any
4 conflicts. It's not very specific, and it does say during
5 delivery hours, but they're not specified. So, I think that
6 the comment towards that, that would speak to the neighbors,
7 so they were aware of what they would be encountering would
8 be helpful as part of a neighborhood -- something so the
9 neighbors knew in that alley what they should expect.

10 During certain hours there'll be deliveries, or
11 not, so they'll know when the alley won't be blocked. That
12 type of thing would be helpful, getting that information.

13 MR. DUPONT: I think that means that after we
14 develop a management plan, then we share it with the
15 neighbors, yeah, that makes sense.

16 BZA CHAIR HILL: Okay, so submit something into
17 the record Mr. Dupont, that seems to answer all the Board's
18 questions, okay?

19 MR. DUPONT: Yes.

20 BZA CHAIR HILL: And Mr. Moy, if we can get that
21 by -- I mean, it's still kind of -- I'm just wondering if we
22 can figure out how to get this stuff as quickly -- I mean
23 when is it now -- wait a minute. I just put something on
24 September 14th today, right, Mr. Moy? What did we --

25 MR. YOUNG: You put Demetra -- I can't pronounce

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1 it --

2 (Simultaneous speaking.)

3 BZA CHAIR HILL: Oh, right, Weir. And it was --
4 and Vice Chair John was not on that case?

5 VICE CHAIR JOHN: Yes, I am on that case.

6 BZA CHAIR HILL: Okay.

7 MR. MOY: Yeah, she participated.

8 BZA CHAIR HILL: No, I'm trying to remember, there
9 was one that Vice Chair John was not -- I'm not going to be
10 here for the 14th, so that's why I'm trying to figure this
11 out.

12 VICE CHAIR JOHN: I think the Weir case was
13 continued to the 21st.

14 MR. MOY: But the Chairman changed the date and
15 made it the 14th.

16 VICE CHAIR JOHN: He did?

17 MR. MOY: Yeah, because --

18 BZA CHAIR HILL: I didn't mean to, but it happened
19 that way.

20 VICE CHAIR JOHN: And how many cases, Mr. Moy, do
21 we have on the 14th?

22 MR. MOY: With the Weir case, that would be nine
23 cases, plus one expedited.

24 BZA CHAIR HILL: Right, but the Weir case is a
25 decision.

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1 VICE CHAIR JOHN: Okay.

2 BZA CHAIR HILL: So, I'm trying to figure this
3 out. So, then what do you got on the 21st Mr. Moy?

4 MR. MOY: On the 21st, we have three cases, one
5 expedited, one time extension, and one appeal.

6 BZA CHAIR HILL: Right, so you had an appeal.

7 MR. MOY: Yes sir.

8 BZA CHAIR HILL: So, Mr. Dupont.

9 MR. DUPONT: Yes.

10 BZA CHAIR HILL: Well, never mind, I don't think
11 one week is going to matter one way, or the other.

12 MR. DUPONT: No.

13 BZA CHAIR HILL: So, let's go ahead, and put this
14 on for decision on the 21st. And so, if that's the case Mr.
15 Moy, can you work backwards as to when we need information
16 from Mr. Dupont?

17 MR. MOY: Okay, so the applicant's case is
18 returning for a decision making, so we do that, then let's
19 do this. So, that would be September 21st, all right, just
20 a second. September 21, okay, let's do this. Let's have the
21 applicant submit his filings by September 7th. Any responses
22 from parties by September 14th, and then you're back for
23 decision on the 21st.

24 BZA CHAIR HILL: Okay, great. Okay, Mr. Dupont.
25 Again, please, as you do know this, I mean, I don't want to

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1 have to reopen this case, and have more questions for you.

2 MR. DUPONT: I was going to suggest that I submit
3 earlier than that so that Mr. Smith has a chance to look at
4 it, and see that he's satisfied.

5 BZA CHAIR HILL: Even if he's -- you won't find
6 out until -- you won't find out anyway until we have -- we
7 don't communicate outside of this forum.

8 MR. DUPONT: Okay.

9 BZA CHAIR HILL: So, you still wouldn't know.

10 MR. DUPONT: That's fine. I will do my best.

11 BZA CHAIR HILL: So, what was the date again Mr.
12 Moy? I'm sorry, submittal by?

13 MR. MOY: Mr. Dupont to make his filings by
14 September the 7th. Any responses from the parties, which
15 could include the ANC, if they have any, by the 14th. Would
16 you care for the OP to provide a supplemental report?

17 BZA CHAIR HILL: If OP wants to comment on
18 anything they can. I don't think they will. The thing that
19 I think again, it's pretty clear that the Board is concerned
20 about that alley, turning radius with trucks, how the alley
21 is going to get serviced, how people are going to service
22 things with two cars in those spots Mr. Dupont, I think is
23 another concern. And so, you can kind of talk through that,
24 whatever you want to do, okay?

25 MR. DUPONT: Yes.

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1 MR. MOY: And decision on the 21st, I'm not going
2 to state what the applicant should do, but I think it might
3 be helpful, Mr. Chairman, regarding the turning radius and
4 circulation of the trucks, and site plot diagram might be
5 helpful.

6 MR. DUPONT: It would be a site diagram, yes.

7 BZA CHAIR HILL: Thank you, Mr. Dupont. And thank
8 you, Mr. Moy, for clarifying that, so we didn't just get a
9 hand drawing somewhere.

10 MR. DUPONT: No, no, it'll be computer driven.

11 BZA CHAIR HILL: Great. And then I guess, right,
12 DDOT's plan, we've got DDOT's plan. Okay, great. Any
13 questions Mr. Dupont, you got it?

14 MR. DUPONT: I think I have it.

15 BZA CHAIR HILL: All right, then I will close the
16 hearing on the record. I will close the hearing, and leave
17 the record open for the items that we mentioned, and ask for
18 a decision on the 21st, and excuse everyone. Thank you, Mr.
19 Young. Thank you, Mr. Dupont.

20 MR. DUPONT: Thank you for your time on this
21 difficult day. You've had a long day, thank you very much.

22 BZA CHAIR HILL: I know Ms. John can see me
23 smiling.

24 VICE CHAIR JOHN: I'm choosing not to look.

25 BZA CHAIR HILL: My difficult day has ended. So,

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1 I want to sincerely thank all of you. Mr. Blake, if you're
2 still there, I know he is. Sincerely thank all of you. I
3 don't get to see Mr. Blake's smiling face, I think here's
4 there. Anyway -- good, excellent. So, you guys, thank you
5 so much. I really appreciate that Ms. John let me put the
6 last few cases that I am not on at the end. You all have a
7 lovely, wonderful August, and I'll see you all in September.

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

9 BZA CHAIR HILL: Bye.

10 VICE CHAIR JOHN: Thank you. So, would you all
11 like a five minute break? It's 4:26. Yes, or no? Okay, Mr.
12 Blake? You left already, okay, let's take five minutes since
13 Mr. Blake left. We'll be back at 4:31.

14 (Whereupon, the above-entitled matter went off the
15 record at 4:26 p.m. and resumed at 4:35 p.m.)

16 MR. MOY: Thank you, Madam Vice Chair. After a
17 brief break, the Board has returned to the Public Hearing
18 session, and the time is at or about 4:35 p.m.

19 So, the next application before the Board for
20 consideration is Application No. 20449 of PD 236 Properties,
21 LLC. And this is an amended self-certification form. And
22 from our records, what we show is that there is a bifurcated
23 application for one special exception from the rear yard
24 requirements.

25 Subtitle E, Section 306.1, pursuant to Subtitle

1 E, Section 5201, Subtitle X, Section 901.2, and either
2 special exception from allowed occupancy requirements of
3 Subtitle E, Section 304.1 pursuant to Subtitle E, Section
4 5201, Subtitle X, Section 901.2, and finally, or an area
5 variance from allowed occupancy requirements of Subtitle E,
6 Section 304.1 pursuant to Subtitle X, Section 1002. I would
7 ask Madam Vice Chair for the applicant to confirm what I have
8 read into the record, as to the relief being requested from
9 the applicant please. Thank you.

10 VICE CHAIR JOHN: Thank you, Mr. Moy. Mr. Nguyen,
11 are you here? Thank you. Can you state your name and
12 address for the record, please?

13 MR. NGUYEN: Sure. Name is Phi Nguyen. The
14 address is 1173 3rd Street, Northeast, Washington, D.C.
15 20002.

16 VICE CHAIR JOHN: Okay, thank you. So, this case
17 has been continued several times, and I believe the last time
18 the Board asked for updated architectural plans. So, if you
19 can tell us what's happened since our last meeting, and how
20 the application now meets the criteria for relief, and can
21 you also clarify that the request for variance has been
22 removed? I believe I saw an updated self-cert, so can you --

23 MR. NGUYEN: There is an updated self-cert.
24 However, I did make a mistake and included 260.4, or 206.4,
25 so I think that needs to be struck from the request. So, my

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1 apologies on that.

2 VICE CHAIR JOHN: Okay, and so you did submit an
3 updated self-cert?

4 MR. NGUYEN: Yes, I did.

5 VICE CHAIR JOHN: Okay, and that's also removed
6 the request for variance?

7 MR. NGUYEN: Yes, it has.

8 VICE CHAIR JOHN: Okay. All right, so can you
9 tell us now how the revised application meets the criteria,
10 and how did you revise the application?

11 MR. NGUYEN: Mr. Young, is it possible for you to
12 pull up Exhibit No. 101? And if you can go to page four of
13 101. And if you can zoom in on the elevation proposed, which
14 is number one, the lower right corner? Okay. So, in that
15 you can see -- so, this is after a conversation in May, we
16 had a conversation with Commissioner Eckenwiler from the ANC,
17 and per some of his suggestions, because we needed to
18 ascertain exactly what the agency wanted, or what issues he
19 had with the previous design.

20 So, from hearing him, we reduced the glazing area
21 at the main facade on 3rd Street. So, that facade's main
22 glazing component was modified so that the top of the glazing
23 aligns with the top of the adjacent row homes window. As you
24 can see there, there's an alignment. Also we introduced a
25 metal panel element where glazing was proposed originally.

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1 This element aligns with the existing mantled architectural
2 features at adjacent row homes.

3 This modification strengthens the relationship
4 with the neighboring structures. We also introduced
5 additional horizontal mullions that align with the existing
6 neighbor's facade elements, such as the window and the door
7 openings. This establishes a strong visual datum referenced
8 to the repeating elements at the adjacent row homes. And
9 then we also eliminated the prefabricated pool element at the
10 upper roof, and we deleted the original proposed grid, and
11 exception request.

12 And the architects also updated the occupancy
13 calculations to reflect this deletion of occupants,
14 occupiable space as well.

15 VICE CHAIR JOHN: So, is there a rendering that
16 shows this in context with the other homes?

17 MR. NGUYEN: There is a rendering. However, the
18 issue with that, is prior to the OP report, the rendering is
19 going to include -- sorry, the rendering is going to include
20 the guard rail instead of the solid parapet -- the solid
21 parapet instead of the guard rail. So, if you can go to, I
22 believe that one is 95A2, I believe is the render.

23 VICE CHAIR JOHN: Okay, so this -- so the
24 guardrail at the top?

25 MR. NGUYEN: Yeah, that's going to be a solid one,

1 because apparently that didn't conform. So, we went back
2 with the original design. We went and that did conform, and
3 that was approved by the OP.

4 VICE CHAIR JOHN: Okay. Where is the original
5 design for the guardrail?

6 MR. NGUYEN: Let me see. Okay, sorry, it's 96.
7 No, it's -- you can go to 71B1.

8 VICE CHAIR JOHN: Okay.

9 MR. NGUYEN: It would look close to that as far
10 as the top, but only the top. The rest of the design has
11 changed as far as the facade in the front.

12 VICE CHAIR JOHN: Okay, so 71B1, the top would
13 look -- the new design would look like this one, in 71B1
14 without any guardrail?

15 MR. NGUYEN: Yes.

16 VICE CHAIR JOHN: Okay. And the third floor is
17 set back how many feet from the front?

18 MR. NGUYEN: Five feet.

19 VICE CHAIR JOHN: Okay, thank you. Does the Board
20 have any questions?

21 MR. NGUYEN: Mr. Miller?

22 COMMISSIONER MILLER: Madam Vice Chair, I don't
23 have any questions. I just wanted to note for the record
24 that I read into this case, I think Chairman Hood had
25 previously been the Zoning Commission representative on this

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1 case, but I've read into the record, and watched at least
2 two, I think, public hearings that you already had on this
3 matter during the past year. So, just for the record, I want
4 to note that.

5 VICE CHAIR JOHN: Thank you, Mr. Miller. Mr.
6 Smith?

7 MEMBER SMITH: I have a question. What did you
8 say, how far was the additional setback from the primary
9 facade?

10 VICE CHAIR JOHN: It's five feet.

11 MEMBER SMITH: Five feet. Also what was the
12 height of the -- what's the difference in height between the
13 building on the right and your building, as measured to the
14 parapet under the new design?

15 MR. NGUYEN: So, ours goes up to 33 feet, and I
16 think the parapet is another three or four feet. I'm unsure
17 of that.

18 MEMBER SMITH: Okay, what's the height (audio
19 interference) over?

20 MR. NGUYEN: I'm sorry, can you repeat that?

21 MEMBER SMITH: What's the heights of your
22 buildings on the left and the right?

23 MR. NGUYEN: I'm unsure. The one on the right
24 does have a 3rd story addition, but it's much lower. But I
25 do know -- I did speak to the neighbors, they are putting

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1 plans in to do a renovation to extend the third floor. I
2 think they are going to increase the height, and they're
3 going to extend the back as well.

4 MEMBER SMITH: Thank you, that's all the questions
5 I had.

6 VICE CHAIR JOHN: Are there any other questions
7 from the Board? Okay, I'll go to the Office of Planning.

8 MR. JESICK: Vice Chair and members of the Board,
9 my name is Matt Jesick. Office of Planning continues to
10 recommend approval of this case, and we analyze the required
11 relief for lot occupancy, and rear yard against the standards
12 of 5201, and found that the application met those criteria.
13 So, I'll rest on the record for the rest of my testimony, but
14 I'm happy to take any questions. Thank you.

15 VICE CHAIR JOHN: Thank you. Does the Board have
16 any questions for Mr. Jesick?

17 Okay, Mr. Young, is there anyone here wishing to
18 testify? Is the ANC here?

19 MR. YOUNG: No, they are not.

20 VICE CHAIR JOHN: Okay, thank you. Mr. Nguyen,
21 did you have any closing statements?

22 MR. NGUYEN: Yes, I do. I realize this case has
23 taken a long time, and that's largely due to a matter of
24 aesthetics. It's my intention that this is my personal
25 house, and it's my preference for a modern facade. And I

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1 know it's been called into question, but since I'm asking for
2 relief of lot occupancy and rear yard setback due to the
3 extraordinarily small size of this lot. I feel like I've
4 made numerous modifications to the design of the project in
5 order to address concerns and objections from both the BZA
6 and ANC.

7 But it has been to no avail, or was deemed to not
8 meet the character, scale, and pattern of the neighborhood.
9 But, you know, that neighborhood, that street, that block,
10 that area is drastically changing. And the last modification
11 was born out of a conversation I had with the architects,
12 myself, and Mr. Eckenwiler. Unfortunately, just due to some
13 conflicts between myself, or us, and Mr. Eckenwiler, we just
14 couldn't get the ANC. Because we feel this project is
15 tainted with ANC's involvement.

16 And the cost of construction, this is a serious
17 endeavor that I will take on. And building a home that is
18 not my personal choice is problematic to me, because it's
19 hard for me to design a house, because I am going to go for
20 a raze permit, and it's going to be expensive to tear down
21 a house and rebuild for it to be requested to make it look
22 like the rest of the block, where it's from the 1920s.

23 You know, I just want a modern aesthetic for
24 myself, and it just doesn't seem -- it seems to be too much
25 push-back against it. And this is the reason why I filed for

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1 BZA. It's a zoning issue. And it has turned primarily into
2 a design issue in this past year, and it's just -- I just
3 implore you to see that. I feel we meet the burden of proof,
4 and that we meet that is a practical difficulty, to build a
5 modern house with the restrictive size of a lot that's half
6 the size of a standard RF-1.

7 So, but I implore you to look into that, and to
8 realize that there are some practical difficulties in
9 building a matter of right that's impossible with an 809
10 square foot lot.

11 VICE CHAIR JOHN: Okay, thank you, Mr. Nguyen.

12 MR. NGUYEN: Thank you.

13 VICE CHAIR JOHN: So, I'm going to close the
14 record then, and excuse you, Mr. Nguyen, and the Board can
15 deliberate.

16 MR. NGUYEN: Thank you.

17 VICE CHAIR JOHN: Thank you, have a good day.
18 Okay, so are we ready to deliberate? And would anyone like
19 to start?

20 So, I have a few comments. As Mr. Nguyen noted,
21 this is really, a very small lot, 14.75 feet wide, which is
22 really small. And 809 square feet. And even with the
23 addition, there's still 15 and a half of rear yard left. So,
24 essentially, that's what we're giving relief for.

25 Now, the applicant has come up against the

1 requirements in the regulation, which seems to be the
2 sticking point, which is that the addition does not
3 substantially impact the surrounding neighborhood. And I
4 always cannot find that particular provision. So, the
5 regulation says the proposed addition or accessory structure,
6 together with the original building, or the proposed new
7 building as viewed from the street alley and other public
8 ways shall not substantially visually intrude upon the
9 character, scale, and pattern of houses along the street and
10 alley frontage.

11 In terms of character and scale, the project meets
12 the development standards. What the issue is, is whether or
13 not it should more closely mirror in design the surrounding
14 homes, which are not subject to historic preservation. And
15 so, that's the rub. I am sort of sympathetic to the view
16 that this design is not prohibited. So, it's a question of
17 whether or not we all think it substantially visually
18 intrudes on the character of the neighborhood.

19 I can empathize with these large windows in front
20 on a 15-foot wide building. These homes tend to be narrow
21 and dark, and I can see the need for those big windows. But
22 I'd like to hear what other people think.

23 MEMBER SMITH: I'll go next.

24 VICE CHAIR JOHN: Mr. Smith?

25 MEMBER SMITH: I do agree that this is a small

1 lot, and the request before us is primarily for the rear yard
2 setback. And I don't have any major concerns about the
3 analysis of how they meet the rear yard requirements for
4 (audio interference). And I agree, you're right. The main
5 sticking point is whether the proposed additions, the rear
6 and the frontal additions, substantially visually intrude on
7 the adjacent -- on the surrounding community, and adjacent
8 neighborhood.

9 And my views to these different iterations hasn't
10 changed on that front. I do agree that the design as
11 presented does visually intrude, even more so now with the
12 removal of the railing parapet, which I understand in the
13 zoning requirements. Based on a rough analysis, and in the
14 projects they represented, we didn't have too much
15 dimensional information to go off of for this building in
16 context with the surrounding properties.

17 But the building continues to be about roughly,
18 approximately 12, 13 feet taller than the adjacent
19 properties. Especially the property on the left. And with
20 the additional parapet, that's an additional three, and a
21 half feet, and now that parapet is no longer open to the sky,
22 it's more of an enclosed structure, it is now -- it reads as
23 an additional 22, and a half feet taller than the adjacent
24 properties.

25 I do recognize that these are small lots. But the

1 way that the special exception criteria to me was crafted,
2 was to allow for incremental change, and I believe that this
3 proposed addition of this size, and scale gets away from the
4 incremental change. So, I do not believe that as presented,
5 the advocate meets all of the criteria in 5201.4.
6 Specifically F, the privacy, use, and enjoyment of
7 neighboring properties shall not be unduly compromised for
8 the same reasons that I stated a little earlier.

9 And also G, the proposed additional structure to
10 the original building shall not substantially visually
11 intrude upon the character, scale, and pattern of housing
12 along the street, and housing frontage. I was hoping that
13 within this past year, that the applicant would have scaled
14 back the scope, and size of the proposed addition to be a
15 little bit more in context with the block. I think based on
16 the size of this proposed addition with the opening, we'll
17 be setting a precedent here.

18 We already have a couple of additions along this
19 block that were approved in various manners before the
20 approval of the current zoning regulation. So, I would have
21 liked to see a little bit more of an incremental change in
22 the size of this particular building. So, with that, I don't
23 believe it meets the 5201.4, and wouldn't support the special
24 exemption.

25 VICE CHAIR JOHN: Okay, thank you, Mr. Smith. Mr.

1 Blake?

2 MEMBER SMITH: Mr. Nguyen, yeah, I'm going to be
3 brief. I agree with Mr. Smith's analysis of this. I do
4 think it is an attractive design, but I do think, as it is,
5 it remains visually intrusive, substantially visually
6 intrusive. And that is a very subjective call, not being an
7 architect, I certainly know that the discussion we had that
8 precluded this suggested that that is an issue. And I do
9 think some modifications could potentially make that work
10 better.

11 I did notice that railing did have an impact, and
12 it made it look a little bit less high. But the applicant
13 is not -- you could set it back, which would help a little
14 bit, but I'm not sure that would be sufficient enough to
15 change the issue. But that said, I'm going to be in the --
16 I'm going to support Mr. Smith's assessment of the
17 application, I would be voting against it.

18 VICE CHAIR JOHN: Okay, thank you, Mr. Blake. Mr.
19 Miller?

20 COMMISSIONER MILLER: Madam Vice Chair, I concur
21 with the comments and analysis of Board Members Smith and
22 Blake about this substantially visually intruding upon the
23 character, scale, and pattern of this street front of 34 very
24 similar homes. So, and I thought the ANC 6C's comments,
25 particularly in the PowerPoint from Exhibit No. 82, were

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1 enough to persuade me that that subjective call on whether
2 it substantially intrudes or not. It persuades me that it
3 did substantially intrude. So, that's where I am currently,
4 thank you.

5 VICE CHAIR JOHN: Okay, so before I make a motion,
6 it's pretty clear that there are three votes to deny. So,
7 what would be your response to a suggestion that we offer the
8 applicant one more chance to make changes? And if you wanted
9 to do that, what changes would you recommend to get to yes?
10 Mr. Smith? Thank you.

11 MEMBER SMITH: We have had several bites at this
12 apple for over a year. I don't want to get into the business
13 of designing a project for the applicant. I think the record
14 speaks for itself, given everything we've provided to the
15 applicant and the various meetings that we've had, and also
16 in what the ANC has communicated to the applicant. So, I
17 would hesitate to continue this, or belabor this again. The
18 applicant has -- it's substantially different than what
19 they're proposing.

20 The applicant does have the ability to return with
21 a different type of special exception, so I would just
22 recommend to them to exercise that right on that point.

23 VICE CHAIR JOHN: So, I'm not sure if -- I believe
24 the applicant has to wait for a year, somebody correct me if
25 that's not true.

1 MEMBER SMITH: If it's the same.

2 VICE CHAIR JOHN: Pardon?

3 MEMBER SMITH: If it's exactly the same.

4 VICE CHAIR JOHN: So he can change the design and
5 come back? Ms. Nagelhout?

6 MS. NAGELHOUT: A change in design, or a change
7 in the relief requested.

8 VICE CHAIR JOHN: Okay. All right, so I wanted
9 a little more clarification myself, because I believe the
10 applicant is listening. Should the building be shorter? Is
11 it the windows in the front? What is it? What would he need
12 to do to get to yes? Anybody? Okay, so I will make a
13 motion, I'm just trying to see, because maybe the applicant
14 really doesn't understand what he needs to do. He wants a
15 modern design, but there could be modern design that meet the
16 Board's standards.

17 So, is it maintaining like a mansard roof, a full
18 mansard roof, and stepping it back more? There are other
19 modern styles on the block.

20 So, okay, I'm not going to belabor the point. I'm
21 going to make a motion to deny Application 20449 of PD 236
22 Properties LLC, as captioned and read by the secretary, and
23 amended in the self-certification in terms of the correct
24 subtitle and without the variance request, and ask for a
25 second. Mr. Blake?

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1 MEMBER BLAKE: Second.

2 VICE CHAIR JOHN: Okay, Mr. Moy, would you please
3 take the roll call?

4 MR. MOY: Vice Chair, when I call your name, would
5 you please answer with your vote on the motion made by Vice
6 Chair John to deny the application? Zoning Commissioner Rob
7 Miller.

8 COMMISSIONER MILLER: Yes on the motion to deny.

9 MR. MOY: Mr. Smith?

10 MEMBER SMITH: Yes to deny.

11 MR. MOY: Mr. Blake? Madam Vice Chair?

12 VICE CHAIR JOHN: No to deny.

13 MR. MOY: The staff would record the vote as three
14 to one to one, and this is on the motion made by Vice Chair
15 John to deny the application. The motion to deny was
16 seconded by Mr. Blake. Voting to deny the application was
17 Mr. Smith, Mr. Blake, and Zoning Commissioner Rob Miller.
18 Voting in opposition to the motion to deny is Vice Chair
19 John, and we have a Board member not present. The motion to
20 deny carries Madam Vice Chair on a vote of three to one to
21 one.

22 VICE CHAIR JOHN: Thank you, Mr. Moy, and can you
23 call our last case?

24 MR. MOY: The last case before the Board is
25 Application No. 20551 of Justin Matthews. As amended self-

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1 certified application for special exception pursuant to
2 Subtitle X, Section 901.2 from the accessory apartment
3 requirements, Subtitle U, Section 253.10. This would waive
4 the minimum gross floor area requirements, Subtitle U,
5 Section 253.7A. The minimum occupancy requirements, Subtitle
6 U, Section 253.7B.

7 And as a note, the applicant did remove their
8 earlier request for a use variance. The property is located
9 in the R2 zone at 4215 Dix, D-I-X, Street, Northeast, Square
10 5088, Lot 103.

11 And the only preliminary I have, Madam Vice Chair,
12 is that the applicant attempted to upload, submit their
13 affidavit of maintenance in the 24 hour block. So, if you
14 would consider allowing that in the record. Thank you.

15 VICE CHAIR JOHN: Thank you, Mr. Moy. Please go
16 ahead and admit that filing to the record, please. Thank
17 you.

18 Mr. Daniels, can you introduce yourself for the
19 record, please?

20 MR. DANIELS: Yes, good afternoon, Board. My name
21 is Mr. Darryl Daniels, on behalf of Mr. Justin Matthews.

22 VICE CHAIR JOHN: Okay, thank you. So, this case
23 was here before for a variance, and the Board gave you the
24 opportunity to return with other suggestions, because from
25 the way things looked, you were not going to meet the

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1 variance standard. And so can you tell us what has happened
2 since you were last here?

3 MR. DANIELS: Yes, thank you. And I do understand
4 it's after 5:00, so I will do my best to be brief for
5 everyone. During the last hearing, I believe it was January
6 12th of this year, it was suggested by the Office of Planning
7 that Mr. Matthews pursue an accessory dwelling. Myself and
8 Mr. Matthews, we took that under consideration. Mr.
9 Matthews, as the client, he decided to actually pursue the
10 accessory dwelling.

11 We made the appropriate amendment to the
12 application. Nothing has changed with the property, it is
13 still a single family dwelling that was converted before Mr.
14 Matthews took possession of the property through a buy sale
15 agreement, it's already converted, it has separate living
16 quarters, separate utility meters, and things of that nature.
17 So, we're requesting that the downstairs unit be allowed, or
18 approved by the Board as an accessory dwelling unit, and that
19 it doesn't need any further renovation, or anything of that
20 nature.

21 So, we're not requesting to make any structural
22 changes. We do need one particular waiver, just in that it
23 does not meet the gross floor area size. This property is
24 1190 square feet. The requirements are 1200, so we're just
25 about 10 square feet under the threshold. Mr. Matthews does

1 live on the property, so it is used as the principal
2 dwelling. So, because it's kind of split into three, it's
3 pretty much an up, and down property.

4 It meets the square footage as far as the actual
5 dwelling unit being under 35 percent, because it's around 33
6 percent. So, other than that, we're asking for the Board to
7 approve the accessory dwelling unit.

8 VICE CHAIR JOHN: Okay, and thank you very much,
9 Mr. Daniels. Does the Board have any questions?

10 Okay, I'll go to the Office of Planning then. Ms.
11 Maxine Roberts?

12 MS. BROWN-ROBERTS: Madam Chairman and members of
13 the BZA, Maxine Brown-Roberts sitting in for Crystal Myers
14 on BZA 20511. The applicant has addressed that the waiver
15 is not necessary for the requirement that the accessory units
16 not occupy more than 35 percent of the building, as it
17 occupies 33.3 percent. When made our report, we didn't see
18 that change, but the applicant just spoke about it right now.
19 So, the amended application is for the waiver from the
20 building size requirement of Subtitle U 253.7A.

21 That requires 1200 square feet in the R2 zone, and
22 the applicant is providing 1190 square feet. The proposal
23 meets all the requirements for an accessory apartment, except
24 for this building's square footage. The proposal would meet
25 all the requirements of Subtitle U 253.10, as it allows for

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1 two waivers. The applicant is requesting one waiver from the
2 requirement. And I think meeting this requirement would
3 require an addition, or reconfiguration, which would be a
4 great expense to the applicant.

5 As applicant said, there would be no change to the
6 facade of the building, and so it would retain its
7 residential character. The Office of Planning therefore
8 recommends approval of the requested waiver for the building
9 area. Thank you, Madam Vice Chairman, and I'm available for
10 questions.

11 VICE CHAIR JOHN: So, Ms. Brown-Roberts, if I get
12 this right, the applicant is now saying that the GFA is 33
13 percent?

14 MS. BROWN-ROBERTS: The GFA for the accessory
15 unit, yes.

16 VICE CHAIR JOHN: So, no additional waiver is
17 required?

18 MS. BROWN-ROBERTS: Right, that's correct.

19 VICE CHAIR JOHN: All right, let me see. So, is
20 the -- does he have to file a new self-certification?

21 MS. BROWN-ROBERTS: It's up to them. I think they
22 could file it, or he could just request it right now.

23 VICE CHAIR JOHN: I guess you could just amend
24 your application orally.

25 MR. DANIELS: Yes, I would like to amend the

1 application orally on behalf of Mr. Matthews, and make that
2 request now based on Ms. Brown-Robert's representations, and
3 I will thank her for being more thorough than I am, just
4 trying to not go through all the logistics of the
5 subsections, and things of that nature just to be brief, but
6 I do thank her for that.

7 VICE CHAIR JOHN: All right, so I'll make that
8 notation.

9 Does the Board have any questions for the Office
10 of Planning? Does the applicant have any questions for the
11 Office of Planning?

12 MR. DANIELS: No.

13 VICE CHAIR JOHN: Okay, thank you. Mr. Young, has
14 anyone signed up to testify?

15 MR. YOUNG: No.

16 VICE CHAIR JOHN: Okay, so I'm going to close the
17 record then, and the Board can deliberate, and ask Mr. Young
18 to excuse Mr. Daniels, and I thank you for your testimony on
19 behalf of the Board.

20 MR. DANIELS: Thank you.

21 VICE CHAIR JOHN: Thank you. Thank you, Ms.
22 Brown-Roberts. Okay, are we ready to deliberate? Hello?
23 Okay, so I'll start.

24 So, with the amended application, and the changes
25 in the relief requested, I think the application is fairly

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1 straight forward, and I appreciate Ms. Brown-Roberts thorough
2 review, and analysis of how the application meets the
3 criteria for relief, and I will give great weight to that
4 analysis. And so does the Board have anything to add? Mr.
5 Miller?

6 COMMISSIONER MILLER: Yeah, just to say that I
7 concur with your comments about the application. I
8 appreciate Office of Planning having made the suggestion at
9 the January hearing for the applicant to come back with a
10 special exception, to permit this unit as an accessory
11 dwelling unit, and I agree with the waiver request for the
12 gross floor area, 1190 versus ten square feet short, that is
13 minimal, and so I'm prepared to support the application
14 today.

15 And note that the ANC 7D supported this project
16 when it was a use variance. And this is -- that use
17 essentially hasn't changed, the design hasn't changed. So,
18 with the ANC's support as well of this proposal, I am
19 prepared to give great weight to that as well. Thank you.

20 VICE CHAIR JOHN: Thank you, Mr. Miller. Are
21 there any other comments?

22 Okay, so with that, I will make a motion to
23 approve Application No. 20551 of Justin Matthews as amended
24 to request special exception pursuant to Subtitle X 901.2
25 from the accessory apartment requirements of Subtitle U

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1 253.10 to waive the minimum gross area requirements of
2 Subtitle U, Section 253.7A of 1000 square feet required, 1190
3 square feet proposed. And ask for a second from Mr. Blake.

4 Mr. Moy, would you please take a roll call? Mr.
5 Moy?

6 MR. MOY: Yes, thank you, Madam Vice Chair. When
7 I call your name, if you'll please respond with your vote.
8 Zoning Commissioner Rob Miller?

9 (No audible response.)

10 MR. MOY: Mr. Smith?

11 MEMBER SMITH: Yes.

12 MR. MOY: Mr. Blake? Vice Chair John?

13 VICE CHAIR JOHN: Yes.

14 MR. MOY: Staff would record the vote as four to
15 zero to one, and this is on the motion made by Vice Chair
16 John to approve the requested amended relief. The motion was
17 seconded by Mr. Blake, also in support of the motion to
18 approve, Zoning Commissioner Rob Miller, Mr. Smith, Mr.
19 Blake, Vice Chair John. Board member Hill not participating.
20 Again, the motion carries on a vote of four to zero to one.

21 VICE CHAIR JOHN: Thank you, Mr. Moy. And I think
22 that's it for us. So, Mr. Moy, is there anything else that
23 needs to be done before we break for five weeks, I believe?
24 Oh, joy.

25 MR. MOY: Nothing from the staff, except for me

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1 to say that on behalf of the BZA staff and the Office of
2 Zoning, we wish you all a very pleasant and safe August
3 recess.

4 VICE CHAIR JOHN: Thank you, Mr. Moy. And on
5 behalf of the Board, I would like to thank the BZA staff and
6 the Office of Zoning, and of course the Office of Planning,
7 for all of their support in the last 12 months, because we
8 started in September of last year. And I wish everyone a
9 joyous break, and I will try to do the same, and I'll miss
10 you all. I'll miss staying here with you until 5:30 every
11 Wednesday. Thank you. Have a good holiday. Bye.

12 (Whereupon, the above-entitled matter went off the
13 record at 5:18 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 07-27-22

Place: telconference

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate complete record of the
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