

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

FEBRUARY 14, 2024

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 10:02 a.m. EST, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LORNA L. JOHN, Vice-Chairperson  
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBER PRESENT:

JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON  
JONATHAN KIRSCHENBAUM  
CRYSTAL MYERS  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
MICHAEL JURKOVIC

The transcript constitutes the minutes from the Regular Public Hearing held on February 14, 2024.

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

2 9:36 a.m.

3 CHAIRPERSON HILL: Welcome, Dr. Imamura.

4 Okay, Mr. Moy, you can call our first hearing  
5 case.

6 MR. MOY: Thank you, Mr. Chairman. So the first  
7 case application in the public hearing session is Application  
8 Number 20946 of 4885 MacArthur Boulevard, LLC.

9 This application is captioned as an amended self-  
10 certified application pursuant to Subtitle X, Section 901.2  
11 for the following special exceptions.

12 Subtitle C, Section 710.3 from vehicle parking  
13 location restrictions; Subtitle C, Section 710.2(b); Subtitle  
14 G, Section 207.14 from the rear yard requirements of Subtitle  
15 G, Section 207.6.

16 Property located in the MU-4 Zone at 4885  
17 MacArthur Boulevard, NW, Square 1389, Lot 28.

18 As a final statement, Mr. Chairman, there, excuse  
19 me, the applicant has proffered expert witnesses who are  
20 already in the witness book. They are Charles Warren for  
21 architecture, Erwin Andres for transportation, or course, and  
22 William Zedd, also for transportation.

23 Thank you, sir.

24 CHAIRPERSON HILL: Okay, thank you. If the  
25 applicant, can you hear me, if they could please introduce

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1 themselves for the record?

2 MS. TEMPLIN: Lee Templin with the Law Firm of  
3 Goulston & Storrs, on behalf of the applicant.

4 CHAIRPERSON HILL: Okay, great. All right, Ms.  
5 Templin, if you want to go ahead and walk us through your  
6 client's application, and why you believe they're meeting the  
7 criteria for us to grant the relief requested.

8 I'm going to put 15 minutes on the clock just so  
9 I know where we are; and you can begin whenever you like.

10 MS. TEMPLIN: Great, thank you. So I'm here today  
11 with Christine Roddy, also of Goulston & Storrs; Rishi  
12 Batnagar, the applicant; Charles Warren, of Pace Warren  
13 Architects; and Erwin Andres of Gorove Slade, the project's  
14 transportation consultant.

15 Mr. Young, if you could please pull up the  
16 presentation?

17 (Pause.)

18 MS. TEMPLIN: Thank you. So we're here today for  
19 the property located at 4885 MacArthur Boulevard. The  
20 property is located in the Palisades neighborhood, a little  
21 north of the Georgetown Reservoir.

22 The property is currently improved with one-story  
23 of retail, including the Black Coffee Café, Dodge Chrome  
24 Print Shop, and a currently vacant restaurant space formerly  
25 occupied by Café Vino.

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1           The project we're presenting today would add 21  
2 units, including approximately three affordable units, atop  
3 the existing ground floor retail.

4           The property is zoned MU-4, and our application  
5 is requesting special exceptions in two areas. First,  
6 special exception relief from the required rear yard of 15  
7 feet; second, special exception relief for locating three on-  
8 site parking spaces within 20-feet of a lot line abutting a  
9 public street.

10           First, a brief procedural history of the case.  
11 There's a little bit of background. This case was first  
12 scheduled to be heard on September 27, 2023, but the  
13 applicant requested a postponement in consultation with the  
14 ANC to allow for additional community dialogue.

15           The hearing was then scheduled for October 25, but  
16 on October 23, the applicant received a new determination  
17 from the Zoning Administrator that reversed a determination  
18 made by the prior Zoning Administrator, that changed the way  
19 the project should be analyzed under the zoning regulations.

20           The applicant again requested a postponement to  
21 understand how this new interpretation would affect the  
22 project.

23           The case was then scheduled to be heard on  
24 December 20, but the ANC subsequently requested it to be  
25 postponed until the new year, to which the applicant did not

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1 object.

2           We are pleased to be here today with the support  
3 of the Office of Planning, found at Exhibit 27 of the record,  
4 DDOT at Exhibit 29, and ANC 3D at Exhibit 33.

5           OP's report is conditioned on providing parking  
6 in accordance with the plans. We agreed to this condition,  
7 though we note that the plans referenced in their report were  
8 superseded with Exhibit 40 of the record.

9           DDOT's report is conditioned on the applicant  
10 implementing the TDM plan and the loading management plan,  
11 which we also commit to, and are reflected in Exhibit 26A.

12           Finally, ANC 3D's report includes four conditions,  
13 which we will discuss momentarily, all of which the applicant  
14 agrees to.

15           The project will bring much needed housing to Ward  
16 3, including affordable housing. The property is located in  
17 the Rock Creek West planning area, which has produced the  
18 lowest number of new affordable units in the District since  
19 2019, meeting only 4.7 percent of its target.

20           In addition to the new housing, the project will  
21 retain two ground floor retail spaces.

22           We have had lengthy conversations with the ANC,  
23 and we are pleased to have their support. We appreciate  
24 their comments throughout the process, and have made a number  
25 of changes to the program in response to their comments that

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1 are independent of the relief that we are seeking.

2           When we first came to the ANC, the plan did not  
3 include any onsite parking. Understanding the community's  
4 significant concern for parking demand in the area, we  
5 modified the project, eliminating several residential units  
6 in order to provide parking.

7           We also changed the facade materials per feedback  
8 received from the community, so that the building better fits  
9 the eclectic character of the Palisades. And we added  
10 balconies on a number of units per their request.

11           A community survey indicated the community did not  
12 support a trellis feature we initially proposed, so we  
13 removed it and replaced that with more subtle umbrellas in  
14 keeping with the character of the current patio that's there.

15           Finally, we had initially proposed two on-street  
16 loading spaces. One on V Street, and one on MacArthur, but  
17 receiving feedback with the, that the community preferred,  
18 the on street parking on V Street, we eliminated that loading  
19 space and retained only the loading space on MacArthur.

20           We also increased the short-term bike parking  
21 spaces from two to eight spaces.

22           In addition to these modifications, the applicant  
23 agrees to the four conditions outlined in the ANC report.  
24 Their first condition is that the apartment tenants be  
25 restricted from being eligible for a residential parking

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1 permit.

2           We reached out to DDOT after receiving this  
3 request from the ANC, and DDOT has already restricted this  
4 part of the block of V Street, from RPP eligibility.

5           Secondly, the ANC asked that the two existing  
6 restaurant retail spaces be built out to accommodate  
7 restaurant tenants for two years, unless there is no  
8 practical way to obtain such a tenant.

9           The applicant has committed to seeking to lease  
10 two, the two retail spaces in the ground floor to restaurant  
11 tenants.

12           As a side note, the original condition stated the  
13 two existing restaurant retail spaces would be leased to  
14 restaurant tenants, the applicant since revised the plan to  
15 convert the vacant Café Vino space to residential amenity.

16           Instead, the applicant will convert the Dodge  
17 Chrome space to restaurant use, when that retail tenant  
18 vacates in the future such that there will still be two  
19 retail spaces designated for future restaurant use.

20           The applicant explained this to the ANC at their  
21 January meeting, so they are aware of this.

22           Third, the applicant will donate \$10,000.00 for  
23 improvements to the triangle of public space at MacArthur and  
24 V Street.

25           And finally, the applicant agrees that

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1 construction crews will use offsite parking during  
2 construction.

3 So with that, I'll turn it over to Charles Warren  
4 to briefly walk through the plan.

5 MR. WARREN: Good morning, Mr. Chair and members  
6 of the Board.

7 Mr. Young, can you move the slide maybe two  
8 forward to slide 3?

9 (Pause.)

10 MR. WARREN: Thanks, so I'll cover this concept  
11 during the project for MacArthur Boulevard to just give you  
12 a brief overview of the project.

13 As Ms. Templin has said, we are looking to retain  
14 the existing retail building here at the base of the  
15 building, and providing a three-story residential building  
16 above, addition above, which includes a zoning penthouse  
17 which is not visible in this view, but you'll see it in some  
18 of the other views.

19 We are proposing to clad the existing, or the new  
20 residential addition in brick, and that is a response to the  
21 context of MacArthur Boulevard where you see a lot of the  
22 brick structures, including the new senior development to the  
23 east. And this was also part of the community feedback that  
24 we received.

25 The bays are clad in metal panel and include

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1 balconies. And those are really to give a little bit of  
2 outdoor area to some of the units, but also was a comment  
3 from the community to enliven the street during the  
4 neighborhood parade that happens.

5 In this view, you can see the proposed residential  
6 lobby and amenity space, located in the middle of that ground  
7 floor. And that's bracketed by the two existing retail  
8 spaces that would be retained.

9 And in this view, you can see the outdoor space  
10 that is currently an old driveway where we are proposing to  
11 improve it to better accommodate the outdoor seating that is  
12 already occurring at that location.

13 Next slide, please. This is a view from the V  
14 Street elevation. On this side of the building we really  
15 wanted to bring the scale down so it reads more as a three-  
16 story structure as it backs up to the residential  
17 neighborhood to the north.

18 We are keeping a similar material palette of brick  
19 and metal panel. And here, you can see the second lobby off  
20 of the V Street side.

21 There is a pretty significant grade change between  
22 the MacArthur elevation, the V Street Elevation, and this  
23 second lobby helps to ease access to the building.

24 In this view, you can also see the existing  
25 parking ramp on the eastern portion of the site that would

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1 be retained.

2 Next slide, please.

3 This view is the more detailed view of the plaza.  
4 And this would really extend the restaurant functions into  
5 this area, and helps to create a more active and  
6 accommodating street scape. And also provides a nice amenity  
7 for the community.

8 Next slide, please.

9 Just another view from the MacArthur Street side  
10 of the building, showing the new lobby there in the middle,  
11 and the two existing retail spaces on either side of the  
12 lobby that would remain.

13 And here, you can get another view of the  
14 balconies that we're proposing in the bays above.

15 Next slide, please.

16 Next slide, please.

17 Thank you.

18 These are some views to just give you some context  
19 imagery of the project. The aerial photo in the left, you  
20 can see the property. It's a triangular lot bounded by  
21 MacArthur Boulevard to the south, and V Street to the north.

22 The eastern property line is mid-block. It sort  
23 of backs up, backs up against the Black Salt restaurant, if  
24 you know where that is. And this view just sort of  
25 illustrates the uniquely odd shape of the lot that we're

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1 working with. The image on the right really just puts the  
2 site in a large context. So you can see it sits just  
3 northwest of the Georgetown Reservoir.

4 Next slide, please. An existing site condition  
5 photograph, so here you can see the condition of the existing  
6 one-story retail building, and the current street scape that  
7 you see out there currently.

8 And the image on the bottom right, you can see the  
9 old driveway piece that is currently being used for outdoor  
10 seating.

11 Next slide, please. This is just some views of  
12 the second floor of this building, which is the park in the  
13 area. It's giving you a visual of what that currently looks  
14 like. The second floor, the bottom two images on the right  
15 show the existing parking ramp that we are looking to retain;  
16 and the upper right image just gives you a sense of the  
17 current street scape along V Street.

18 Next slide, please. This is the existing ground  
19 floor plan and the current configuration of those retail  
20 spaces. So there's three bays approximately 6,600 square  
21 feet of retail. And again, you can just sort of see the  
22 unique shape of the lot. This image, you can also see the  
23 existing curb cut that exists along MacArthur Boulevard to  
24 the bottom left of the image.

25 Next slide, please. This is the proposed ground

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1 floor plan. We are proposing to reconfigure the existing  
2 middle retail bay, which is currently a vacant restaurant  
3 space, to accommodate the residential lobby and amenity space  
4 for the apartments, and retaining the two retail spaces on  
5 either side of the lobby, which is about 4,300 square feet  
6 of retail.

7 We are proposing to close the existing MacArthur  
8 street curb cut, and replace it with an on street loading  
9 area for the retail. We are also proposing eight new short-  
10 term bike parking spaces, both on the MacArthur side and the  
11 V Street side, with the final location of those pending DDOT  
12 approval, of course. We are also proposing an enclosed  
13 retail trash room on the western portion of the building to  
14 improve the usability and function of those retail spaces.

15 Next slide, please. And in this view, you can see  
16 where we're proposing to reconfigure but retain the existing  
17 parking area to the east, including the existing ramp. We  
18 are providing seven physical parking spaces, which equates  
19 to 11 zoning spaces, which we'll explain in a little more  
20 detail in a further slide.

21 But the remainder of this floor is really, oops  
22 sorry, can you go back one slide? We're also introducing the  
23 second lobby off of the V Street frontage here that's the  
24 little red triangle that you see in the image. But  
25 otherwise, we are accommodating residential apartments on

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1 this floor, three one-bedroom units and a single two-bedroom  
2 unit.

3           Next slide, please. Next slide, please. Thank  
4 you.

5           This is the typical floor plan just to give you  
6 a sense of the configuration of the building. We have five  
7 one-bedroom units on the typical floor, and two two-bedroom  
8 units on the outer edges. As Ms. Templin mentioned, we are  
9 proposing 21 units overall, of the building.

10           Next slide, please. So this diagram illustrates  
11 the need for relief with regard to the rear yard setback.  
12 This zone would require a 15-foot setback at the residential  
13 levels, which if we were to provide it, it would, if it were  
14 to be provided, it would significantly impact the development  
15 potential with a loss of about 47 percent of the units that  
16 we're proposing. And you can see it's just a significant  
17 impact on the buildable area.

18           Next slide, please. This is just a breakdown of  
19 how we're meeting our parking requirements here. So the  
20 retail requirement is four parking spaces; the residential  
21 parking requirement is six spaces for a total of 10.

22           So as we noted, we're providing seven physical  
23 spaces, two of which would be car share spaces. So when you  
24 add that all up, that equates to 11 zoning spaces. So we're  
25 one over our minimum requirement.

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1           The three spaces that you see in pink are within  
2 that 20-foot setback from the street frontages, which is the  
3 other area of relief that we were seeking.

4           Those conditions already exist, we're just seeking  
5 relief to solidify that.

6           And with that, that concludes my portion of the  
7 presentation. I can send it over to Mr. Andres to continue.

8           MR. ANDRES: Hello, members of the Board. Just  
9 quickly, I think Charles has done a good job of identifying  
10 what the project relates to.

11           It consists of 25 dwelling units, and 4,300 square  
12 foot of existing retail space to remain.

13           We are meeting all of our zoning requirements  
14 relative to the number of parking spaces, bike parking, and  
15 loading.

16           There is no loading required as part of the  
17 project, however, we are providing a loading zone on  
18 MacArthur Boulevard in order to act as good neighbors to  
19 satisfy some of the ANC's requests.

20           Next slide.

21           Again, Charles went through the parking  
22 calculation. I think what's important to identify is that  
23 the ANC requested that we remove V Street, our portion of V  
24 Street from the residential permit parking rolls, and we did  
25 do that.

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1 We coordinated with DDOT, and if you look on their  
2 database, this section of V Street is no longer eligible for  
3 RPP parking.

4 Next slide.

5 And as Ms. Templin had identified earlier, DDOT  
6 had identified two requirements or conditions as part of  
7 their report, to implement the TDM and loading management  
8 plan.

9 This was identified when there was loading relief  
10 before, but since we are no longer seeking it, again, we are  
11 still abiding by our commitment to the ANC so we are  
12 implementing both the TDM and loading management plan.

13 I'm available for questions.

14 Thank you.

15 MS. TEMPLIN: Thanks, Erwin.

16 So in closing, we believe the application meets  
17 the standards for approval for the two areas that have  
18 requested special exception relief.

19 Both requests are in harmony with the general  
20 purpose and intent of the zoning regulations and maps, and  
21 they will not adversely affect neighboring properties.

22 With respect to the rear yard relief, the proposed  
23 design provides generous amounts of light and air to the  
24 units, given the property's unique frontage on both V Street  
25 and MacArthur.

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1           The project meets the specific standards of  
2 relief, specifically, no residential unit window is located  
3 within 40 feet of another building. There is no office use  
4 on the property. The building is contiguous such that there  
5 are no angled sight lines into habitable rooms.

6           And the project provides 11 on sight parking  
7 spaces and on-street loading. With respect to the 20 foot  
8 setback relief for three of the parking spaces, the  
9 triangular shape of the property necessitates locating the  
10 parking around the perimeter.

11           Minimal frontage is dedicated to the three parking  
12 spaces located within the required 20 foot setback, and the  
13 exterior inside to minimize the visual impact of the parking  
14 spaces, and will not have any detrimental impact to the  
15 adjacent properties or the pedestrian experience.

16           Two of the spaces are located on the MacArthur  
17 side and therefore, sit on the second level and are not  
18 perceived at the pedestrian level.

19           This design efficiently centralizes parking spaces  
20 to maximize the space devoted to residential use, and  
21 minimizes the existing non-conformity of 14 spaces that are  
22 currently not set back.

23           So with that, I'll conclude our presentation and  
24 we're happy to answer any questions.

25           CHAIRPERSON HILL: Okay, thank you, Ms. Templin.

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1           Before I get to questions from the Board, if I  
2 could just hear from the Office of Planning?

3           MR. KIRSCHENBAUM: Good morning Chair Hill and  
4 members of the Board of Adjustment. I am Jonathan  
5 Kirschenbaum, of the Office of Planning, and we recommend  
6 approval of the special exception relief for rear yard and  
7 vehicle parking location.

8           And we do recommend that a condition be provided  
9 that parking shall be provided in accordance with sheet 12  
10 of Exhibit 40B1, to ensure that the parking stays in that  
11 location during the permitting process.

12           That concludes my report, thank you.

13           CHAIRPERSON HILL: Mr. Kirschenbaum, that was  
14 Exhibit 40, what did you say? Exhibit 12?

15           MR. KIRSCHENBAUM: It's sheet 12 in Exhibit 40B1.

16           CHAIRPERSON HILL: Okay, Exhibit 40, sheet 12.

17           Give me one moment, please.

18           (Pause.)

19           CHAIRPERSON HILL: Okay, okay. Does anybody have  
20 any questions for the Office of Planning, or the applicant?

21           No? Okay, Ms. Templin, I just have a couple  
22 questions. I mean, I don't know if some of these conditions  
23 now are as relevant as they were at some point.

24           I mean, it sounds as though what you guys are  
25 agreeing to do, and because you went through the ANC process,

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1 doing the TDM plan and the loading management plan even  
2 though I don't think it's necessary for the relief anymore  
3 because of what you've already now done in terms of the  
4 design with the parking.

5 But you guys are continuing to do that on your  
6 own, correct?

7 MS. TEMPLIN: Correct, yes.

8 CHAIRPERSON HILL: Okay.

9 And then, the conditions that the Board, that the  
10 ANC put forth, I don't even think actually the ANC asked us,  
11 the Board, I can't remember if this is the case or not, that  
12 the ANC asked the Board to apply its conditions or not.

13 Some of those conditions, I think the ANC knows  
14 that the Board wouldn't be able to enforce, such as the  
15 contribution that was put forward.

16 But you, the applicant, has committed to those  
17 conditions, correct?

18 MS. TEMPLIN: Correct. Yes, we defer to the Board  
19 on whether or not to incorporate, but we intend to honor them  
20 either way.

21 CHAIRPERSON HILL: Okay, great. All right, Mr.  
22 Young, is there anyone here wishing to speak?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay. All right, does the Board  
25 have any final questions to the applicant?

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1 All right, Ms. Templin, thank you so much. You  
2 all have a good day.

3 MS. TEMPLIN: Thank you very much; have a good one.

4 CHAIRPERSON HILL: Bye-bye.

5 Okay, let's see. So I would agree with the  
6 analysis. I mean, I think the relief is warranted in terms  
7 of our granting it.

8 I think that the light and air from the rear yard  
9 relief, I was not concerned about it. And the vehicle  
10 parking locations again, I'm not concerned about it.

11 I think it seems as though they are going to be  
12 off-street actually, and so any inconvenience would be to the  
13 tenants in terms of those spaces.

14 But yes, actually there wouldn't be any  
15 inconvenience concerning those spaces.

16 So I am not in favor of as I mentioned in the  
17 hearing, applying the conditions that DDOT had put forward  
18 and actually even the ones, you all can let me know if  
19 there's any from the ANC.

20 I mean, I thought some of those conditions are  
21 things that the ANC was able to negotiate with the applicant  
22 ahead of time.

23 The RPP and Chairman Hood's not here, I mean, I  
24 don't even know if we're able to enforce RPP. That kind of  
25 comes up all the time. It's not something that again, we

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1 wouldn't be able to enforce.

2           So I don't really feel as though we would be able  
3 to enforce. The only one I guess is construction crews would  
4 use offsite parking during construction.

5           If the Board members think is something that we  
6 would impose, but however, that again is something that is  
7 happening during construction.

8           But I think we as the Board has kind of gone both  
9 ways on some of those things sometimes, in terms of the  
10 parking.

11           But I'm going to vote in favor and wait to hear  
12 what my fellow Board members have to say about the  
13 conditions.

14           May I turn to you, Mr. Smith?

15           MEMBER SMITH: I would agree with everything that  
16 you just stated regarding this project. And I agree with  
17 your position on not including the DDOT conditions given that  
18 they, the applicant has made the modifications to their  
19 design to not necessitate that particular condition.

20           Regarding the ANC conditions, I agree. I don't  
21 think that most of them we can't enforce. RPP we can't  
22 enforce if it's within the public right-of-way.

23           And that will come out in the wash as the  
24 development proceeds through the development process with the  
25 city's other departments.

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1 But we can't condition that the applicant will  
2 donate \$10,000.00 for improvements to the triangle as public  
3 space. That's something that needs to be, if they want to  
4 do that on their own, they can, they will do that.

5 But that's something that we can't condition.  
6 That's more so handled by the parks and open space department  
7 for the District.

8 Construction crews will use offsite parking during  
9 construction. That will come out with the building permit.  
10 That will be part of the conditions that would occur as part  
11 of the building permits.

12 And the two existing restaurant retail spaces be  
13 built to accommodate restaurant tenants. It seems that the  
14 applicant is prepared to memorialize that.

15 We don't need to condition that going forward for  
16 this project because this developer may sell this, so and  
17 market conditions may change, and five or 10 years they're  
18 back here asking for a modification to their special  
19 exceptions to remove some form of a restaurant condition if  
20 we were to impose that.

21 But it seems that the applicant is willing to in  
22 good faith with the ANC, attempt to lease to restaurants.  
23 There are two or three restaurants there now, so maybe those  
24 restaurants want to return after this development is  
25 completed.

1           But I don't think that we need to impose that  
2 condition, but I am in favor of OP's condition as stated by  
3 Mr. Kirschenbaum.

4           So I do believe that the applicant has met the  
5 burden of proof for us to grant these special exceptions with  
6 that one condition.

7           CHAIRPERSON HILL: Okay, thank you, and thank you  
8 for reminding me of OP's condition.

9           Commissioner Dr. Imamura?

10          MEMBER IMAMURA: Thank you, Mr. Chairman. I'll  
11 keep my remarks brief.

12          In general, I agree with your analysis and  
13 summary, as well as Board Member Smith, particularly about  
14 OP's condition, as well as the DDOT and ANC conditions no  
15 longer being necessary, I suppose.

16          I think in general, the site is sort of uniquely  
17 shaped and I think the new design is a much improved design  
18 solution.

19          I think that warrants the special exception  
20 relief, and I think they've met the burden of proof and I'm  
21 prepared to vote in support.

22          CHAIRPERSON HILL: Thank you.

23          Vice Chair John?

24          VICE CHAIR JOHN: I think this is a fairly  
25 straightforward application with the removal of the request

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1 for variance, and the applicant is seeking relief for two  
2 existing conditions.

3           The vehicle parking location, and the rear yard  
4 relief. And I agree that there is no adverse impact with  
5 respect to either of those areas of relief.

6           I agree with the comments so far about the  
7 conditions, and would not include any of the conditions  
8 recommended DDOT and the ANC.

9           The ANC conditions are clearly not within the  
10 scope of the Board's jurisdiction, including the construction  
11 condition.

12           And with the removal of the variance, the DDOT  
13 conditions are also not relevant. In any event, we don't  
14 enforce DDOT regulations in our orders.

15           But I would include OP's recommendation even  
16 though the plans now show the parking spaces in their present  
17 condition because the applicant has to build according to the  
18 plans that the BZA proposed. But I have no objection to  
19 including it. So I'm in support.

20           CHAIRPERSON HILL: Okay, great, thank you. All  
21 right, I'm going to make a motion to approve Application  
22 Number 20946 as captioned and read by the secretary,  
23 including the Office of Planning's condition that the parking  
24 be built as shown in Exhibit 40, sheet, Exhibit 40B1, sheet  
25 12, and ask for a second.

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1 Ms. John?

2 VICE CHAIR JOHN: Second.

3 CHAIRPERSON HILL: Motion made and seconded, Mr.  
4 Moy if you take a roll call?

5 MR. MOY: Thank you, sir. When I call your name,  
6 if you'll please respond to the motion made by Chairman Hill  
7 to approve the application for the relief requested, plus the  
8 condition that was proffered by the Office of Planning as  
9 shown, and correct me here Mr. Chairman, as shown on Exhibit  
10 40, sheet 12, is that correct?

11 CHAIRPERSON HILL: It's Exhibit 40B1, sheet 12.  
12 Or slide 12, I think it is.

13 MR. MOY: Okay, very good. The motion to approve  
14 was seconded by Vice Chair John. Mr. Smith?

15 (No audible response.)

16 MR. MOY: Zoning Commissioner Dr. Imamura?

17 MEMBER IMAMURA: Yes.

18 MR. MOY: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 (No audible response.)

22 MR. MOY: Staff would record the vote as 4:0:1, and  
23 this is on the motion made by Chairman Hill to approve with  
24 the one condition as I've just cited.

25 The motion to approve was second by Vice Chair

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1 John, who also voted to approve the application. Approvals  
2 also from Zoning Commissioner Dr. Imamura, Mr. Smith, Vice  
3 Chair John, Chairman Hill, with no other board member  
4 participating. Motion carries 4:0:1.

5 CHAIRPERSON HILL: Okay, great. Do you guys want  
6 to take our morning break?

7 Okay, all right, I'll see you all in about 15.  
8 Thank you.

9 (Whereupon, the above-entitled matter went off the  
10 record at 10:33 a.m. and resumed at 10:56 a.m.)

11 CHAIRPERSON HILL: All right, Mr. Moy, feel free  
12 to call our next case when you get a chance.

13 MR. MOY: All right, thank you, sir. The Board has  
14 returned to its public hearing session after a very quick  
15 break, and the time is now at or about 10:57 a.m.

16 The next case before the Board is Application  
17 Number 20824, of Rupsha 2011, LLC, as amended, self-certified  
18 application for the following special exceptions.

19 Pursuant to Subtitle X, Section 901.2; Subtitle  
20 U, Section 421 to allow a new residential development;  
21 Subtitle F, Section 5201 from the alley lot minimum side yard  
22 requirement.

23 Subtitle F, Section 5100.1(c), Subtitle C, Section  
24 710.3 from parking space location requirements of Subtitle  
25 C, Section 710.2(c).

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1           And pursuant to Subtitle X, Section 1002 for area  
2 variances from the new alley record lot requirements of  
3 Subtitle C, Section 306.1, let me just read, front edge along  
4 the public alley with minimum alley width of 24 feet, with  
5 alley frontage no less than 14 feet under Subtitle C, Section  
6 306.1(a).

7           And access to a public street through a public  
8 alley with an alley width of not less than 24 feet under  
9 Subtitle C, Section 306.1(b).

10           Property is in the RA-1 Zone at 4226 Rear 6th  
11 Street, SE, Square 6208, Lot 823.

12           Mr. Chairman, I would ask the applicant to confirm  
13 that I read into the record the correct relief that the  
14 applicant is asking for since it's a little bit extensive.

15           Other than that, Mr. Chairman, just want to note  
16 for you that in terms of public testimony, we do have the  
17 commissioner from the ANC 8E participating, as well as  
18 testimony from a Ms. Sandra Seegars.

19           Also, I learned from staff that Ms. Seegars has  
20 filed into the record a written letter, so if you can address  
21 that for me, I think that will do it for me, Mr. Chairman.

22           CHAIRPERSON HILL: Okay.

23           Unless the Board has any issues, if you could  
24 allow that letter into the record, Mr. Moy, from Ms. Seegars,  
25 that would be helpful.

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1           If the applicant can hear me, if they could please  
2 introduce themselves for the record?

3           MS. WILSON: Hi, Alex Wilson from Sullivan & Barros  
4 on behalf of the applicant, and I'm here with Mr. Seck, who  
5 is representing the applicant and owner, and Michael Blake,  
6 who is the architect for the project.

7           CHAIRPERSON HILL: Okay, great.

8           All right, so Ms. Wilson, did you hear all of the  
9 requested relief that Mr. Moy read, and is that all accurate?

10          MS. WILSON: Yes, yes, we're asking for three  
11 special exceptions, and then one area variance from the 24  
12 foot wide alley lot requirements to create a new, to create  
13 new alley record lots.

14          CHAIRPERSON HILL: Okay.

15          Okay, so then let me see. Can the commissioner  
16 hear me?

17          MR. WILLIAMS: -- you.

18          CHAIRPERSON HILL: Great, could you introduce  
19 yourself for the record, please?

20          MR. WILLIAMS: Commissioner Mikel Williams, ANC  
21 Chair.

22          CHAIRPERSON HILL: All right, well welcome,  
23 Commissioner, how you doing?

24          MR. WILLIAMS: I'm good, Chairman, how are you?

25          CHAIRPERSON HILL: I'm good, too, thank you,

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1 Chairman, I'm also doing well.

2 All right, Mr. Commissioner, so as you know, I'm  
3 sure you guys are a party and you'll have an opportunity to  
4 give your presentation just as much as the applicant will.

5 I'm going to turn to the applicant first, Ms.  
6 Wilson, if you could go ahead and walk us through your  
7 client's application and why you believe they're meeting the  
8 relief requested.

9 If I'm not mistaken, the Office of Planning is in  
10 disagreement with your analysis, so that might be something  
11 to address as you go through this unless I'm wrong, and I  
12 guess I'll find out from OP whether I am or not.

13 And you may begin whenever you like.

14 MS. WILSON: Thank you so much, and I will address  
15 it. I think there's a little bit of a mixed recommendation,  
16 so I'll get into that. But if Mr. Young could please pull  
17 up the presentation, thank you.

18 (Pause.)

19 MS. WILSON: Next slide, please. And I'm going to  
20 go through the relief before I turn it over to the architect  
21 just to give you a sense of that order. So if there's  
22 anything you want to see while I'm talking, please let us  
23 know.

24 The property is located in the RA-1 Zone District.  
25 The applicant is proposing to sub-divide the large existing

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1 tax lot, and construct nine new single-family row buildings.

2           The applicant is requesting special exception  
3 approval for the location of the parking spaces for the side  
4 setback of the northern most home, and for new road building  
5 developments in the RA-1 Zone.

6           The applicant is also requesting an area variance,  
7 because we do not meet the 24 foot wide alley requirement for  
8 creating new alley record lots.

9           Next slide, please. In terms of agency outreach,  
10 OP's recommendation was that if the Board finds the variance  
11 argument persuasive, it would recommend approval of U421 and  
12 the parking space location requirements of (c) 710.2.

13           So OP is not recommending approval of the  
14 requested variance, but it's not a denial either, so I think  
15 there's room for additional argument and they said as much  
16 in the report.

17           It was a really thoughtful review of the variance  
18 and we appreciate that, and we address those items that they  
19 sort of left room for in the report, and we appreciate that.

20           And so they are recommending denial of the side  
21 yard relief, and I'll also address that in the presentation.  
22 DPW concluded that the proposed development will not  
23 interfere with the agency's operations.

24           DDOT has no objection and specifically noted they  
25 are okay with the approval for the 24 foot wide alley lot

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1 variance, and for the parking space location requirements.

2           The applicant reached out to FEMS, who had no  
3 comment, and that outreach is in Exhibit 72. And the  
4 applicant also reached out to MPD. We never received any  
5 comments from them.

6           And then the applicant is actively working with  
7 D.C. Water. The applicant's team met with them in January  
8 and revised a utility and civil plan based on those comments,  
9 and those emails are shown in Exhibit 75.

10           Next slide, please. Next slide, please, Mr.  
11 Young. Thank you so much.

12           The ANC originally supported that their most  
13 recent report noted safety concerns related to additional  
14 vehicles, lack of parking, adjacency to a daycare, and  
15 removal of the grassy area, which I think is they're  
16 discussing the applicant's property.

17           So we were not invited to attend the January  
18 meeting where they voted again. And the resolution was  
19 uploaded this week so after I received that on Monday, I did  
20 reach out to the ANC chair and offered to discuss potential  
21 safety measures, and we look forward to talking more about  
22 that.

23           So there is an argument to be made but these homes  
24 would provide more eyes on the alley; possibly additional  
25 safety; we anticipate families would live here given the size

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1 of the units. And of course, no one would be allowed to park  
2 on the alley, and each unit has its own dedicated space.

3           And if you could please go to the next slide. And  
4 I'll note that we did appreciate the ANC noting that this  
5 project would be a benefit even though there are some  
6 potential concerns in their letter, so we appreciate that.

7           These are some photos of the site. It was  
8 mentioned in the letter that there would be concerns about  
9 safety of the kids in the daycare, and there's an elementary  
10 school a couple of blocks away.

11           I think it would be obvious to the future  
12 purchasers that they live across from the daycare because of  
13 the playground equipment, and we can see how some would find  
14 the proximity to schools to be a huge benefit.

15           These are family-sized homes, three- and four-  
16 bedroom units, and we would anticipate children would live  
17 in these homes, making it even more likely that future owners  
18 would be careful driving down the alley. And again, we're  
19 amenable to any safety measures that would further promote  
20 safety in the alley.

21           Next slide, please. We are seeking three special  
22 exceptions, one from U421 for new residential developments  
23 in the RA-1 Zone, and one to locate parking in front of the  
24 lots at the rear, and for the side yard for the northern most  
25 lot.

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1           The project has gone through a lot of change. For  
2 some background, this was filed about a year ago, a little  
3 over a year ago. My firm was not part of those discussions  
4 at the time, but I believe that after discussions with OP,  
5 the owner was informed that the original apartment building,  
6 which would have required a use variance, would be a much  
7 more difficult path.

8           And so, yes, a use variance was needed for the  
9 multi-family building. And so in this case, we are now doing  
10 nine row dwellings, and so these are single-family homes on  
11 individual lots and that use itself is permitted.

12           So the proposed use is something that is  
13 contemplated by the regulations. The lots themselves are  
14 meeting the minimum subdivision requirements of 18 feet and  
15 1,800 square feet.

16           So the issue in this case is not the use nor the  
17 size of the lots, it's with the alley width. And in  
18 researching alley lot cases, a majority of the alley lot  
19 buildings are row dwellings so this is a common type of  
20 building in an alley.

21           Next slide, please. Regarding relief for U421,  
22 it is expected that the Office of the State Superintendent  
23 of Education will not have an issue with the increase in nine  
24 single-family homes.

25           DDOT and other relevant D.C. agencies will find

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1 that the surrounding public streets, recreation, and other  
2 services are adequate to accommodate the residents that can  
3 be expected to reside in the project given the comments in  
4 the record. And the applicant submitted the relevant  
5 materials for review.

6           Next slide, please. Regarding the relief for the  
7 side yard, each of the nine lots meets the required five foot  
8 setback from any lot line abutting a non-alley lot, except  
9 that the proposed building on the northern most lot does not  
10 have a five foot setback from the non-alley lot to the north.

11           The building to the north is 100 feet away from  
12 the shared lot line. And so naturally, we thought this would  
13 be a straightforward request from the light, air, and privacy  
14 and character requirements as we're talking about five feet  
15 adjacent to a parking lot.

16           There will be no impact on light and air, or  
17 privacy to the property to the north. The proposal is for  
18 a two-story building that is going to be five feet closer to  
19 a parking lot. And again, the building is over 100 feet away  
20 so the impact would not rise to the level of undue.

21           There are no north facing windows and regarding  
22 character, the additional five feet of building width will  
23 allow the subject building to span lot line to lot line.  
24 This will be in character with the proposed development as  
25 the majority of the houses are row homes. Also, there are

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1 no other alley lots. This is the only development, and,  
2 again, row dwellings are common in alleys.

3           And then this would be a question for OP. Their  
4 report says that this is only subject to the general special  
5 exception requirements. However, (F) 5201 states that it's  
6 also subject to the provisions of this section, which is the  
7 typical light, air, privacy special exceptions that come in  
8 front of the Board every week. And the OP report does state  
9 that this will likely have no impact on light, air, and  
10 privacy, seemingly safely meeting the criteria for approval.

11           Next slide, please. So I addressed most of this  
12 but practically, the relief allows this future family who is  
13 going to live there to have additional living space, and have  
14 a house that matches the size of the rest of the houses  
15 proposed, rather than a really small side yard that it has  
16 to maintain. And even reducing the degree of relief to two  
17 feet or three feet would actually make it harder for the  
18 owner to maintain that space.

19           And it would likely just be a damp, dark area  
20 since it's next to a parking lot. And so that perhaps  
21 answers OP's remaining questions about why we can't find a  
22 solution as was noted in the report. Although I'd argue  
23 that's perhaps it being more into the variance, a variance-  
24 type of request and this is a special exception.

25           Next slide, please. Next slide, please. Thank

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1 you.

2           So this orange line is roughly where the property  
3 line is, and the architect can talk with more specificity  
4 about this. But the building to the north is 100 feet away  
5 from the property line. And then I thought since we have a  
6 full view of the property here with the trees, I'll address  
7 another comment in the OP report regarding those trees.

8           That if this is approved, the applicant should  
9 work with urban forestry and we, of course, will do that,  
10 just wanted to note that. And then in anticipation of this  
11 question, none of the trees are heritage trees. So again,  
12 we will work with urban forestry on a plan for maintaining  
13 the green space.

14           And the open space will be maintained as part of  
15 the project since these houses are all limited to 40 percent  
16 lot occupancy. And again, the five foot cited here will not  
17 make any discernible difference given the massive rear yard  
18 that's being proposed, and the open space.

19           Next slide, please. For the final special  
20 exception requests we are seeking special exception relief  
21 for the parking space location requirements.

22           We're proposing to locate the spaces in front of  
23 the properties. It's not practical to locate the spaces in  
24 the rear, given the only existing frontage for the property  
25 is along the alley. There is a sharp topography change as

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1 well. Accordingly, the only appropriate egress is from the  
2 subject alley, which will provide direct access to the  
3 proposed parking spaces.

4           And without the relief, the applicant would have  
5 to create an easement for all of the properties, and require  
6 cars to drive through the rear yards of their neighbors  
7 between the subject building and then the apartment buildings  
8 to the rear, in order to access the respective spaces. And  
9 this would create more pedestrian interference and reduce the  
10 usable land area for each new home owner.

11           And so each space is proposed in the front of the  
12 respective building that it serves, which will provide  
13 convenient parking for occupants and guests of each home, and  
14 DDOT supports the proposed relief.

15           Next slide, please. And then finally, the final  
16 request is a variance request for relief from the 24 foot  
17 alley rule. So in order to create new record lots you either  
18 have to have an existing tax lot in the same configuration  
19 as the proposed record lot, or meet (E) 306.1. And this is  
20 specific to alleys.

21           Our proposal meets the elements of (E) 306.1  
22 except for that 24 foot wide alley rule. If you have an  
23 existing tax lot, the 24 foot rule does not apply so long as  
24 you have a 15 foot wide alley lot within 300 linear feet of  
25 a street, or a special exception is available. Again, for

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1 a conversion from an existing tax lot in the same  
2 configuration to a new record lot.

3           The use we are proposing is allowed. The sizes  
4 of the lots we are proposing is appropriate and meets the by  
5 right subdivision requirements in that it's 1,800 square  
6 feet, and 18 feet per lot.

7           We do have a 20 foot alley, but it's the fact that  
8 our alley is only 20 feet instead of 24 feet that we cannot  
9 subdivide. It has nothing to do with the size of the lots  
10 proposed. And this is unusual in that typically subdivision  
11 relief is related to the size of the lots being proposed.  
12 And so in reality, our relief is just that we cannot expand  
13 these alleys. And if we had 24 feet, we would not be seeking  
14 this variance.

15           Next slide, please. The property is unique  
16 because of its shape, size, alley lot status, tax lot status,  
17 size of the surrounding alleys, and the fact that it is the  
18 only unimproved and only alley lot in this square block and  
19 surrounding area. And of course, this creates an issue  
20 because of the cost of the utility extensions.

21           So the zoning regulations provide that tax lots  
22 existing prior to May 12, 1958 can be converted to record  
23 lots by right, regardless of alley lot width. And so any lot  
24 created between 1958 and 2016 can be converted to a record  
25 lot via special exception. There's no evidence that this lot

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1 was in existence prior to 1958 creating a situation where  
2 nothing can be constructed by right, leading applicant to  
3 seek variance relief for the project.

4           The Office of Planning report suggested that there  
5 is potential for a special exception via (C) 306.4, or that  
6 perhaps this was created before 1958 and we could convert  
7 this large lot to a record lot by right.

8           But either way, whether this could be done via  
9 special exception or by right, the argument is the same  
10 because it's not a degree of relief. It has to do with the  
11 fact that there can only be one single-family home on an  
12 alley lot.

13           And so even if this could be converted to a record  
14 lot by right of special exception, a single-family home is  
15 not feasible on this lot. And so the alternatives to the  
16 variance relief include attempting to widen the alleys, or  
17 construct a single-family home.

18           Next slide, please. The lot is over half an acre  
19 at about 25,000 square feet, and while the single-family home  
20 may be physically achievable, it's not feasible given the  
21 size of the lot, and the cost required to bring housing to  
22 this alley lot.

23           Choosing a size of the home would be difficult of  
24 course, given how large this lot is. But the critical thing  
25 which makes the property unique relative to other properties,

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1 is that there are significant unique costs associated with  
2 developing an alley lot, such as bringing utilities to the  
3 alley.

4           And so these extensions are estimated to be about  
5 \$1.1 million. And we submitted this evidence into the record  
6 in Exhibits 64 A and B. And so this obviously increases the  
7 costs of development for the property well beyond the cost  
8 of a development for a non-alley lot which already has  
9 utilities.

10           And these utility extensions would cost the same  
11 for one single-family home, too. In OP's report, they ask  
12 for clarity if the submitted costs would be the same for  
13 extending utilities for one home, since the estimate was  
14 based off the nine homes. And the answer is yes, the utility  
15 extensions would be required even for one home since no  
16 utilities currently exist here. The only difference would  
17 potentially be a slight reduction for labor and materials for  
18 the lateral types. There would only be a need for one  
19 lateral instead of laterals for each new house, or one curb-  
20 stop valve for each new house. But that reduction would be  
21 small and the cost would still be around \$1 million.

22           Also, another note in OP's report was the  
23 applicant argues that one home on one lot would be  
24 extraordinarily large and expensive. Although a new home  
25 would not have to maximize the size or density of a large

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1 lot, most homes do not. And so I just want to clarify we're  
2 not arguing that one home on the lot would be extraordinarily  
3 large and expensive, or at least that wasn't the point in  
4 raising the potential maximum size of any house here. It was  
5 just to make the point that we could do a permitted footprint  
6 of 40 percent. That's how unusually large this lot is. And  
7 it would be such an extremely large home. But the cost to  
8 bring the utilities to the site would be the same regardless  
9 of whether we had one large single-family home or one small  
10 single-family home, or one medium single-family home. It's  
11 around \$1 million to bring utilities to the site.

12           Next slide, please? And so the substantial alley  
13 development and infrastructure costs required must be  
14 allocated among multiple units. So if there's any hope to  
15 produce housing on this idle property, there needs to be some  
16 allocation of this million dollar cost. And so there was a  
17 market analysis submitted to the record noting that the  
18 medium price of comparable listings is about \$400,000. And  
19 so at that price point the cost of bringing the utilities to  
20 the lots would not be covered with one single-family home.  
21 And so the house would have to be put on the market for a  
22 much higher price point than could realistically be achieved  
23 given the comps in the area, and so that would really never  
24 be built or even attempted.

25           And then the other option I mentioned was to widen

1 the alleys, but that's not feasible as it would require  
2 increasing the entire alley in front of the adjacent  
3 properties. And so the buildings on some of these properties  
4 go right up to the alley, which it's obviously not practical  
5 to remove buildings on those street-facing lots to widen the  
6 alley.

7           Next slide, please? Granting our requested relief  
8 will allow the applicant to utilize the unique dimensions of  
9 the sites to make the proposed buildings more compatible with  
10 the surrounding area than one single matter-of-right  
11 building. Rather than an extremely expensive home, or in  
12 this case realistically no development at all, nine row-type  
13 buildings in this alley are more compatible with the  
14 surrounding RA-1 zoning.

15           Regarding the intent of the Zone Plan, presumably  
16 the intent of the alley lot regulation requiring 24 feet in  
17 width is related to matching the requirement of the street  
18 width since 24 feet is the minimum street width requirement  
19 for a new street. And this would ensure emergency vehicles  
20 could access the alley, but in this case there's already one  
21 single lot and the applicant is permitted by right to build  
22 a single-family home in roughly the same footprint really,  
23 if it wanted, as the proposed building. So FEMS and DPW have  
24 found no concerns. FEMS had no comment. DPW said this would  
25 not impact its current operations. We've been in discussions

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1 with DCWater.

2           And then the alley lot regulations were amended  
3 in June 2021. One of the goals of the text amendment was to  
4 lower the barriers to housing production on alley lots. The  
5 case specifically targeted alley tax lots and implemented  
6 ways to convert those tax lots to record lots by right or via  
7 special exception. Large unimproved existing alley record  
8 lots were not included perhaps because they are unique, but  
9 in this case the granting of relief for nine row dwellings  
10 versus one single dwelling that really is not feasible does  
11 meet the purpose and intent of the Zone Regulations. It's  
12 a long vacant site that will not be developed but for this  
13 relief because of the unique utility extension issues.

14           And another note about this, I think there's a  
15 helpful BZA case to look at. It was in front of the Board  
16 about a year ago. Vice Chair Miller was on that case; it's  
17 BZA Case No. 20716, and he had some comments on this about  
18 the intent of the regulations. Clearly the intent was not  
19 to have a multimillion dollar single-family home. The intent  
20 was to allow for more housing in the appropriate zones and  
21 this is an RA-1 Zone. And in that case that project was  
22 granted relief under similar rationale, that it is  
23 practically difficult to bring these utilities and only  
24 construct one single-family home and then try to sell it for  
25 an absurd amount of money to cover the costs of the utility

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1 extensions.

2           And so there are certain unique situations where  
3 there are potentially discrepancies in the Zoning Regulations  
4 that do not line up with the intention of the Zoning  
5 Regulations, in which case a variance is appropriate. We  
6 believe this is one such case given that a single-family home  
7 on the site is not feasible. And while we don't have to show  
8 impossibility for an area variance, one could see how it  
9 would likely be impossible to find financing for such an  
10 endeavor given the costs of construction in the surrounding  
11 market.

12           Further, DDOT notes that all homes are on either  
13 a 16-foot or 20-foot-wide public alley which both meet or  
14 exceed DDOT's minimum alley width of 16 feet for two-way  
15 traffic on residential-serving alleys. And so we've been  
16 pretty aggressive with our agency outreach. That is all in  
17 the record. And the respective agencies have similarly  
18 provided no comment or no issue. So there are no safety  
19 concerns from agencies.

20           And with that, I will turn it over to the  
21 architect to walk through the plans.

22           MR. BLAKE: Hi everyone. My name is Michael  
23 Blake. I'm with bestudio Architecture, and so I'll get into  
24 talking about the design of the houses themselves and the  
25 development.

1           If we could jump forward to sheet A-03, please?  
2 Well, I can speak to this. This is a breakdown of all the  
3 lots that we have -- that are labeled in the site plan. And  
4 I think the important thing to note here is where at Lot --  
5 I believe it's Lot G where we start to hit the 40 percent  
6 maximum for the lot occupancy. And that's what's driving a  
7 lot of the design of the lots as we move south on the  
8 property.

9           CHAIRPERSON HILL: Lot G? Lot G --

10          MR. BLAKE: Correct.

11          CHAIRPERSON HILL: -- did you say, Mr. Blake?

12          MR. BLAKE: Yes, Lot G. Correct.

13          CHAIRPERSON HILL: Okay. Maybe you can show that  
14 to us when we get to another thing --

15          MR. BLAKE: Sure.

16          CHAIRPERSON HILL: -- slide.

17          MR. BLAKE: Okay.

18          CHAIRPERSON HILL: And then also if you could  
19 point out -- which is the one that needs the side yard  
20 relief?

21          MR. BLAKE: Sure. Yes, that will be Lot A.  
22 That's the northern-most lot. So we move A through I -- we  
23 move south.

24          CHAIRPERSON HILL: Mine have numbers on that.  
25 That's why I'm confused with the -- what you're talking

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1 about. But go ahead.

2 MR. BLAKE: Next slide, please? Okay. So here  
3 we see the lot on the Zoning Map. And so the property that  
4 is next to the parking lot; that's Lot A that I just  
5 referenced, is at the very northern part of the site just  
6 below the RA-1 text. And Lot G that I also referenced is as  
7 you move down south and we start to get to the 16-foot alley.

8 Next slide, please?

9 Next slide, please? Okay. These are just some  
10 of the existing pictures that we've seen. Yes.

11 Next slide, please? Okay. So here we see the  
12 topography of the site. So again moving from north to south.  
13 The lot slopes down. It continues to slope down to the south  
14 as we get into that 16-foot alley.

15 Next slide, please? Okay. And so here are the  
16 lot designations that I was referencing. Lot A is where we  
17 are requesting the special exception for the five-yard  
18 setback. And so again adjacent to that is just the parking  
19 lot that is a part of Lot No. 108 to the north. The lots are  
20 fairly regular in width as we move south until we get to Lot  
21 G -- I'm sorry, Lot H where in order to keep a similar size  
22 footprint to the house we need to adjust the extension of the  
23 property lines to maintain a 40-percent lot occupancy.

24 Next slide, please? Okay. So the houses will be  
25 arranged as seven row homes and two semi-detached houses,

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1 which is just driven by the shape of the lot and the angle  
2 of the alleys. Each home is provided with a generous front  
3 yard on the -- with on-site parking. And that's held back  
4 from the property line by four feet to create in effect the  
5 24-foot-wide alley. That provides easy access to the  
6 development and also just creates a visually wider alley.

7           Next slide, please? We're seeing just the second  
8 floor. There are all two stories.

9           Next slide, please? And the roof plan. So all  
10 of the roofs will slope to the east of the lot where we will  
11 be dealing with the stormwater runoff on site. That was one  
12 of the -- part of the discussion with DC WASA was to avoid  
13 storm lines and to just address the stormwater on site. And  
14 so these large rear yards in the back will help us to do  
15 that.

16           Next slide? Okay. So here we see the typical  
17 units. The designs offer four bedrooms and three baths and  
18 they're approximately 1,810 square feet. They also feature  
19 a flexible space on the first floor that could be used as an  
20 additional bedroom or an office, or just additional living  
21 space.

22           Next slide? Okay. And here we see the slightly  
23 more atypical units towards the south of the lot, but it's  
24 a similar configuration in terms of the number of bedrooms  
25 and baths.

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1           Next slide, please?     So here we see the  
2 streetscape or the alleyscape as the -- as we move south into  
3 the lot. Like as I said, the topo slopes down. And the goal  
4 here with the row house is to really create a consistent  
5 alleyscape here that will help to activate the alley.

6           Next slide, please?     And we're using -- we're  
7 proposing fiber-cement for the cladding and we're using  
8 repetition of the colors and the structure. The buildings  
9 kind of move in and out to create blocks of three, but then  
10 we're using repetition within that design to help to define  
11 the space while maintaining some visual interest.

12           Next slide, please?

13           Next slide?     So we feel that the design in  
14 incorporating these nine row houses really help to activate  
15 this alley and make it a secondary streetscape off of the  
16 main street.

17           Okay. Thank you.

18           Yes, and these are -- there's a series of solar  
19 studies here just showing because of the distance from the  
20 adjacent properties there's really no impact in terms of the  
21 shading or access to light and air. So there's a series of  
22 these here. You can just move through those.

23           Next slide, please?     This is at fall equinox.

24           Next slide?     Winter solstice.

25           Next slide?     And spring equinox. And again, it's

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1 just because of the distance from all the adjoining  
2 properties there's not -- there's very minimal impact.

3 Next slide, please? Thank you.

4 MS. WILSON: Thank you, Michael. That concludes  
5 our presentation. We're happy to answer any questions.

6 CHAIRPERSON HILL: Okay. I see -- oh, Dr. Imamura  
7 is with us, right? I think he is.

8 Okay. I saved that document earlier just because  
9 architectural plans are help -- it's helpful to have you with  
10 us on this one particularly when there has been a discussion  
11 or more input from the Office of Planning. I'm looking to  
12 my fellow Board Members to help me with this analysis. And  
13 so we may not get to a decision today, which is also fine,  
14 but to really kind of have any questions that you have  
15 answered before we move on and before I get to the questions  
16 I believe that Commissioner -- can you hear me, Commissioner?

17 MR. WILLIAMS: Yes.

18 CHAIRPERSON HILL: Good. So, Chairman, you'll  
19 have an opportunity to give us your testimony and you can  
20 take as long as you like. Just let us know what you have to  
21 say.

22 MR. WILLIAMS: Well first of all, I want to thank  
23 you for the opportunity to address and come back and meet  
24 with you guys. And I want to thank the applicant for their  
25 acknowledgement of our letter and concerns.

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1 I appreciate what they have done in terms of  
2 reaching out to the various agencies, D.C. agencies and  
3 government agencies to ensure that they fulfilled all their  
4 compliance requirements and regulations. But my concern was  
5 that they did not reach out to the day care and they had not  
6 spoken to them about their concerns or met with them, nor  
7 have they -- the owner or the law office gotten back in touch  
8 with us.

9 As you may recall, Chairman, our last meeting I  
10 think was back in October where we postponed this meeting and  
11 I was assured that Mr. Specht and others would be getting in  
12 contact with us to discuss our concerns and be able to  
13 address the issues that we were having at that time. And  
14 that had not happened. I think I received an email or  
15 something this past week which was for me and the Commission  
16 a little disingenuous because prior to our meeting in January  
17 we had heard nothing, we had seen nothing, we had gotten  
18 nothing.

19 And in speaking with the director and the vice  
20 chair of the day care, Sunshine Day care, which has been  
21 there for over 50 years, they had informed us that no one had  
22 reached out to them and spoken to them. And they became very  
23 concerned about the traffic in the alley, the number of units  
24 that were going to be built and the amount of traffic that  
25 that could produce, as well as the fact that their parents

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1 and the children come down that north alley and the gate that  
2 is on the -- I'm categorizing it as the north alley and the  
3 west alley.

4           The west alley is the alley that the development  
5 would actually take place on. The north alley is the alley  
6 that it tees into. That north alley, there's a gate there  
7 that is where the preschoolers and I think pre-Ks -- they  
8 enter into. And from speaking to the director and the vice  
9 chair of Sunshine a lot of the parents walk down that alley  
10 and/or if they're driving to work, they drive and they will  
11 park along that fence line and along the wall to let their  
12 kids out and get in.

13           And the concern with the -- from the day care is  
14 that with those additional nine units you have a minimum of  
15 nine cars, but possibly double that with two cars. And the  
16 other concern is that those cars may use the alley as a  
17 parking lot and try to park in front of the units and then  
18 possibly even use the grassy area that adjacents the  
19 construction where -- just before the parking lot, they will  
20 use that. They were also concerned with added trash and  
21 other components that would come with just traffic in the  
22 area.

23           And so they voiced those concerns to us, but they  
24 were adamant of the fact that they had not spoken with anyone  
25 from the development. I explained to them that I was

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1 anticipating speaking with the developer and discussing those  
2 issues with them, but that never happened before our meeting  
3 in January, and had not happened subsequent to that meeting  
4 in January.

5           And so while a single-family house certainly would  
6 be to a disadvantage in terms of the cost prohibitiveness,  
7 certainly a single family compared to nine town houses is  
8 certainly a different animal in terms of traffic and the  
9 concerns that the day care would have, as well as the  
10 Commissioner who's in the area, as well as the Commission as  
11 a whole.

12           So the Commission when we met in January to  
13 discuss it after having just intimate conversations  
14 throughout and waiting to hear back from I believe Mr. Specht  
15 and/or Mr. Sullivan we took it upon ourselves to meet again  
16 and to address it because I believe we thought the hearing  
17 was in January, not realizing it was in February. January  
18 14th. February 14th. We realized it was February 14th, but  
19 we still took the liberty to meet in January to discuss that  
20 because we felt that there was plenty of time to have an  
21 opportunity to speak with the development to discuss these  
22 issues and concerns and to have me personally reaching out  
23 to I think Mr. Specht be email, text message, and phone calls  
24 and receiving nothing back. That was just concerning to us  
25 and disingenuous to the extent that they would then reach out

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1 to us a week before this hearing.

2           So for us, we voted five to zero to oppose the  
3 development for the concerns that the day care provided to  
4 us recognizing that the children's concerned in that area  
5 walking back and forth as well as just other areas of that  
6 lot and the construction, the heavy equipment, knowing that  
7 Mr. Specht said there's going to be a stick building, meaning  
8 that it was not prefab framed. They were going to literally  
9 be framing from the ground up, pouring their concrete. I'm  
10 not sure if there's a basement level on the units or not, but  
11 the heavy equipment that will be coming in to excavate the  
12 ground coming through. Those are all concerns that the  
13 director Ms. Bell, and the vice chair Ms. Mack had concerning  
14 this development. And we decided to embrace those concerns,  
15 accept those concerns, and issue our opposition to that  
16 development.

17           CHAIRPERSON HILL:       Okay.       Thanks, Chairman  
18 Williams.

19           Ms. Wilson, can you hear me?

20           MS. WILSON:    I can, yes.

21           CHAIRPERSON HILL:    Yes.    I know you guys came on  
22 later to this project. All right?

23           MS. WILLIAMS:    Yes, and I think Mr. Sullivan was  
24 on it and then --

25           (Simultaneous speaking.)

1 CHAIRPERSON HILL: How long ago did you guys get  
2 hired?

3 MS. WILSON: So we were hired I think in April of  
4 last year. We did attend an ANC meeting in May. I think  
5 they voted to support it at some point, maybe in September.  
6 So we've attended multiple ANC meetings. And then we had a  
7 letter of support. But then in October -- well, I was on  
8 maternity leave for this. And then Mr. Sullivan took over.  
9 And we had the support at that time. And then he did reach  
10 out to the Commissioner I believe after the meeting just  
11 saying we would be in touch. And then we obviously explained  
12 to the owners to get in touch with the ANC.

13 I think a CMA-type of agreement was sent to them  
14 at one point. And I don't know if we ever got on the same  
15 page with that, but of course it seems like that is something  
16 that could be very helpful in this scenario and continued  
17 discussions to make sure any -- if this approved any  
18 conditions of approval would adequately address the concerns  
19 from the ANC and the day care, which seem to be about safety  
20 and construction.

21 CHAIRPERSON HILL: Commissioner, Chairman  
22 Williams, can you hear me?

23 MR. WILLIAMS: Yes, sir.

24 CHAIRPERSON HILL: Did you guys vote in favor at  
25 one point? I'm just unclear now.

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1 MR. WILLIAMS: We did. I believe I explained, I  
2 shared with you that my Commissioners were actually in  
3 opposition to this, but I was in favor of it after speaking  
4 initially with Mr. Specht and with the understanding that we  
5 were going to later communicate and work out any details.  
6 So rather than trying to hold anything up or delay, I asked  
7 my Commissioners to vote in favor of it and allow us to do  
8 that. We did do that. And subsequently attempts to have  
9 those communications --

10 CHAIRPERSON HILL: Okay. I got it.

11 MR. WILLIAMS: -- did not occur.

12 CHAIRPERSON HILL: No, that's great, Chairman  
13 Williams. I mean it sounds like this needs a little bit more  
14 discussion in a variety of ways. And so -- at least as far  
15 as -- we'll see how this goes with my colleagues.

16 Okay. So the Commissioner has now given his  
17 testimony. Before I get to questions if I could just get us  
18 through the Office of Planning.

19 Could I hear from the Office of Planning, please?

20 MR. LAWSON: Hi, good morning, Members of the  
21 Board. Joel Lawson for the Office of Planning standing in  
22 for the original case review manager for this case from way  
23 back when.

24 So as you noted, our report is a little bit  
25 unusual in this case. We were -- Office of Planning is

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1 essentially not in opposition to this project in concept.  
2 We felt that there were still some -- there was still some  
3 additional information that was needed and some additional  
4 justification that was needed, particularly with relation to  
5 the request for the relief, for the variance relief to  
6 subdivide the lot at all.

7 I think the applicant has provided some of that  
8 information today. In particular we were -- we had been  
9 pushing for additional comments from district agencies,  
10 particularly the agencies who have the most concern about how  
11 our alleys are used, and obviously life and safety issues  
12 that can be associated with that.

13 I understand that the applicant, just from their  
14 recent filings, has reached out to MPD and they didn't  
15 receive any comments, but we appreciate the effort. They did  
16 what are essentially positive comments from FEMS. A no  
17 comment tends to be a positive comment from FEMS, and I think  
18 that's helpful.

19 We were particularly interested in getting comment  
20 from DCWater because they've been interested in alley lot  
21 cases in the past. The applicant did provide some  
22 information that indicates they've been working with DCWater  
23 and the applicant may want to kind of round out a little bit  
24 what those conversations were, but at least from what the  
25 applicant provided to the record it didn't seem like there

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1 was an indication of opposition from DCWater.

2           And as we noted in our report, in some past  
3 instances and some conversations with DCWater they'd actually  
4 noted that there can be from a technical standpoint a  
5 preference for more than one property on an alley -- or  
6 sorry, more than one dwelling in an alley lot rather than an  
7 single dwelling. I was kind of hoping that comment would  
8 come forward from DCWater, but we haven't seen that yet.

9           The other aspect that was giving us a little bit  
10 of trouble was the economic analysis, which is an area where  
11 we tend to not go an awful lot in our review, but we were  
12 concerned that the analysis seemed to be -- trying to make  
13 a justification for the project that was proposed using  
14 economic analysis for the project that was proposed and that  
15 the economic impacts of a smaller more conforming project.  
16 A single-family dwelling would be significantly different.

17           Today in their testimony the applicant testified  
18 that that's not the case, that the costs associated with  
19 bringing utilities for one dwelling would be approximately  
20 the same. And they were saying prohibitively expensive for  
21 a single-family dwelling. And that is somewhat compelling  
22 additional evidence.

23           I think based on that we're getting more  
24 comfortable with a recommendation of approval of that aspect  
25 of the requested relief. As we noted in our report we have

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1 no concerns. We've recommended approval if the applicant can  
2 make that subdivision test, and if the more degrees that the  
3 applicant has met that subdivision test, we do not have a  
4 problem with the special exception relief requested for the  
5 new row house development in the RA-1 Zone. We're generally  
6 supportive of the site plan layout, the design. We're  
7 supportive of the parking on each individual site which  
8 should help to address some of the parking issues.

9           Unfortunately, we remain opposed to the  
10 recommended special -- or sorry, to the requested special  
11 exception relief from side yard. I think that maybe the  
12 applicant didn't quite understand or maybe we weren't quite  
13 clear on what we were suggesting in our report. They're  
14 creating a new subdivision here. And so they could create  
15 a subdivision that provides adequate lots that includes the  
16 five-yard -- sorry, five-foot setback for that north property  
17 line. It would probably mean adjusting many of the lot lines  
18 a little bit, but the lots currently exceed what we would  
19 expect, frankly, in this zone. So I think there is the  
20 flexibility to do that.

21           And the reason is that it gets to the intent of  
22 the provision. The provision for the alley lots is intended  
23 to provide a separation between the alley lot and the non-  
24 alley lots. Often that's very difficult to do because alley  
25 lots are often very, very small. In this case we have a lot

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1 that's very, very large. And it should be easy to  
2 accommodate that on the north property line as they've  
3 accommodated that on other property lines.

4 So I guess in summary I guess I can that we're in  
5 support of this application with that one exception for the  
6 side yard relief, which we recommend denial of. Thank you  
7 and I'm available for questions.

8 CHAIRPERSON HILL: Oh, gosh, thanks, Mr. Lawson.  
9 I actually understood everything you said. And so that's  
10 great. So it's only taken seven years of being on this  
11 Board.

12 So back to the applicant in a moment. And I will  
13 turn to my Board Members in terms of question.

14 I guess also, Mr. Seck, you don't need to respond,  
15 but you're also lucky that Mr. Lawson is here today. So I  
16 think that -- let's see, what was I going to say? Yes, okay.

17 What are my questions from my fellow Board  
18 Members? Yes, go ahead, Dr. Imamura.

19 MEMBER IMAMURA: -- John also has some questions,  
20 so I'll defer to the ranking member first.

21 VICE CHAIR JOHN: And I'll defer to the resident  
22 architect, so I'll ask my questions after you, Dr. Imamura.

23 MEMBER IMAMURA: Thank you, Madam Vice Chair.

24 Ms. Wilson or Mr. Seck, I think in general -- and  
25 to the architect Mr. Blake, I'm in agreement with the

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1 architectural vocabulary and materiality of the comments.  
2 Generally well and good. I know that it's been mentioned  
3 both in your testimony, Mr. Blake, as well as in the Office  
4 of Planning's report about the significant grade change.  
5 Just sort of curious. This is not a question, but I would  
6 think that because there is sort of a significant grade  
7 change I would have expected to see a grading plan. So  
8 should -- depending on which way the Board moves today,  
9 that's something that needs to be included in the record for  
10 sure. And that's something I would expect to see --

11 CHAIRPERSON HILL: May I interrupt you, Dr.  
12 Imamura real quick?

13 MEMBER IMAMURA: Yes.

14 CHAIRPERSON HILL: Ms. Wilson, can you take notes  
15 on all this because we're coming back? Okay?

16 Go ahead, Dr. Imamura.

17 MEMBER IMAMURA: As well as a landscape plan. But  
18 my question is -- and I'm in agreement with OP on the side  
19 yard relief for the northern-most lot, Lot A. And it seems  
20 to me, Mr. Blake, Ms. Wilson, Mr. Seck, that most of the  
21 units are pretty consistent in their arrangement.

22 So my question is -- I noticed you had mentioned  
23 there are seven row homes and we have a total of nine. So  
24 I'm curious, in terms of the iterations did eight not pencil  
25 out or -- I mean that would have provided adequate side yard

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1 relief. So knowing that you needed five feet, how did we end  
2 up with nine on Lot A?

3 CHAIRPERSON HILL: That sounds like a question to  
4 somebody. You want the architect or --

5 MEMBER IMAMURA: Yes.

6 MS. WILSON: Probably a question for Michael.

7 CHAIRPERSON HILL: Go ahead, Mr. Blake.

8 MR. BLAKE: I guess how you described it, it just  
9 didn't pencil out. We've talked about the significant costs  
10 of bringing utilities to this site. And so we -- because we  
11 are adjacent to that parking lot and because these are two-  
12 story buildings, we just didn't feel that the -- pushing the  
13 development up to that northern lot line would have much of  
14 an impact of the surrounding properties and was a reasonable  
15 special exception to ask for. We understand the comments we  
16 received on that so far. But really we just were trying to  
17 -- in terms of eight units versus nine units, I think the  
18 economics of that are clear.

19 MEMBER IMAMURA: I'm not sure that they are clear,  
20 Mr. Blake. And I would have wanted to hear a more compelling  
21 answer than we didn't feel that the special exception for the  
22 five-foot relief would be significant when essentially you  
23 have an entire lot here, sort of a blank canvas if you will,  
24 and the design solution was yours to make. So I remain  
25 unconvinced about that.

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1 Ms. Wilson, I see you have an additional comment.

2 MS. WILSON: Sure. Since we do have additional  
3 time I'm sure we can look into a potential solution for the  
4 side yard or justification in that time period.

5 MEMBER IMAMURA: Thank you, Ms. Wilson. I'm  
6 convinced that you have a good architect on your team that  
7 can find the five-foot solution to this. And that may impact  
8 either the -- without having to reconfigure many of the seven  
9 that you already have. It might impact the other two down  
10 south a little bit, but I'm convinced there's a design  
11 solution there to meet the five-foot setback.

12 That said, I think that I'm in agreement with the  
13 rest of what you've proposed, Ms. Wilson, and explained in  
14 your testimony. So since we do have a little more time, I'd  
15 like to see that happen as well as some additional good  
16 neighbor policy, as Chairman Hood would encourage after  
17 hearing Chairman Williams' comments.

18 So with that, Chairman Hill, I have no additional  
19 comments.

20 CHAIRPERSON HILL: Vice Chair John, you had your  
21 hand up I think?

22 VICE CHAIR JOHN: My question may have been  
23 answered, but I will ask one of Mr. Lawson.

24 Mr. Lawson, you said that the width of these units  
25 is a little larger than would be expected in that area. And

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1 my understanding is that they conform to the regulations.  
2 I'm not sure what you were suggesting.

3 MR. LAWSON: Thank you for the question. I was  
4 simply stating that at 22 feet -- that's a relatively  
5 generous width for a row house. Some of the other lots in  
6 the area are certainly kind of in that range as well, and  
7 sometimes smaller than that range. I was just simply  
8 suggesting there's probably some leeway to do some adjusting  
9 of some of the lot lines to allow that north property to  
10 provide the side yard that's required under Zoning. That's  
11 all.

12 VICE CHAIR JOHN: Thanks. And I've forgotten what  
13 the requirement is. Is it 1,800 feet or -- is it more than  
14 what the regulation requires, when you say it's a little  
15 generous? I don't have my analysis of the lot widths, but  
16 they seem to be fairly large town houses to me.

17 MR. LAWSON: Yes. And again, it wasn't really --  
18 I wasn't coming from a regulatory point of view is.

19 VICE CHAIR JOHN: Okay. Okay. I get it.

20 MR. LAWSON: I was really coming more from a  
21 practicality standpoint, that practically it looked to us  
22 like those lot lines could be adjusted to provide the side  
23 yard.

24 VICE CHAIR JOHN: So I'll ask Mr. -- the  
25 architect. You had a handy analysis there of the different

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1 development standards which I couldn't read for each of the  
2 lots. It was just -- there was a chart that showed all of  
3 the widths and lengths of the different lots. So maybe you  
4 could answer that question. I'm just trying to see if there  
5 would need to be relief from the Board if you could adjust  
6 those lot widths.

7 MR. BLAKE: You mean that we would need relief to  
8 address the lot widths? I mean, if we did it just across  
9 those seven lots to get five feet, it's -- we're talking  
10 about a few inches out of each lot. I think that the  
11 consideration here -- there's a square footage that we were  
12 trying to provide with these units just in terms of  
13 marketability and what's expected. And being limited to two  
14 stories on this and 20 feet in height just helped to inform  
15 the size of the footprint. But I think that we are talking  
16 about inches out of each lot and we could accommodate it if  
17 that's a condition of the approval.

18 VICE CHAIR JOHN: Okay. Thank you.

19 CHAIRPERSON HILL: Okay. Anyone else?

20 Okay. Mr. Young, is there anyone here wishing to  
21 speak?

22 MR. YOUNG: Yes, we have one witness signed up.

23 CHAIRPERSON HILL: Okay. Can we bring in that  
24 witness, please?

25 (Pause.)

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1 CHAIRPERSON HILL: Ms. Seegars, can you hear me?

2 MS. SEEGARS: Yes.

3 CHAIRPERSON HILL: Okay. Great. So if you could  
4 introduce yourself for the record, and then you'll have three  
5 minutes to give your presentation. And you can begin  
6 whenever you like.

7 MS. SEEGARS: Let me turn my video on. There we  
8 go.

9 CHAIRPERSON HILL: Oh, great. Perfect. Thank  
10 you.

11 MS. SEEGARS: Okay. I am a former ANC chairperson  
12 of ANC 8E. I am a proponent of the project by Rupsha 211 --  
13 2011, LLC at 4226 Rear 6th Street.

14 This area would benefit tremendously from this  
15 project. This project changed from apartments to houses on  
16 or about May 2003 -- '23. In Fairlawn at 22nd, Nicholas  
17 Street and Fairlawn Avenue there are 10 houses built in the  
18 alley just like this, very similar to this project, and there  
19 are more similarly being built in that area. As to  
20 appearance they look great and they are occupied.

21 As far as I know, this company is community-  
22 friendly. The company is not using government funding,  
23 however a potential low-income home buyer has various  
24 programs they can contact to get assistance.

25 I believe the question the Commission should be

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1 asking is would this developer accept a person who is using  
2 assistance from various programs such as Federal Housing  
3 Administration loans, Home Purchase Assistance Program, First  
4 Time Home Buyer Loans, DC Open Doors, Dc4me, Mortgage Credit  
5 Certificate, and Neighborhood Assistance Corporation of  
6 America, just to name a few.

7           What I know about the development is there are so  
8 many associated fees that it is not fair for some community  
9 members to demand excessive amounts of money that the company  
10 probably cannot afford, thereby it could very well be  
11 construed as extortion. As community people we need not be  
12 greedy. And I still think the government should provide  
13 extensive training to Commissioners to help them understand  
14 the actual costs of building houses and apartments.

15           As far as this small housing development being  
16 market rate, I believe the company would not be financially  
17 able to build it any other way, especially without government  
18 financing. Therefore, the buyers along with the  
19 Commissioners should seek out organizations and agencies to  
20 assist.

21           When it comes to fair and equitable housing, we  
22 must look at it from sellers' and buyers' viewpoint. At ANC  
23 8E's October 2023 meeting this project was approved at a  
24 public meeting after a motion was made. I had no idea they  
25 went back in.

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1           But as far as the day care, normally home owners  
2 are not reckless drivers and we should be aware that as we  
3 share the roadways we should be able to share the alleys  
4 without incident. And I am asking that you approve the  
5 special exceptions they are requesting. Thank you.

6           CHAIRPERSON HILL: Thank you, Ms. Seegars.

7           All right. Does anybody have any questions for  
8 the witness?

9           All right. Thank you, Ms. Seegars. Thank you for  
10 your testimony. And we also have the written record -- we  
11 already have the written testimony in the record.

12           MS. SEEGARS: Great. Thank you.

13           CHAIRPERSON HILL: Thank you.

14           Okay. Ms. Wilson, so what I heard is that Dr.  
15 Imamura would like to see a grading plan and a landscaping  
16 plan. You're going to go back I guess and see what you can  
17 do with regard to the request for the relief for the north-  
18 most lot, I believe, and you're going to see what you can  
19 about that. Then if you want to again work with the Office  
20 of Planning and just see if there's anything you can provide  
21 them.

22           And then, Mr. Lawson, if we could get an  
23 additional supplemental report from you, that would be  
24 helpful for what your thoughts are. So I'm going to try to  
25 see how this works. They I guess are going to try to figure

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1 out what they're going to do with the northernmost lot and  
2 give you any more information that you need.

3           So I mean I think that the arguments that they  
4 have been making for the variance do seem compelling in terms  
5 of like the number -- I know if Commissioner Miller were  
6 here, he would be asking quite a bit about the alley lots or  
7 something that he focuses on or has questions about. And so  
8 nonetheless it seems as though we might be going in a  
9 direction that's in favor of from the Office of Planning if  
10 they can deal with the northernmost lot.

11           Then also, Ms. Wilson, if you want to reach back  
12 out to Chairman Williams and see what they need to do or your  
13 client needs to do with regard to reaching out to the day  
14 care center and what we -- one way or the other, whatever  
15 kind of outreach they have, that would be helpful. And then  
16 also addressing some of those concerns, or at least  
17 mentioning some of those concerns about like parking that  
18 might happen from the owners either in front of their homes  
19 or along the fence and just kind of anything that you might  
20 be able to talk with Chairman Williams about that northern  
21 alley and the gate, I guess, in that regard.

22           Chairman Williams, am I missing anything?

23           MR. WILLIAMS; No, I think you've covered it well  
24 and I'm -- we're always open to meet and discuss all the  
25 concerns that Commissioners as well as the day care would

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1 have.

2 CHAIRPERSON HILL: Okay. Great. Thank you. I  
3 mean, it looks like in -- on paper it looks like a decent  
4 project for an unused portion of land.

5 So, Mr. Moy, if you could see when we might get  
6 information back from the applicant and then when we might  
7 be able to reschedule this after getting a supplemental from  
8 the Office of Planning and/or the ANC.

9 And, Ms. Williams, I'm going to -- I'm sorry, Ms.  
10 Wilson, I'm going to kick it back to you in that given that  
11 you probably have to go back before the ANC again, what do  
12 you think you might work out to get us back here again?

13 MS. WILSON: When is the next ANC meeting? That's  
14 the first question, if Commissioner Williams knows that  
15 offhand.

16 MR. WILLIAMS: It will be the first Monday in  
17 March. I think that's the 4th.

18 MS. WILSON: Okay. And, Michael, you would have  
19 -- all of the plans aren't changing that much. Would you be  
20 able to update the plans by about that week if we address  
21 those in a few weeks?

22 Okay. Great.

23 So any time after that day, the 4th.

24 CHAIRPERSON HILL: Commissioner Williams, do you  
25 think you can get them on the agenda for that next meeting?

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1 MR. WILLIAMS: I will certainly try to do that.  
2 I will, after this meeting of course, notify the  
3 Commissioners and let them know that this is coming about so  
4 we can see what's on the agenda currently. But I will  
5 certainly try to have an executive meeting with them or a  
6 meeting to accommodate their needs as well as our own.

7 CHAIRPERSON HILL: All right, Chairman Williams.  
8 That's very kind of you.

9 And so, Ms. Wilson, you still have to get all of  
10 this other stuff, right, in terms of the reaching out to the  
11 day care and all -- and so I'll let you work that through  
12 with Chairman Williams.

13 And you said the first Tuesday in March, Chairman  
14 Williams?

15 MR. WILLIAMS: First Monday. Our meetings are the  
16 first Monday of the month.

17 CHAIRPERSON HILL: The 4th of March?

18 MR. WILLIAMS: I believe so. Correct.

19 CHAIRPERSON HILL: So then if you somehow are able  
20 to get all of that by them by the 4th of March, then, Mr.  
21 Moy, I'll let you take it from there.

22 MR. MOY: Thanks, Mr. Chairman. On my calendar  
23 -- oh, wait a minute. I was looking at 2025. How odd?

24 Okay. Here we go. 2024. All right. March 4th.  
25 The chairman is correct. That is a Monday.

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1           Okay. I don't know if this is going to be  
2 workable or not because of the response timelines, but the  
3 earliest the Board could meet for a continued hearing, I  
4 believe -- did I hear that correctly --

5           CHAIRPERSON HILL: Yes.

6           MR. MOY: -- would be March the 20th. March 20th.

7           CHAIRPERSON HILL: Okay.

8           MR. MOY: Because if that's not doable, your only  
9 next doable date for a continued hearing would be April the  
10 10th.

11          CHAIRPERSON HILL: That's all right. How many  
12 cases do we got on March 20th? That's the one you're saying  
13 is somewhat doable?

14          MR. MOY: This case would be either the 9th or  
15 10th case.

16          CHAIRPERSON HILL: Okay. But no appeals?

17          MR. MOY: That's correct.

18          CHAIRPERSON HILL: Okay. And, Mr. Seck, I again  
19 don't want you to say anything. We're accommodating you guys  
20 like crazy. Okay? So just to let you know, right -- and  
21 you're -- this is a very good Valentine's Day for your  
22 company. So the 20th is -- no response necessary. The 20th  
23 is -- okay, the 20th is a Wednesday.

24                 So then if we come back here on the 20th, can you  
25 let everybody know, Mr. Moy, when we need paperwork or

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1 whatever?

2 MR. MOY: Yes, I was going to suggest -- tee this  
3 up for you, sir, then make whatever other adjustments you --  
4 (Simultaneous speaking.)

5 MEMBER IMAMURA: Mr. Chairman -- Mr. Secretary,  
6 I apologize for interrupting -- I am not available on the  
7 20th.

8 CHAIRPERSON HILL: Okay. Well, it's not as good  
9 a Valentine's Day then. Let's see. Let me just think. When  
10 are the next days, Mr. Moy, you said? It was April?

11 MR. MOY: I'm sorry, sir. I missed that.

12 CHAIRPERSON HILL: That's all right. You said the  
13 next day -- if we couldn't do the 20th, you said -- you  
14 started to say April.

15 MR. MOY: Yes, the next doable day would be April  
16 the 10th.

17 CHAIRPERSON HILL: Okay.

18 MR. MOY: If you proceed with April the 10th, this  
19 case would be your eighth case.

20 CHAIRPERSON HILL: Dr. Imamura, are you here on  
21 the 10th?

22 MEMBER IMAMURA: Well, I'm looking at that now.

23 CHAIRPERSON HILL: Yes, take your time.

24 MEMBER IMAMURA: Yes, I am available on the 10th.

25 CHAIRPERSON HILL: Okay. Great. All right. If

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1 we're coming back on 4/10, Mr. Moy, for a continued hearing,  
2 then when do we need all of our information, please?

3 MR. MOY: Okay. April 10th. Okay. Let me work  
4 this backwards. Let's say responses by April the 3rd. Okay.  
5 And then March submission from the Office of Planning with  
6 their supplemental report by -- let's go Wednesday. Let's  
7 go March 27th. ANC report, since their meeting is -- ANC  
8 meeting is March 4th, they could submit their report let's  
9 say by the end of the week of March -- end of the week in  
10 March, which would be what, March the 8th? And for the  
11 applicant to make their filing, their submissions by let's  
12 say Friday, March the 1st.

13 CHAIRPERSON HILL: No, not March. Oh, yes.

14 MR. MOY: Earlier?

15 CHAIRPERSON HILL: No the ANC is not meeting until  
16 the 4th.

17 MR. MOY: That's correct.

18 CHAIRPERSON HILL: And you're saying -- oh, I'm  
19 sorry. Right.

20 Ms. Wilson, will that work for you guys?

21 MS. WILSON: Landscape, grading, plans submitted,  
22 and any adjustments by that day.

23 Michael, speak up if that's not possible.

24 And I've already reached out to the Commissioner  
25 to put us in touch with the day care, so hopefully we'll have

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1 some sort of agreement or a plan worked out before the  
2 hearing to do that.

3 CHAIRPERSON HILL: Okay. Mr. Blake, that's going  
4 to work for you?

5 MR. BLAKE: Yes, we'll get it done.

6 CHAIRPERSON HILL: Okay. Mr. Seck, I was kind of  
7 teasing a little bit, but if you could introduce yourself for  
8 the record real quick?

9 MR. SECK: Thank you, Chairman Hill. Good  
10 afternoon, Board Members. My name is Oumar Seck representing  
11 the owner.

12 CHAIRPERSON HILL: Great. So, Mr. Seck, this has  
13 been -- I don't know if this one's been one year -- one that  
14 has been around for a while. I think it has been. So what  
15 I would really encourage you is to make sure that this is as  
16 tidy as possible, and that means working with the ANC and  
17 anything that needs to happen before we're back here in April  
18 10th. Okay?

19 MR. SECK: Correct. Yes.

20 CHAIRPERSON HILL: So please work with your  
21 counsel to get everything squared away because -- yes, that's  
22 all. Okay, Mr. Seck?

23 MR. SECK: Yes, Chairman Hill. Will do.

24 CHAIRPERSON HILL: Okay. Great.

25 MR. SECK: Thank you.

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1 CHAIRPERSON HILL: All right.

2 MR. MOY: Mr. Chairman, I'm sorry to interrupt.  
3 Can I read this one more time --

4 CHAIRPERSON HILL: Sure. Go ahead.

5 MR. MOY: -- the timeline so there's no  
6 misunderstanding, or from any of my errors of course?

7 So the applicant would submit their filing by  
8 March 1st. ANC can submit their resolution or report by  
9 March the 8th. Office of Planning with their supplemental  
10 report by March 27th. And any responses from any of the  
11 above by April 3rd. Then a continued hearing scheduled for  
12 April the 10th. Am I missing anything?

13 CHAIRPERSON HILL: I'm not, unless any of my --  
14 the people that are this call, please speak up if you have  
15 any questions about those dates.

16 Okay. Chairman Williams, can you hear me?

17 Thank you for joining us. Thank you for taking  
18 the time.

19 Ms. Wilson, if you -- if no one needs anything  
20 else, I'm going to adjourn. So we're closing the record to  
21 end the hearing except for all those things that we asked for  
22 and we'll see you guys on the 10th.

23 MR. WILLIAMS: Very well. Thank you, sir.

24 CHAIRPERSON HILL: Thank you. Bye-bye.

25 MR. WILLIAMS: Bye-bye.

1 CHAIRPERSON HILL: All right. I'm looking at my  
2 fellow Board Members. This is taking longer than I thought.  
3 We have seven cases left, right? So do you want to try to  
4 at least do one more and then take lunch or do you want to  
5 take lunch?

6 Do one more? Okay. I'm getting kind of a nod  
7 from people. Okay. All right. Mr. Moy, you can do our next  
8 one, please.

9 MR. MOY: I apologize for getting my paperwork  
10 together here.

11 Okay. All right. Here we go. So the next case  
12 before the Board is Application No. 21003 of 1235 W ST, LLC.  
13 This is a request as a self-certified application pursuant  
14 to Subtitle X § 1002 for area variance from the lot occupancy  
15 requirements, Subtitle F § 210.1. Property located in the  
16 RA-2 Zone at 1235 W Street, NW, Square 271, Lot 79.

17 And if I can check one other thing -- so in  
18 addition to the applicant's team, Mr. Chairman, we also have  
19 witness testimony from two persons in opposition, a Robin  
20 Herman and a Todd Bukowski from my notes. So that's all I  
21 have for you, sir.

22 CHAIRPERSON HILL: Okay. Great. I got to look  
23 at my fellow Board Members. Had I thought that this case was  
24 next, I would have maybe rethought my decision on things.  
25 So give me one minute. Can we just take a quick break and

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1 come back? Okay? So just -- however you want to come back,  
2 but come back. Just a quick break. Okay? Thank you.

3 (Whereupon, the above-entitled matter went off the  
4 record at 12:17 p.m. and resumed at 12:24 p.m.)

5 CHAIRPERSON HILL: Okay. Mr. Moy, you can call  
6 us back, please.

7 MR. MOY: After a very brief break, Board has  
8 returned to its public hearing session, and the time is now  
9 at or about 12:24 p.m.

10 CHAIRPERSON HILL: Okay. Great. If the applicant  
11 can hear me, if they could please introduce themselves for  
12 the record?

13 MR. RUPPERT: Sean Ruppert. I own a development  
14 company in the city called OPaL.

15 CHAIRPERSON HILL: Hi, Mr. Ruppert.

16 MR. KADLECEK: Good morning, members of the Board.  
17 I'm Cary Kadlecek from the law firm of Goulston and Storrs,  
18 land use counsel on behalf of the applicant. I'm also joined  
19 off camera by my colleague, Lee Templin.

20 CHAIRPERSON HILL: Good afternoon, Mr. Kadlecek.  
21 Let's see, what was I going to say? Okay. Mr. Kadlecek, if  
22 you can walk us through your applicant's application and why  
23 you believe they're meeting the criteria for us to grant the  
24 relief requested? And you can begin whenever you like.

25 MR. KADLECEK: Thank you. Mr. Young, if you could

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1 pull up our presentation, please? Okay. Thank you. Good  
2 afternoon, again, members of the Board. For the record, Cary  
3 Kadlecek on behalf of the applicant. We're here today to  
4 present this application for an area variance from the lot  
5 occupancy standards to allow reconstruction of a 180-square  
6 foot addition on the second floor of a two-story building to  
7 match the existing 82 percent lot occupancy on the first  
8 floor. This truly minor relief will accommodate a four-unit  
9 residential building that otherwise conforms to the matter  
10 of right development standards of the RA2 zone.

11           Since our initial hearing date, ANC 1B  
12 reconsidered this application at their February 1st public  
13 meeting and voted to reaffirm their support for this  
14 application. Their updated report is at Exhibit 42 in the  
15 record.

16           And from here, I'll let Mr. Ruppert walk you  
17 through the project, and then I will discuss how the  
18 application satisfies the variance standards. Next slide,  
19 please, Mr. Young?

20           MR. RUPPERT: Hi, everybody. Again, my name is  
21 Sean. This is the property that we are -- that we've already  
22 purchased and that we plan to do four homes. Because it has  
23 a history recently as in the aughts and up to the 2005-2007  
24 timeframe, it was an active retail facility. And we are  
25 looking to return the bay window to the front portion where

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1 there front door is located and adding two bays to the side,  
2 and in that upper left-hand corner picture there, you can  
3 kind of see the addition that we are going to add over top  
4 of the orange painted area. That will be filled in. The  
5 orange painted area and the photo below, you can see that  
6 there's a three-foot parapet wall already existing. We would  
7 complete that with another three feet and put a roof over  
8 top. Just for reference, there's a picture further back in  
9 the submission that shows that this was already filled in  
10 with livable space as late as 2007. Next slide, please.

11 That's just the current situation, the current  
12 survey. The light gray area where it says Lot 79, that is  
13 the 180 square feet that we're looking to fill in on the  
14 second floor to match the first floor lot coverage. Next  
15 slide, please.

16 A rendering of the approved historically plan that  
17 we'd like to do, you can see the front bays have been  
18 restored, one front bay to the front of the building on W  
19 Street, two bays on the side, which is historically accurate  
20 with retail facilities at the time this was built in the late  
21 1800's, early 1900's. Next slide, please.

22 Another depiction. You can see that bay windows  
23 that have been added, we have minimized the front door  
24 penetrations that historic had asked us to do. So even  
25 though this center door where it's light blue in the middle

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1 there, that actually goes into two front doors inside. So  
2 there's a front door on this 13th Street side. There's a  
3 front door on the W Street side, and then one front door on  
4 the alley side. So we're not increasing any door  
5 penetrations to the building that's there now except for the  
6 one on the back of the building.

7 More importantly, shaded right here in the upper  
8 left-hand (audio interference), that light blue area, that's  
9 the 180 square feet that we are looking to match. That was  
10 built there in 2007 and had been since taken down. Next  
11 slide, please.

12 Just a site plan of the four units that we'd be  
13 building -- next slide -- and the units in question. So  
14 given our experience with building fee simple townhomes and  
15 condominium-style townhomes, that is what we have designed  
16 here. We are not a fan of doing apartments over top of one  
17 another just because of the sound transmission and fire  
18 safety. So these units are designed to be small townhomes.  
19 We feel that that's where the market will be with these  
20 priced -- where there'll be. We're expecting them to be in  
21 the mid-900s. The square footage on this rendering, each  
22 home is just a little bit under 1,000 square feet. The end  
23 units are a little bit bigger. Each unit stacks nicely on  
24 top of each other -- I'm sorry -- each of the floor -- each  
25 levels of each unit stack nicely no top, and then there's one

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1 demising wall that is also our fire-rated wall in between  
2 each unit. Next slide.

3 And I think, Cary, did you want to talk about the  
4 --

5 MS. KOSTER: Yes. Thank you, Sean. So that gave  
6 you our view of the project. So I'm going to go through the  
7 area variance standards and how this application satisfies  
8 them. But first, as the Board, of course, is well aware, it  
9 is an exceptional, extraordinary situation or condition that  
10 affects the property. We've identified six as the confluence  
11 of factors that lead to the practical difficulty in complying  
12 with the applicable lot occupancy regulation. The first is  
13 the larger lot area that complies with this property. It's  
14 much larger than subject lots in the square and in the block.

15 The second, which is a really important one that  
16 you'll see when we discuss about the practical difficulties  
17 is this building's prior use as grocery store. You can see  
18 the picture kind of just below, it's identified as a food  
19 mart, so it has a commercial history, which is unique to this  
20 row and to this block.

21 The third, it's a contributing structure in the  
22 greater U Street Historic District, and that leads to some  
23 of the practical difficulties that we'll discuss. The fourth  
24 is a prominent corner location and a larger building than  
25 others on the block and in the square. The fifth is the

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1 unusual configuration with a nonconforming first floor and  
2 rear bump out. This is the only building in the row that's  
3 configured like this, and it's one of the few in the block  
4 that even has a rear bumpout. So it really truly is a unique  
5 building for where it's located. And then finally, it's  
6 unique for having doors on both 13th on two sides, entry  
7 doors, which is a remnant of its nonresidential grocery store  
8 past. Next slide, please.

9           So the practical difficulty we sort of categorize  
10 into two buckets that the court of appeals has repeated  
11 endorsed as what can be identified as a practical difficulty  
12 when satisfying the variance test. One is efficiencies and  
13 design and expense and inconvenience to the applicant. The  
14 second budget that we'll discuss is difficulty complying with  
15 building code requirements. A couple of additional  
16 considerations that the court of appeals has endorsed and  
17 supported with area variance applications: one, that the  
18 applicant does not bear the burden of considering all  
19 possible alternatives. The Board is tasked only with  
20 evaluating the proposed project, and we'll discuss that more  
21 later; the second being that restriction is unnecessarily  
22 burdensome, not impossible and finally, that the Board may  
23 consider the degree of relief when evaluating a variance  
24 request.

25           And I'm going to say multiple times, we are asking

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1 for relief for 180 square feet to recreate a condition that  
2 existed as late as 2007. Next slide, please.

3           Turning to the practical difficulties that relate  
4 to inefficiencies in design and expense and inconvenience to  
5 the applicant, there are four of these practical difficulties  
6 that we've identified. These are color-coded to sort of help  
7 you be able to see them on the drawing to the right. The  
8 drawing on the right is if this building were demised to four  
9 units in the existing structure, i.e., without the relief  
10 being requested. The first has to do with structural  
11 supports and plumbing not stacking. I think that that goes  
12 without saying when those things don't stack, it creates a  
13 lot of building inefficiencies that add expense, add time,  
14 and add inconvenience to the applicant's ability to construct  
15 the project.

16           The second is the additional door penetrations on  
17 13th Street that Mr. Ruppert referenced earlier. The door  
18 penetrations are in green. In the middle of the main floor,  
19 you can see how there are two of them there to be able to  
20 access each of the units. That is the result of the unusual  
21 configuration of the first floor as opposed to the upper  
22 floor, and that also explicitly goes against what both the  
23 HPO staff and the ANC requested, which was to minimize the  
24 number of penetrations on 14th -- oh, no -- 13th Street.  
25 That relates directly to this building, of course, being a

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1 prominent owner structure having a history of commercial  
2 building already having penetrations on the 13th Street side  
3 and the, of course, its presence in the historic district  
4 where something like door penetrations relate to  
5 compatibility with the historic district.

6           The third practical difficulty has to do with the  
7 bedrooms being the practical size of 9 by 9 feet. This, as  
8 you can see in the red circles, it's a little small I  
9 realize. But what the red circle shows on each of those  
10 cellar floor plans where the bedrooms are located and then  
11 the upper floor plans where the bedrooms are located is that  
12 you can't fit a bedroom and the minimum stair clearance that  
13 is needed to access each of those. So you need 9 by 9 to be  
14 able to fit reasonably a queen size bed and then a side  
15 table. And because of the shifting that results from the  
16 underlying floors which were, of course, a result, as we  
17 discussed, from its unique history as a commercial building  
18 that has that much larger bump out and then just the  
19 underlying floors. That's a unique characteristic of this  
20 building. You can't reasonably make a bedroom that has  
21 closets and is able to fit a bed because of this necessary  
22 stair clearance that just can't be adjusted for  
23 accessibility, for code reasons.

24           The final practical difficulty resulting in an  
25 inefficiency in design is that the HVAC chase doesn't fit.

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1 So when I go to the next slide, you'll see how it works but  
2 essentially, here, because of the misalignment of the  
3 demising walls, you can't have an HVAC chase that all the way  
4 up in a straight corridor to the roof where the HVAC unit  
5 would be located, because it would then penetrate common  
6 spaces, break up spaces in the middle of each unit because  
7 of the misalignment of the floor plans. Next slide, please.

8           So this is just as a frame of reference. Out of  
9 all those things, a simple 180-square foot addition are  
10 easily rectified. The first is that the structural support  
11 and plumbing stacks cleanly down through the units. You can  
12 see those are the blue squares. Those are identified as to  
13 how the plumbing stacks through the units. The green, as Mr.  
14 Ruppert discussed previously, is the single penetration that  
15 allows access to two units off of 13th Street. The red is  
16 how the building -- the bedrooms can now meet the 9 by 9  
17 minimum in order to allow closets and accommodate a queen  
18 size bed. And then finally, the purple is the HVAC chase,  
19 and you can see in each floor, how it aligns up the center  
20 of the unit all the way to the roof to allow for an HVAC  
21 condenser on the roof. Next slide, please.

22           The second bucket, if you will, of practical  
23 difficulties that we identified have to do with difficulty  
24 complying with building code requirements. This is a little  
25 more technical and so I'll do my best to explain it and, of

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1 course, happy to answer questions. The first has to do with  
2 greater fire separation. So of course, there are fire  
3 separations that are required between each unit. When you  
4 have misaligned demising walls like is shown here -- and  
5 again, this is in the building as if it were demised into  
6 four units in the existing structure without the relief --  
7 you have to have greater -- you have to have fire separations  
8 not only in the vertical walls that separate the units but  
9 then in the floor of the misaligned units. So that's  
10 outlined in red in the units. So you can see on the main  
11 floor there's two units where you have to basically put a  
12 fire separation in the ceiling of the main floor or the floor  
13 -- the upper floor depending on how you look at it. But as  
14 Mr. Ruppert can explain better than I can, the two-hour  
15 assemblies that -- for the fire separation can't be  
16 accommodated in a horizontal assembly. They can only be  
17 accommodated in a vertical, so there's no way to do the two-  
18 hour fire separations in a horizontal way, which is what's  
19 identified in that red square. And of course, as a code  
20 reference, the fire assemblies are IBC Section 708.

21           Related to the fire separations, which is number  
22 2 and the green, is to the sound attenuation levels. Code  
23 requires that the sound attenuation is a minimum of 50 STC,  
24 which stands for sound transmission class. Mr. Ruppert is  
25 the expert in the development the community can talk about.

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1 That's effectively not much sound attenuation. To have any  
2 reasonable sound attenuation, you need a minimum of 60 bends  
3 of sheath by the two-hour fire assemblies. They work hand-  
4 in-hand. But as I was discussing earlier, that can be  
5 achieved in a horizontal plan, so you're not able to then  
6 have the appropriate level of sound attenuation between units  
7 at a horizontal plane. So for any of those units where  
8 there's horizontal separation as opposed to -- in addition  
9 to vertical separations, that's a problem.

10           The third has to do with the support beams that  
11 would be required to support the demising walls between the  
12 units that are misaligned. So those areas that are outlined  
13 in orange, that's where support beams and poles would be  
14 needed to support the walls above. And what that does is  
15 then it breaks up the space. So you can see how it kind of  
16 breaks up in the Unit C. It breaks up the space where the  
17 kitchen is. In Unit B, it breaks up, again, the space in  
18 kind of the living room. In the cellar, it breaks up the  
19 spaces for the bedrooms. So it really creates problems  
20 where, by code, you have to have these support beams for the  
21 walls above, but then, of course, they break up the spaces  
22 below where those support beams and poles are needed.

23           Finally, the kitchen layout is impractical because  
24 of -- in Unit A because of code requirements or code  
25 restrictions that you can't put plumbing in bays because it's

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1 in public space. So that effectively renders that unit --  
2 you can't really design a kitchen that works in any sort of  
3 reasonable way, because you can't put plumbing in that  
4 space. And that's something that the architect studied  
5 pretty extensively. Next slide, please.

6 This is just an illustration, again, of what's  
7 being proposed with the relief, the 180 square feet of  
8 relief. How -- the fire assemblies are now solely in  
9 vertical walls. You don't have to worry about being able to  
10 achieve the two-hour fire assemblies. Two-hour fire  
11 assemblies, again, it's for greater safety between the units,  
12 and it's also for the best sound attenuation through the  
13 units. Same thing, as I mentioned, the sound attenuation,  
14 the units aren't broken up by having to have the support  
15 beams and poles in between the units. And then, of course,  
16 the kitchen layout for Unit A is much more feasible because  
17 you can -- live in space of the kitchen but still not have  
18 the plumbing in the bay window area. Next slide, please.

19 So the last part of the variance test is no  
20 substantial detriment to the public good. First, the design  
21 is more aesthetically compatible and efficient. As  
22 discussed, when you are able to stack everything, it makes  
23 the construction much faster, much more efficient, much more  
24 feasible, must more cost effective, also decreases  
25 construction time or the impacts to the neighborhood from the

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1 construction.

2 HPRB has approved this design. It's compatible  
3 to historic district. The ANC supports the project. There's  
4 no adverse impact on the neighboring properties. Again, this  
5 a tiny addition that's being sought. There's no impact on  
6 neighboring properties. OP acknowledged that in their  
7 report.

8 And as Mr. Ruppert referenced, and as you can see  
9 in the photo here, this is recreating a situation that  
10 existed as late as 2007. So any assertion by neighbors that  
11 this has an adverse impact which frankly, doesn't really have  
12 any merit because this is a condition that once already  
13 existed, and it's simply extending a lot occupancy that  
14 exists already and has for a very long time on the first  
15 floor. Next slide, please.

16 And then finally, with respect to the last part  
17 of the variance test is that it will not substantially impair  
18 the zone plan. First point is that RA2 zone is intended for  
19 multi-family use. This addition allows for the conversion  
20 of a property into a multi-family building. It's designated  
21 as residential moderate density on the future land use map.  
22 The proposed density is within the matter of right RA2  
23 standards Consistent with that, find it furthers the goals  
24 of the zoning regulations as identified in Subtitle A,  
25 Section 101.C about enabling multi-family use of land in

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1 close proximity to transportation and recreation, which is  
2 one of the goals of the zoning regulations.

3           And finally, most importantly, the zoning  
4 regulations specifically contemplate and allow for expanding  
5 nonconforming buildings under Subtitle C, Section 202.2.  
6 This building is not increasing or extending a nonconformity.  
7 As we've discussed, this lot occupancy already exists on the  
8 first floor. We are simply asking to extend the second floor  
9 to meet an existing nonconforming lot occupancy on the first  
10 floor. That is consistent with what the zoning regulations  
11 and the zone plan allows for and it's certainly something  
12 that is contemplated here.

13           So with that, we'll conclude our direct  
14 presentation, and we are happy to answer any questions.

15           CHAIRPERSON HILL: Okay. Before I move on, let's  
16 go ahead and hear from the Office of Planning.

17           MS. MYERS: Good afternoon. Crystal Myers for the  
18 Office of Planning. The Office of Planning is recommending  
19 denial in this case. While the request is relatively small,  
20 it still must comply with the variance test. An area  
21 variance requires that there be an extraordinary or  
22 exceptional situation or condition on the property or the  
23 building that results in a practical difficulty. Most of the  
24 factors identified by the applicant as exceptional or unique  
25 are not considered unique by OP. OP does not see how these

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1 add up to exceptional circumstances resulting in a practical  
2 difficulty in using the property in a way that is consistent  
3 with the zoning.

4           This is a large building on a large lot that can  
5 accommodate a larger development program than usual for the  
6 zone. It can be converted into an apartment building without  
7 variance relief. The applicant's difficulties appear to be  
8 due to their development program exceeding the building's  
9 capacity and not related to a problem with the building or  
10 the property itself. Though the upper floor has a lower lot  
11 occupancy than the lower floor, both floors considerably  
12 exceed the lot occupancy limits of the zone. The requested  
13 relief would make this nonconforming building more  
14 nonconforming without being justified by satisfying the first  
15 two prongs of the variance test, which will substantially  
16 impair the intent and the purpose of the zoning regulations.

17           As for the information about the addition back in  
18 2007, OP is unaware of any permit related to that and it  
19 appears it may have been done illegally. And with that, I  
20 will conclude the OP testimony on this.

21           CHAIRPERSON HILL: Okay. Thank you, Ms. Myers.  
22 Thank you for your report. Does anybody have any questions  
23 of the applicant? Go ahead Vice Chair John.

24           VICE CHAIR JOHN: Excuse me. So this is for the  
25 architect. So I appreciate all of the discussion, especially

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1 concerning the structural difficulties. But I'm still having  
2 difficulty relating to the 180 square feet, and it seems to  
3 me -- is this a complete renovation of the interior? I don't  
4 know how the 180 square feet relates to all of the practical  
5 difficulties. And I know that was the bulk of your  
6 presentation, but it really went by me and that's the  
7 difficulty I'm having cause if this is just a small area at  
8 the rear, I don't know what the issue is.

9 MR. KADLECEK: Maybe need more specifics but I'll  
10 answer that generally first. The 180 square feet is  
11 meaningful because it allows for the two floor plates on the  
12 first and second floors to match each other. And all the  
13 cascading issues that we identified as practical difficulties  
14 result from the misalignment of the two floors. Trying to  
15 put four units into a misaligned building between the floors  
16 creates a whole cascade of issues that we've identified.

17 Now we also have some rebuttal to OP's report, but  
18 maybe we should get -- answer the question. I'll stop there  
19 and let Sean explain it a little but more why this seemingly  
20 small amount of square footage is directly related to why it  
21 creates a practical difficulty and how it allows then for a  
22 much more feasible development plan.

23 VICE CHAIR JOHN: Thank you. So --

24 MR. RUPPERT: And I can actually answer --

25 VICE CHAIR JOHN: -- I don't --

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1 MS. RUTAN: Oh, sorry.

2 MR. JOHNSON: -- I don't remember if I -- I  
3 probably did but it was late - so I don't recall what's there  
4 now, how the units are configured now, why that current  
5 configuration wouldn't work and why we need this 180 square  
6 foot?

7 MR. RUPPERT: It's a --

8 VICE CHAIR JOHN: Go ahead.

9 MR. RUPPERT: -- single family home now -- it's  
10 a single-family row home now.

11 VICE CHAIR JOHN: Okay.

12 MR. RUPPERT: So it's zoned -- we can do up to  
13 nine units would asking for BZA forgiveness if we did not  
14 enclose that rear balcony to match the lower level. There's  
15 one demising wall, the rear wall that's there now, that  
16 wouldn't change. Everything else in our plan would change  
17 on the interior except for the middle level floor and the  
18 entry level floor. The other demising walls would all be  
19 removed except for the rear wall. So when we tried to make  
20 four units, four vertical units work in this particular  
21 situation, we're adjusting the floor plates so that they're  
22 not level or not even to be over top of each other where the  
23 two R-rated firewalls would also create a greater sound  
24 protection between units. I've sold homes that are 50 LCC,  
25 and they are not -- the 50 is -- it shouldn't even be a thing

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1 in code. It doesn't -- you can hear washer/dryers. You can  
2 hear people walking up and down the stairs. So our choice  
3 to deal with the two-hour rated firewall is actually better  
4 for fire protection and better for sound transmission.

5           So when you go to shift those plates over, it's  
6 just becomes -- it's impossible to do a two-hour rating in  
7 a wood structure -- a two-hour rated firewall with a wood  
8 structure. So our choice is to do that other.

9           And just to reply to Crystal, and quoting, the  
10 problem is our programming. That's literally what everyone  
11 today was talking about is how their program needs to be  
12 adjusted to fit in with the zoning, and that's why we're here  
13 is because the program, so -- which is interesting to me.  
14 So I hope I answered that question about the 180 square feet.  
15 It just makes every unit a square to sit over top of each  
16 other.

17           VICE CHAIR JOHN: And --

18           MR. RUPPERT: I can try again.

19           VICE CHAIR JOHN: -- and if you were to do three  
20 units, would you still need relief?

21           MR. RUPPERT: If we went to do three vertical  
22 units, yes.

23           VICE CHAIR JOHN: Okay.

24           MEMBER SMITH: And what -- just a follow-up quick,  
25 Ms. John. And why would you need relief for three? We

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1 haven't seen the plan or any discussion of the reason why you  
2 can't do three?

3 MR. RUPPERT: Well, the same question should have  
4 been asked to everyone else that presented today that needed  
5 -- that their program didn't fit within zoning, so the Teass-  
6 Warren plan today should --

7 CHAIRPERSON HILL: Hey, Mr. Ruppert -- Mr. Ruppert  
8 -- Mr. Ruppert, hold on. Give me a second. Mr. Ruppert, I  
9 got to tell you, I like your company. I like the development  
10 work that you do. I'm thinking of one that happened over in  
11 Naylor Court, I think it was, you know, not that long ago.  
12 It was a lovely design. So Mr. Kadlecik is here as your  
13 attorney to help kind of guide you through this process.

14 MR. RUPPERT: Okay.

15 CHAIRPERSON HILL: You're here for a variance  
16 which is not some little what you think you might need or not  
17 need, right? It is a difficult bar for us to walk through.  
18 And the Office of Planning also, we all want everything --  
19 it makes sense also, right, you just get to do your 180  
20 square feet. I have a question when I get to finish all my  
21 other people but basically, what I'm saying, all those other  
22 cases and everything you've watched before, I can refer you  
23 to a whole bunch of unhappy people. And then, you know, you  
24 can also join the unhappy people group. So, you know,  
25 there's both sides to all this, but I do want to point out

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1 I think you got a nice company, nice development work, and  
2 we'll see how this goes.

3 So Mr. Smith, you had a question?

4 MEMBER SMITH: That was my question but I guess  
5 Mr. Ruppert didn't necessarily answer it. And in reference  
6 to what -- of the case of you're specifically speaking about,  
7 that, again, was not a variance request that that Mr. Rupert  
8 was discussing as part of their programming. That was a  
9 special exception request to potentially redesign. And even  
10 that request wasn't necessarily -- at the end of the day to  
11 reduce the number of units in that case, it was to probably  
12 more so to redesign, so it wouldn't necessitate a special  
13 exception.

14 MR. RUPPERT: Right.

15 MEMBER SMITH: Again, you're requesting a variance  
16 before us, not a special exception.

17 MR. RUPPERT: Right.

18 MEMBER SMITH: And the way that -- and to me, I  
19 can't get past what I'm struggling with because of a putting  
20 a rectangle here into something the size of a square. The  
21 zoning regulations do not require -- there isn't a minimum  
22 number of units that you have to put into the space as a  
23 single-family home. You're -- to me, from my standpoint, I'm  
24 struggling with this question of whether you're creating your  
25 own practical difficulty by attempting to put in four units

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1 instead of three. And from this testimony that I'm hearing  
2 now, I'm still not sold that that's not the issue.

3 MR. KADLECEK: Can I address that point, cause I  
4 think it sort of underlies a lot of the discussion, Chairman  
5 Hill? Or do you want --

6 CHAIRPERSON HILL: Yes. Go ahead, Mr. Kadlecek.

7 MS. KOSTER: So I appreciate -- Mr. Smith, I  
8 appreciate what you're asking. I think there's a difference  
9 between questioning the program and questioning the design  
10 of the elements. And what I mean by that is we -- and we  
11 issued an extensive research on area variances granted in the  
12 residential zones over the last three years. In each of  
13 those cases, the applicant presented a development program  
14 and asked for a variance, but there was no question about the  
15 program. So for example, an applicant in a case that was  
16 very similar to ours wanted to expand their primary bedroom  
17 and asked for lot occupancy relief to expand the second floor  
18 to match the nonconforming first floor, to expand the  
19 bedroom. No one asked them why do you want to expand your  
20 bedroom.

21 In another case, there was a proposal -- let me  
22 just look at my notes here -- to construct a brand new 16-  
23 unit residential building, brand new construction. They  
24 asked for area variance relief from the side yard  
25 requirement. No one questioned why do you need to do 16

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1 units. Now you can say why can't you design the building  
2 differently, why can't you change this portion of the  
3 building, but no one said why do you need to do 16 units.

4 In another case, there was conversion into a  
5 three-unit building, and they asked for lot occupancy relief.  
6 There was no question about why even three units versus two.  
7 The question was why can't the building elements be adjusted.

8 So I subpoena all this because the four units -  
9 and the Court of Appeals has endorsed this policy -- the four  
10 units is the program that we are presenting with and  
11 proposing to the Board. Now you can say within those four  
12 units, can you reconfigure it so they work better. Yes.  
13 That is absolutely something that is fair for the applicant  
14 to have to at -- and certainly, the applicant has looked at  
15 this in this case. If they could have made it work, we  
16 wouldn't be here. They -- certainly, no one wants to go to  
17 the BZA if they don't have to.

18 So I think we have to be very clear that the  
19 program, the development program is supposed to be evaluated  
20 on its face and within that, the elements about how that  
21 program is oriented works. But there is a long line of BZA  
22 cases -- there are, I think, 15, in fact, from the last three  
23 years where area variances have been granted, and the  
24 development program was never questioned, merely the elements  
25 of the design of the building itself. So I'll leave it at

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1 that.

2 MEMBER SMITH: I would disagree with you --

3 VICE CHAIR JOHN: Fine distinction and maybe we  
4 did not ask our questions artfully, but I guess the way I  
5 asked it originally or the architect is really what I'm  
6 struggling with. And by asking the question about three  
7 units, I guess I was trying to get at whether or not the  
8 variance would still be -- those structural conditions would  
9 still be applicable. And so I was getting at the structural  
10 issues as opposed to how many units cause this --

11 (Simultaneous speaking.)

12 VICE CHAIR JOHN: -- an air variance, not a use  
13 variance. So that's my two cents. I yield back to you, Mr.  
14 Chairman.

15 CHAIRPERSON HILL: Mr. Smith is going to -- well,  
16 before I give it to Mr. Smith -- Mr. Smith, if you can just  
17 hang on for one second. So if you pull up the presentation,  
18 Mr. Young, the second one, I think, and go to slide 4?

19 MR. YOUNG: Second one?

20 CHAIRPERSON HILL: Maybe it's the first one then.  
21 Is that 4? It's the one that has the red lines on it. It  
22 says proposed plan, red lines. No. Maybe one more. Maybe  
23 one more. There you go. So this is what I'm trying to  
24 understand, Mr. Kadlecek. You need to explain it to me. So  
25 the 180 square feet is in the blue box, no?

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1 MR. KADLECEK: No. The 180 square feet, if you're  
2 looking at upper level, the right-hand side --

3 CHAIRPERSON HILL: Yes.

4 MR. KADLECEK: -- the 180 square feet is roughly  
5 the back, I don't know, half or third of that unit in the  
6 upper right corner. Is that about right, Sean?

7 MR. RUPPERT: Yes. On the right-hand side of that  
8 image, the top floor, half of that floor would be outside.

9 CHAIRPERSON HILL: The top right?

10 MR. RUPPERT: Yes. Where the bathroom is on the  
11 right-hand side.

12 CHAIRPERSON HILL: Yes. In the upper level?

13 MR. RUPPERT: Yes.

14 CHAIRPERSON HILL: I got you.

15 MR. RUPPERT: So --

16 CHAIRPERSON HILL: And my --

17 MR. RUPPERT: -- basically --

18 CHAIRPERSON HILL: -- so what I -- I'm just asking  
19 a question real quick. So what I was just trying to  
20 understand is that how come you guys just can't do these red  
21 lines, and then you still build what you would build in that  
22 unit, but that unit would just have 180 square feet less in  
23 the top floor?

24 MR. RUPPERT: Because it would be a one-bedroom  
25 as opposed to a two-bedroom.

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1 CHAIRPERSON HILL: Correct. So that's the reason  
2 why?

3 MR. RUPPERT: Right.

4 CHAIRPERSON HILL: Okay. And I understand all of  
5 the arguments that you're putting forward for why it would  
6 work, but the problem that I'm getting is that it would work.  
7 You just would only have the one-bedroom unit on that --

8 MR. RUPPERT: Yes. It would be a one-bedroom in  
9 the basement.

10 CHAIRPERSON HILL: Right.

11 MR. RUPPERT: We wouldn't have to be here, right?

12 CHAIRPERSON HILL: Right. No, I know. And so --  
13 and Mr. Ruppert, as I'm sure Mr. Kadlecek has told you also,  
14 like even after you guys did this or do this, if this were  
15 to work, you'd still have to wait for the order to be  
16 written. And so that also takes time. But okay.

17 MR. RUPPERT: Yes. I know. Like and to answer,  
18 we can design three homes in here, four homes and even five  
19 homes and not be here having that end unit on the alley, just  
20 have a bedroom in the basement. So we even have another plan  
21 with five units that does not need BZA. It just -- it feels  
22 like a four-unit home, a four-unit project is better for the  
23 market, so that's all.

24 CHAIRPERSON HILL: Yes. And Mr. Ruppert -- and Mr.  
25 Kadlecek knows this -- like I mean we're not -- we don't do

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1 this just because we want to say no to stuff; right? And so  
2 like we're just trying to figure out whether or not we can  
3 agree with the argument that you're putting forward.

4 MR. RUPPERT: Right.

5 CHAIRPERSON HILL: So Mr. Young, you want to drop  
6 that slide? Okay. So before I get back to other stuff, is  
7 there a -- Mr. Young, is there anyone here wishing to speak?

8 MR. YOUNG: (Audio interference) witnesses signed  
9 up.

10 CHAIRPERSON HILL: Okay. Can I -- can we have  
11 those witnesses please come forward? Okay. I've got -- is  
12 it Ms. Herman? You're on mute, Ms. Herman.

13 MS. HERMAN: Okay.

14 CHAIRPERSON HILL: Great.

15 MS. HERMAN: My name is Robin Herman.

16 CHAIRPERSON HILL: Ms. Herman, just give me one  
17 second. Just to let you know again, introduce yourself, give  
18 us your address, please, and then you'll have three minutes  
19 to testify.

20 MS. HERMAN: My name is Robin Herman. I live at  
21 2213 13th Street, which is four houses up from the alley from  
22 the subject property. I've been a property owner there for  
23 more than 30 years, and I really appreciate the quality and  
24 character of the neighborhood. I think this conversion from  
25 a single-family to four units would affect the character of

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1 the neighborhood and contribute -- would be in detriment of  
2 the public benefit.

3           First, let me address the Office of Planning  
4 recommendations. They have the expertise in this area that  
5 I lack. Therefore, I defer to their judgment, and I echo the  
6 questions of several of the Board members here about why do  
7 they need to design this with so many units when they could  
8 propose a design that has fewer units or a different  
9 configuration.

10           I do, however, disagree with the Office of  
11 Planning about the detriment to public benefit. Our block  
12 is a very special block. It is one of the few in the history  
13 -- historical district that has had no facade changes and has  
14 all original buildings. We would like to keep it that way.  
15 I do not recall any major renovations in 2007, and the Office  
16 of Planning has found no permits, so I really question the  
17 argument that it was there before; therefore, let's do it  
18 again.

19           I think to the public detriment is the idea that  
20 single-family houses are not being supported and more  
21 importantly, we already have terrible trash, recycling, and  
22 rat problems. Adding additional residents, this would only  
23 exacerbate this issue. We also have difficulties with  
24 parking which would be exacerbated by that density as well.

25           I would also like to mention that I don't think

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1 the ANC reconsideration met the notice requirements, and it  
2 should be considered invalid. Although they had noticed the  
3 meeting properly, they did not include this project on their  
4 agenda. It was added as new business right after the January  
5 31st hearing postponed consideration. Therefore, there was  
6 still little community input. The people who offered  
7 testimony were limited to two minutes apiece. There were  
8 five or six -- I think five neighbors who are in very close  
9 proximity to the subject property who testified in  
10 opposition. There was no testimony in support of the  
11 project. Our ANC single member district commissioner, he  
12 opposed the project. And I think great weight should be  
13 given to the neighbors in close proximity as opposed to the  
14 general approval. I guess that's my time.

15 CHAIRPERSON HILL: Thank you, Ms. Herman. Thank  
16 you so much.

17 MS. HERMAN: One more thing, please?

18 CHAIRPERSON HILL: Yes.

19 MS. HERMAN: I submitted written arguments and I  
20 request that they be put into the record.

21 CHAIRPERSON HILL: I believe they are in the  
22 record, but I'll let my --

23 MS. HERMAN: Cause I submitted them late. They  
24 were reiterating my original support. I submitted something  
25 this morning.

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1 CHAIRPERSON HILL: I think -- okay. Well, Mr.  
2 Moy, if you could look into that? Mr. Bukowski, can you hear  
3 me? Just real quick, Ms. Herman. I see your information in  
4 the record unless you submitted something new.

5 MS. HERMAN: Yes. I did a second submission, a  
6 supplemental submission this morning.

7 CHAIRPERSON HILL: Okay. All right. Then Mr.  
8 Moy, if you want to go ahead and add that into the record?  
9 Mr. Bukowski, if you want to go ahead and introduce yourself  
10 and give your testimony, please?

11 MR. BUKOWSKI: Certainly. Good afternoon, members  
12 of the Board. I am Todd Bukowski. I reside at 2207 13th  
13 Street NW. That's an adjacent property. I'm an opponent to  
14 the variance request. I have already submitted my written  
15 testimony, but I have some additional items, and I'll quickly  
16 gloss over some of the items that are in the written  
17 testimony.

18 I do want to say the neighboring properties,  
19 specifically mine and that at 1233 W Street will be adversely  
20 affected by the proposed area variance request due to the  
21 rear expansion, it will negatively impact adjacent neighbors  
22 in terms of access to light and privacy of use and enjoyment.  
23 I'll talk about the privacy use and enjoyment first.

24 The privacy of use and enjoying neighboring  
25 properties shall not be unduly compromised. A single-store

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1 portion at the rear of the applicant's property is  
2 nonconforming in its 12-foot rear setback. The applicant is  
3 requesting a variance to build a second story on top of it.  
4 The applicant's property currently consists of a solid wall  
5 at the rear of the property, and that facade will now be  
6 replaced with a main entrance and five new windows facing the  
7 adjacent property. The project proposes to add three of  
8 these new windows on the second floor addition area. That's  
9 the area being requested for variance relief.

10           These three new second-story windows will be just  
11 20 feet from 2207 13th Street residential windows, 20 feet  
12 with a direct line of view at the same level into the second-  
13 story windows of 2207 13th Street where my children's  
14 bathroom and bedroom are located. Now to put this distance  
15 into perspective, a person with 20/20 vision can see what an  
16 average individual can see on an eye chart when they are  
17 standing 20 feet away, an eye chart. That's pretty detailed.  
18 In addition, these windows at 2207 are the only source of  
19 natural light into these rooms, and this will have a  
20 substantially adverse effect on the privacy of use of  
21 enjoyment of our adjacent property.

22           Second item, the light and air available to  
23 neighboring properties shall not be unduly affected. The  
24 neighbor to the east at 2233 W Street is affected by the  
25 portion of the addition for which relief is being sought.

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1 The proposed addition extends -- fairly extends 14 feet  
2 passed the rear wall of the adjacent property. As the  
3 applicant or Mr. Kadlecek had stated, property extends well  
4 beyond all the contiguous properties on W Street. And this  
5 will shadow the rear of 2233 W Street property, impact the  
6 adjacent neighbor's access to light, specifically their first  
7 and second floor rear windows and rear yard. They will be  
8 shadowed significantly in the afternoon.

9 I will kind of reiterate again in regards to the  
10 detriment to the public good, which Ms. Herman had said. The  
11 parking pad, which is -- well, there are currently two  
12 parking pads, if you would. One is actually -- was built  
13 illegally which extends to the street. There will be a  
14 minimum of eight trash receptacles, one trash, one recycle,  
15 and of course, there will be more occupants in the building  
16 as well. If you look at the --

17 CHAIRPERSON HILL: Mr. Bukowski -- excuse me, Mr.  
18 Bukowski, sorry to interrupt you. If you could just -- you  
19 ran out of time. If you can just wrap up?

20 MR. BUKOWSKI: Oh, sure. So practical difficulty,  
21 I do agree with the OP that I think that the practical  
22 difficulty that's proposed by applicant is self-imposed. And  
23 again, I do reiterate and actually with Ms. Herman, that the  
24 ANC report is somewhat prejudiced. The meeting was not  
25 properly noticed.

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1           And I think finally, just to again with the public  
2 good, just let's keep in mind we have 400 -- within 400 feet,  
3 we have 322 housing units going into the Reeves Centers, of  
4 which 30 percent will be affordable for households making 30  
5 percent of the median family income. So the need for, you  
6 know, nine units, you know, to contribute to --

7           CHAIRPERSON HILL: Okay. Mr. Bukowski --

8           MR. BUKOWSKI: -- underlying housing -- I wrapped  
9 it up. Sorry.

10          CHAIRPERSON HILL: Okay. Great. Thank you. All  
11 right. Does anybody have any questions for the witnesses?  
12 Okay. Thank you all very much for your testimony. It helped  
13 shed some light into the little -- of the neighborhood. And  
14 Mr. Young, if you can please excuse the witnesses?

15          Okay. All right. I don't know if you guys -- so  
16 do you all need anything? Do you all want anything? I'm  
17 looking -- and I'll let Mr. Kadlecek have the rebuttal you  
18 had, Mr. Kadlecek, I believe?

19          MR. KADLECEK: Yes. I'll just make a couple of  
20 comments with respect to the OP report. The first thing I  
21 wanted to point out is that I think it would be tenuous, at  
22 best, for the Board to rely on the OP report, because it  
23 doesn't give a full sum analysis of the application. For  
24 example, we cited two exceptional conditions; one relating  
25 to the property, the building's prior use as a grocery store,

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1 the presence of doors on 13th and W Streets. Neither of  
2 those are addressed in the OP report.

3           With respect to practical difficulties, we talked  
4 about the two-hour fire separation assemblies, the great --  
5 the ability to achieve the greater STCs, the need for  
6 additional support beams for the underlying demising walls,  
7 the additional door penetrations, the HVAC chase, and the  
8 kitchen layout. None of those practical difficulties are  
9 analyzed in the OP report, so I don't see how the decision  
10 could be based on a report that doesn't give full  
11 consideration to everything in our application.

12           And then I already referenced this about the  
13 program, and we're happy to follow-up with somebody in the  
14 record of our analysis of all the prior BZA cases that we  
15 looked at that looked at area variances and whether the  
16 development program was questioned or whether the actual  
17 design of the elements within that are questioned. And as  
18 I mentioned, in none of the cases that we found that granted  
19 area variances was the program questioned. It was more about  
20 the design of the elements. And I think that while yes, of  
21 course, every application should be considered on its own,  
22 the element of the variance test should be applied equally.  
23 And if in all of those prior cases, all the 15 prior BZA  
24 cases that we looked at, the building program wasn't  
25 questioned, that same principle should apply in this case as

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1 well.

2           So when you sort of take that principle off the  
3 table insofar as this is the program that the applicant has  
4 proposed as the best for this building, you look at the  
5 practical difficulties that we've presented, they satisfy the  
6 variance test. So I will leave it at that, but I'm happy to  
7 answer anything else, and we're happy to provide additional  
8 information into the record.

9           CHAIRPERSON HILL: Okay.

10          MEMBER IMAMURA: Chairman, I do have one --

11          CHAIRPERSON HILL: Yes.

12          MEMBER IMAMURA: -- question.

13          CHAIRPERSON HILL: Sure. Go ahead.

14          MEMBER IMAMURA: Thank you for your indulgence.  
15 Mr. Ruppert, just to clarify, while I know you've been  
16 watching previous cases, I did question the program. And so  
17 I want to make sure that that's very clear to you.

18           You did mention two things; one, that it is  
19 conceivable to have three complete units -- three complete  
20 2-bedroom units and one 1-bedroom unit that would still  
21 achieve, obviously, the two-hour fire rating as well as the  
22 STC class. But you had also mentioned that you have another  
23 design iteration with five units. I'm just curious. What  
24 does that look like? You said you would not come before the  
25 BZA. You said well, this just --

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1 (Simultaneous speaking.)

2 MEMBER IMAMURA: -- feels like a four-unit -- you  
3 know, and I think it's a -- what you propose is an elegant  
4 design solution, so I have no issues with light, air, shadow,  
5 none of that. What the challenge here is overcoming the  
6 variance, the three-prong test for the area variance as Board  
7 Member Smith said, it's sort of, you know, the -- sort of  
8 creating a problem here by suggesting well, it's to get that  
9 fourth unit. Obviously, HPRB feels that it's an elegant  
10 design solution as well, but I'm curious. What does that  
11 five-unit solution look like that doesn't require the BZA?

12 MR. RUPPERT: Sure. Thanks. So the four, four  
13 of them would be in the existing body of the building, and  
14 there would be four two-bedroom vertical homes, each with a  
15 two-hour firewall. Then there would be a fifth unit at the  
16 end on the alley that would have one bedroom in the basement,  
17 a living level, and then a roof deck where that little roof  
18 deck is right now on the second level. That's -- and we  
19 could build that without coming to the BZA.

20 MEMBER IMAMURA: Right.

21 MR. RUPPERT: Just it feels like the market would  
22 be better off with four 2-bedroom homes that are a little bit  
23 bigger, but we have the five-unit one in our back pocket.

24 MEMBER IMAMURA: Okay. I appreciate that  
25 response. Obviously, you know, DC is suffering from a

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1 housing shortage and, you know, we want to achieve additional  
2 housing where we can and where it makes sense and within the  
3 regulations. And so that's -- you know, we try to get to yes  
4 and again, you know, as OP had stated, perhaps that roof deck  
5 was enclosed at some point, you know, but without a building  
6 permit. So this is a tough one for me personally. I think  
7 got a nice design solution, but I'm not sure that I'm  
8 convinced quite yet. But thank you for answering my response  
9 -- or my question.

10           CHAIRPERSON HILL: Okay. Thank you. All right.  
11 So this wasn't a quick one before lunch. I don't need  
12 anything, surprisingly. So if you all need anything, raise  
13 your hand. Okay. All right. Mr. Ruppert, I already paid  
14 complements to your company, and I wish you success. You  
15 made me think about going to get a sandwich at SUNdevICH, and  
16 so I'm going to do that right after this. And so Mr.  
17 Kadlecek, also a pleasure to see you. I'm going to excuse  
18 you both, close this hearing and the record.

19           Okay. If I thought I was somehow going to get to  
20 yes, I would have asked for further stuff and strung this  
21 along. I don't want to string it along unless you all are  
22 somewhere getting to yes. And then since I've been talking  
23 about it and Mr. Smith does such a lovely job, or Mr. Smith,  
24 would you like me to take the first pass? I can do that  
25 also. I will take the first pass.

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1           So it is not that -- I mean I -- first of all,  
2 again, like I learned some things about like firewalls and  
3 some -- like three homes, four homes that I have owned have  
4 had awful sound conditions where I heard like telephones and  
5 all kinds of stuff, and these were expensive condominiums.  
6 And so I, whatever, complement the builder for trying to, you  
7 know, do this. I mean again, the practical difficulty, I  
8 think that the argument that was being made, that I can even  
9 kind of get -- that I was even starting to get on board on  
10 was that if we could -- wrote it out -- right -- the Board --  
11 and this is something actually for OAG -- I'm sorry -- for  
12 OZLD to look into for next time, cause I'm kind of curious.  
13 The Board may consider the degree of relief when evaluating  
14 a variance request and lessen the burden accordingly? I  
15 don't remember that one before, but if it's possible, I'd  
16 like to know whether that is possible.

17           The problem that I was having with it is that, you  
18 know -- and again, it's an area variance, so it's a practical  
19 difficulty. It's not that they have to do something else.  
20 The 180 square feet, like they can build that unit. It'll  
21 just be a one-bedroom in the basement unit with a living room  
22 and a deck. It's not as good a unit or, I guess, compared  
23 to the other ones, but it can be done. So right there that  
24 kind of throws the practical difficulty out for me. And  
25 whether or not they meant to say it this way, whether I got

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1 it wrong -- I don't think I did -- they can still build the  
2 firewalls. They can still do everything they want. It's  
3 just -- and I'll let the architects and people nodding right  
4 now tell me if that's wrong. They can still build everything  
5 they want, and they just don't get that two-bedroom unit.  
6 The argument was is this better. Nobody was talking about  
7 the program or whether the program's good. The program's  
8 better with a two-bedroom unit. It's just that it can't meet  
9 the variance test, the area variance test, in my opinion, for  
10 us to grant the relief.

11           So I'm voting no, and I just want them to get to  
12 wherever they're getting the decision, because the other  
13 thing is that even if there were a yes, the orders still  
14 would have to be written. That's still however long that's  
15 going to take, and that's still before they're going to get  
16 to build the thing. So if I were them, I'd get -- so they're  
17 going to get an answer right now, it sounds like, for at  
18 least this step. But again, I've already said very nice  
19 things about the builder and even the attorney. So who wants  
20 to go next? Okay. Vice Chair John?

21           VICE CHAIR JOHN: (Audio interference) however  
22 inartful they were to try to get to the practical difficulty  
23 with the 180 square feet, and I think what helped me was the  
24 slide that you asked them to show, Chairman Hill, but I can't  
25 quite remember the number of that slide. But it was the one

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1 that showed the soundproofing in red and all of that, and  
2 it's where the applicant stated, yes, we could achieve all  
3 of the structural issues that we identified as a practical  
4 difficulty, but then we would just get this one-bed -- we  
5 would not get the one bedroom and so that would not be  
6 optimal. So for me, I can't see the practical difficulty  
7 there, because it would -- they would probably lose the  
8 bathroom or something. It would not be optimal.

9           But the applicant, I think, admitted there were  
10 other design solutions that would not require an area  
11 variance. And I fully appreciate that the standard is only  
12 a practical difficulty, but I am having difficulty getting  
13 to a yes on this one, not because I don't like the design,  
14 because I think it's -- you know, it looks good. It's just  
15 that the Board has to comply with the regulations and try to  
16 interpret them in a way that is reasonable. And so that's  
17 where I am. I don't know what anybody else thinks. That's  
18 it for --

19           CHAIRPERSON HILL: You're about to find out, Ms.  
20 John, I guess. So Mr. -- let's leave Mr. Smith last. He  
21 took a big leap for us earlier today. So Dr. Imamura?

22           MEMBER IMAMURA: Great. Thank you, Mr. Chairman.  
23 We'll get to Board Member Smith very quickly. I agree with  
24 Vice Chair John and her analysis as well as yours, Mr.  
25 Chairman. It's a nice design solution but that's not what

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1 we're here to evaluate, so I don't think that they reached  
2 the practical difficulty test. And even they stated that  
3 themselves in that they could till achieve the realignment  
4 of the floor plate. So on the heels of the Super Bowl, that  
5 was sort of their Hail Mary here, but it just didn't stand  
6 up to the test. So Board Member Smith.

7           MEMBER SMITH: I think I took a big leap even in  
8 this testimony here. To me and really everything within the  
9 record, it seemed to me even before hearing the case that  
10 this was fairly straightforward case from the standpoint of,  
11 you know, just reading the staff report. I did struggle with  
12 the applicant's position on how they meet the practical  
13 difficulty test. And I agree with everything that's been  
14 stated by all of my colleagues here. It is a beautifully-  
15 designed building. I like -- and kudos to the applicant and  
16 to the architect for, I think, putting forward a very  
17 elegantly-designed building that meets, I think, the spirit  
18 and intent of also what HPRB wanted to see in an addition to  
19 a historic building within a historic district.

20           But based on the information that was presented  
21 to me, at the base, this design was more so primarily an  
22 economic argument. But based on what was -- what the  
23 applicant has also stated, there are other designs that they  
24 can pursue that, to me, shows that they do not have a  
25 practical difficulty in designing this property to -- that

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1 would not affect the program. Matter of fact, they can  
2 design this building with nine units and have x number of  
3 bedrooms on -- studio units. We're not getting into a  
4 question about the number of units, and I'm sorry that -- if  
5 the applicant seemed to think that we were trying to force  
6 them to reduce the number of units.

7           But to me, you can make this type of development  
8 work if they want to have a multi-family development, but may  
9 not necessarily be in the way that they can have a more  
10 elegant design. But they can have a reasonable development  
11 -- redevelopment for this particular property. They could  
12 create a multi-family building by their own admission.

13           So I do not believe that they have met the  
14 standard for us to grant the variance, and I would not  
15 support the request.

16           So kudos to Ms. Myers. Know, you know, a couple  
17 weeks ago, I had made a comment about the different projects,  
18 so kudos to her for writing a very succinct and well thought  
19 out.

20           CHAIRPERSON HILL: Okay. I make a motion to deny  
21 application 21033 as captioned and read by the Secretary and  
22 ask for a second. Ms. John?

23           VICE CHAIR JOHN: Second.

24           CHAIRPERSON HILL: Motion made and seconded. Mr.  
25 Moy, take a roll call?

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1 MR. MOY: If you would please respond to the  
2 motion made by Chairman Hill to deny the application for the  
3 relief that is requested. The motion to deny was seconded  
4 by Vice Chair John. Zoning Commissioner Dr. Imamura?

5 MEMBER IMAMURA: Yes to deny.

6 MR. MOY: Mr. Smith?

7 (No audible response.)

8 MR. MOY: Vice Chair John?

9 (No audible response.)

10 MR. MOY: Chairman Hill?

11 CHAIRPERSON HILL: Yes to deny.

12 MR. MOY: Staff would record the vote as 4 to 0  
13 to 1, and this is on the motion by Chairman Hill to deny.  
14 The motion to deny was second by Vice Chair John, who also  
15 voted to deny as was denial of the application from Zoning  
16 Commissioner Dr. Imamura, Mr. Smith, Vice Chair John,  
17 Chairman Hill. No other Board members participating. Motion  
18 carries, sir, 4 to 0 to 1.

19 CHAIRPERSON HILL: Okay, everybody. Okay. So we  
20 still got six cases left which surprises me. So let's try  
21 for 2:15 to get back after lunch. Okay? Thank you.

22 MR. MOY: Mr. Chairman?

23 CHAIRPERSON HILL: Yes, Mr. Moy.

24 MR. MOY: Just let our viewers know when you  
25 return from lunch, the next case would be 21038 of District

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1 properties, correct?

2 CHAIRPERSON HILL: Yes. Thank you.

3 MR. MOY: Thank you.

4 CHAIRPERSON HILL: Bye, you guys.

5 (Whereupon, the above-entitled matter went off the  
6 record at 1:27 p.m. and resumed at 2:20 p.m.)

7 CHAIRPERSON HILL: All right, Mr. Moy. You can  
8 start whenever you like.

9 MR. MOY: Thank you, Mr. Chairman. After our  
10 lunch recess, the Board has returned to its public hearing  
11 session. And the time is now at or about 2:20 in the  
12 afternoon.

13 The next case before the Board is Application  
14 21038 of District Properties, Inc. This is a self-certified  
15 application pursuant to Subtitle X, Section 901.2, special  
16 exception under Subtitle D, Section 5201.1 from the side yard  
17 requirements, Subtitle D, Section 208. Property located in  
18 the R-2 Zone at 1202 Eastern Avenue, Northeast, Square 5202,  
19 Lot 28.

20 And I believe -- let me check here. Okay. So as  
21 a reminder to you, Mr. Chairman, there's a concern about the  
22 relief that's shown in the record. But my understanding from  
23 the applicant is that that has been corrected as well as  
24 consistency with the plan and plats. But I would like to  
25 defer to the applicant when he speaks. Thank you, sir.

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1 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.  
2 If the applicant can please introduce themselves for the  
3 record.

4 MR. SECK: Yes, good afternoon, Chairman Hill.  
5 Good afternoon, Board members. My name is Oumar Seck  
6 representing District Properties for this project.

7 CHAIRPERSON HILL: Great, Mr. Seck. Can you  
8 clarify what Mr. Moy was just asking about?

9 MR. SECK: Yes, Chairman Hill. We received a call  
10 from zoning yesterday, and it was about Subtitle D, Chapter  
11 D, 208.2, which we referred to in our report. And it's  
12 supposed to be 208.3. So we made the correction on the  
13 report in the Form 135 as well and uploaded it yesterday.

14 CHAIRPERSON HILL: Okay, great, perfect. And then  
15 there was a question about the plans and the plat, if they're  
16 corrected accurate.

17 MR. SECK: Yes, the plans and the plats are  
18 correct, yes.

19 CHAIRPERSON HILL: Okay. I don't know what the  
20 discrepancy was that -- okay. All right. Okay. All right.  
21 Mr. Seck, will you walk us through the application and why  
22 you believe you're meeting the criteria for us to grant the  
23 relief? And I will let you begin whenever you like.

24 MR. SECK: Yes, Chairman Hill. Thank you again.  
25 This project is located at 1202 Eastern Avenue, Northeast.

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1 And we've taken a special exception for side yard relief from  
2 8:00 to 3:00. I do have a presentation that I sent to Mr.  
3 Young. If you could please share that.

4 CHAIRPERSON HILL: Okay. Mr. Seck -- oh, it is?  
5 Okay, gotcha. It is the record.

6 MR. SECK: Yes, it's in the record.

7 CHAIRPERSON HILL: Okay. Thank you.

8 MR. SECK: But it'll be brief. I won't be long.  
9 I know you have a long day today. So this is the project.  
10 Next slide, please, Mr. Young.

11 So this project we -- property we're proposing to  
12 build on is located at 1202 Eastern Avenue and next door to  
13 a senior family house. And this is a proposed semidetached  
14 home. The lot size is 20 feet in width. It's about 103 feet  
15 long.

16 And to build a reasonable house, we need a side  
17 yard variance from 8 to 3. On the other side, there's  
18 another lot which is not ours which is also 20 feet as it  
19 shows on the plan below on the right side. Then you have the  
20 apartment. Next slide, please. This will be the proposed  
21 building. It'll be 17 feet --

22 CHAIRPERSON HILL: Mr. Seck, you just disappeared,  
23 I think. Can you hear me? We lost Mr. Seck. All right.  
24 While we wait for Mr. Seck, Mr. Young drop that just for a  
25 second and let's hear from the Office of Planning.

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1 MR. JURKOVIC: Chairman Hill and members of the  
2 Board, my name is Michael Jurkovic, development review  
3 specialist with the Office of Planning. OP recommends  
4 approval of the special exception for side yard relief as  
5 requested by the applicant and stands on the record of the  
6 report. I am here to answer any questions.

7 CHAIRPERSON HILL: Okay. All right. I'll still  
8 wait for Mr. Seck. Oh, there's -- oh, no. I just see his  
9 face. Mr. Seck, can you hear me? Now you're on mute, Mr.  
10 Seck.

11 MR. SECK: Yes, Chairman Hill. I think things  
12 just switch over, but I'm fine.

13 CHAIRPERSON HILL: In the middle of your  
14 presentation, you were saying that the home is 17 feet wide?

15 MR. SECK: Yes.

16 CHAIRPERSON HILL: Okay. And it's a special  
17 exception, not a variance by the way.

18 MR. SECK: You're right.

19 CHAIRPERSON HILL: Okay. All right. Okay. All  
20 right. I see your presentation, Mr. Seck, and I'm running  
21 through it. Does the Board have any questions of Mr. Seck  
22 or the Office of Planning? Mr. Young, is there anyone here  
23 wishing to speak?

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: Okay. Mr. Seck, do you have

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1 anything to add at the end?

2 MR. SECK: Just that we had the support of the  
3 DCA, Deanwood Citizens Association, and also support from the  
4 ANC and the neighbor also on the left side of 1200 who  
5 supported this because there was some illegal activities in  
6 the back there that this will help resolve as well.

7 CHAIRPERSON HILL: Okay, great. All right. Well,  
8 thank you for adding that, Mr. Seck. Vice Chair John?

9 VICE CHAIR JOHN: Looking at the plat, Mr.  
10 Chairman. Am I correct that the lot is 20 feet wide, not 17?

11 MR. SECK: Yes, the lot is 20 feet, Vice Chair  
12 John.

13 VICE CHAIR JOHN: Okay.

14 MR. SECK: Twenty feet wide. But the building  
15 we're proposing will be 17 feet wide.

16 VICE CHAIR JOHN: Okay. Thank you.

17 MR. SECK: Sorry.

18 CHAIRPERSON HILL: Okay. Let me think. What was  
19 I doing here? Okay. All right. I'm going to go ahead and  
20 close the record and the hearing. Please excuse the  
21 applicant.

22 Okay. In this particular case, I would agree with  
23 the analysis that has been provided by the Office of  
24 Planning. I mean, it's a pretty narrow house. Well, not  
25 narrow to begin to with.

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1           But I mean, an additional 5 feet would make it  
2 only a 12 foot wide home. And I think that the additional  
3 5 feet of relief is not going to cause an undo impact. It  
4 is helpful to know that the neighbor on the left side is in  
5 agreement.

6           And this might solve some issues that they're  
7 having there beyond development issues and that the Deanwood  
8 Association has also chimed in with their support as well as  
9 the -- sorry, the ANC. So I'm going to go ahead and move  
10 forward and approve -- my vote will be to approve. Mr.  
11 Smith, do you have anything you'd like to add?

12           MEMBER SMITH: I don't have anything to add,  
13 Chairman Hill. I agree with your assessment of this  
14 particular case. And we'll give great weight to OP staff  
15 report with an application.

16           CHAIRPERSON HILL: Thank you. Dr. Imamura?

17           MEMBER IMAMURA: In agreement with your summary  
18 and everything that's been stated by Board Member Smith. I'm  
19 prepared to vote in support.

20           CHAIRPERSON HILL: Thank you. Vice Chair John?

21           VICE CHAIR JOHN: Thank you, Mr. Chairman. I'm  
22 in support and I agree with everyone's analysis so far.

23           CHAIRPERSON HILL: Thank you. I'm going to make  
24 a motion to approve Application No. 21038 as captioned and  
25 read by the Secretary and ask for a second. Ms. John?

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1 VICE CHAIR JOHN: Second.

2 CHAIRPERSON HILL: A motion made and seconded, Mr.  
3 Moy. Take a roll call.

4 MR. MOY: Yes, thank you, sir. When I call your  
5 name, if you'll please respond to the motion made by Chairman  
6 Hill to approve the application for the relief requested.  
7 Motion to approve was second by Vice Chair John. Zoning  
8 Commissioner Dr. Imamura?

9 MEMBER IMAMURA: Yes.

10 MR. MOY: Mr. Smith?

11 (No audible response.)

12 MR. MOY: Vice Chair John?

13 VICE CHAIR JOHN: Yes.

14 MR. MOY: Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MR. MOY: Staff would record the vote as 4 to 0  
17 to 1, and this is on the motion made by Chairman Hill to  
18 approve. The motion to approve was second by Vice Chair  
19 John. Vice Chair John also approved -- voted to approve the  
20 application as well as approval from Zoning Commissioner Dr.  
21 Imamura and Mr. Smith. Vice Chair John, Chairman Hill, we  
22 have no other Board member participating. Motion carries on  
23 a vote of 4 to 0 to 1.

24 CHAIRPERSON HILL: Great. Mr. Moy, you can call  
25 our next one.

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1 MR. MOY: The next case before the Board is  
2 Application No. 21046 of Elizabeth and Andrew Lyons, L-Y-O-N-  
3 S. This is a self-certified application pursuant to Subtitle  
4 X, Section 901.2 for special exceptions under Subtitle E,  
5 Section 207.5 to allow a rear wall of a row building to  
6 extend further than 10 feet. And under Subtitle E, Section  
7 5201.1 from the lot occupancy requirements of Subtitle E,  
8 Section 210.1, property located in the RF-1 Zone at 17 15th  
9 Street, Northeast, Square 1070, Lot 39. Other than that, Mr.  
10 Chairman, there is the applicant's team as well as the person  
11 signed up to give opposition testimony. Thank you, sir.

12 CHAIRPERSON HILL: Thank you, Mr. Moy. If the  
13 applicant can hear me, if they can please introduce  
14 themselves for the record.

15 MS. HARDWICK: Hi, Gay Hardwick, the architect for  
16 Liz and Drew Lyons. I'm trying to get my video to work. For  
17 some reason, it's not.

18 CHAIRPERSON HILL: All right. You can keep  
19 trying, Ms. Hardwick, as we kind of pull up your record here.  
20 So do you want to go ahead and walk us through your  
21 presentation as to why you believe your client is meeting the  
22 criteria for us to grant the relief requested? I'm going to  
23 put 15 minutes on the clock so I know where we are, and you  
24 can begin whenever you like.

25 MS. HARDWICK: Sure. So the project Liz and Drew

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1 would like to add one story, 7-foot addition to the rear of  
2 their existing three story plus penthouse that's fully  
3 attached. The current lot occupancy is 54.17 percent.  
4 They'd like to increase with a 7-foot addition that would go  
5 up to 61.61 percent, so a minor -- very minorly over the 60  
6 percent requirement.

7           On the south side of their house, there's already  
8 a 10-foot extension. On the north side of the house, that  
9 house is currently almost 21 feet back from their rear wall.  
10 They'd like to increase that to about 28 feet.

11           We have presented this project to the ANC and have  
12 their full support. Part of getting that support, including  
13 reaching out to numerous neighbors including the neighbor to  
14 the north, we have quite a few letters of support in the  
15 file. We were not able to get a letter of support from the  
16 north neighbor, but we didn't -- they just -- they wouldn't  
17 sign any letter, yay or nay or nothing. So --

18           CHAIRPERSON HILL: I'm sorry. You said north  
19 twice.

20           MS. HARDWICK: Yeah, so the north neighbor, we  
21 have not been able to get a letter of support from. But we  
22 haven't gotten any letter of support or any letter, period,  
23 from them. They're not for or against.

24           CHAIRPERSON HILL: No, no. But what about the  
25 south neighbor then?

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1 MS. HARDWICK: The south neighbor does have a  
2 letter of support and their building is already 10 feet past  
3 ours. So we would be aby 3 feet short of their rear wall.  
4 And they're in support of the project.

5 CHAIRPERSON HILL: Okay. All right. Can I turn  
6 to the Office of Planning? Is the Office of Planning with  
7 us?

8 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and  
9 members of the Board of Zoning Adjustment. I'm Jonathan  
10 Kirschenbaum with the Office of Planning. We recommend  
11 approval of this BZA case. Thank you.

12 CHAIRPERSON HILL: Thank you. All right. Does  
13 anybody have any questions for the Office of Planning?

14 MEMBER SMITH: I just have one question.

15 CHAIRPERSON HILL: Go ahead, Mr. Smith.

16 MEMBER SMITH: Would -- the architectural plans  
17 are kind of hard to read there. Would this addition abut the  
18 neighbor to the north detached lot?

19 MS. HARDWICK: Say it again. Would it attach to  
20 the --

21 CHAIRPERSON HILL: No, no. He's asking for the  
22 Office of Planning, right?

23 (Simultaneous speaking.)

24 MS. HARDWICK: Oh, sorry.

25 MEMBER SMITH: It could be either.

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1 CHAIRPERSON HILL: Okay. Go ahead, Ms. Hardwick.

2 MS. HARDWICK: No, this would not -- the addition  
3 would not attach the north neighbor's rear wall.

4 MEMBER SMITH: I was just trying to -- so you  
5 didn't get a letter in support from the neighbor to the  
6 north. But did they indicate -- did they provide any  
7 comments to you about their position on the addition? Did  
8 they have any concerns?

9 MS. HARDWICK: Yes, so the owner of the property  
10 is no longer in residence and I believe is elderly, no longer  
11 living in the property. My understanding is her relatives  
12 are in the property right now. And that's who my clients  
13 spoke with. They didn't want to speak for their parents one  
14 way or the other. But they did not voice opposition.

15 MEMBER SMITH: Okay. Thank you. That's all --

16 CHAIRPERSON HILL: All right. Thank you.

17 MEMBER SMITH: That's all I have, Chairman.

18 CHAIRPERSON HILL: Thank you. Mr. Young, if you  
19 could please bring in the witness.

20 MR. YOUNG: Yeah, we have two.

21 CHAIRPERSON HILL: Okay. Okay. Ms. Sonia  
22 Johnson, can you hear me?

23 (Simultaneous speaking.)

24 CHAIRPERSON HILL: Hi, great. If you can  
25 introduce yourself for the record and then you'll have three

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1 minutes to give your testimony, then you can begin whenever  
2 you like.

3 MS. SONIA JOHNSON: Thank you. My name is Sonia  
4 Johnson. I'm the oldest daughter for my mom, Sheila Johnson.  
5 And due to medical issues, she has not been in the home.  
6 She's been staying with me because she can't do the stairs.

7 Now we -- before the neighbor moved in to the  
8 home, I had issues with the builder. The builder blocked in  
9 our back yard. So we don't have another exit out of the back  
10 of the home.

11 He took and blocked in the easement. I had the  
12 city back in early 2000, mid 2000. I had the city do a  
13 search on their home. Now that garage thing that's blocking  
14 the back end is not -- there is no license or permit for it.

15 She went back all the way to, like, the '82, 1982.  
16 There's no permit, and it's still in the builder's name.  
17 It's something that the residents use as their -- as part of  
18 their home.

19 But it doesn't belong to them. It's still in the  
20 builder's name. Now my mom -- the city told me that my mom  
21 would have to get a lawyer and sue the neighbors. And the  
22 neighbors would have to, in turn, sue the builder because it  
23 shouldn't be there.

24 I mean, it's like a fire hazard. We can't get out  
25 the back at all. And I don't know if that would affect

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1 anything about them building out on their property. But  
2 there has to be a fix for that to come and get done.

3 My mom didn't do it back then because she didn't  
4 want to sue the neighbor. She wanted to try to find another  
5 solution. But that was back in, like, 2009, 2010, something  
6 like that.

7 CHAIRPERSON HILL: Okay, Ms. Johnson, which home  
8 are you speaking of?

9 MS. SONIA JOHNSON: Number 19, 15th Street  
10 Northeast.

11 CHAIRPERSON HILL: Okay. You're the property to  
12 the north?

13 MS. SONIA JOHNSON: Yes.

14 CHAIRPERSON HILL: Okay. All right. Okay, Ms.  
15 Johnson. Stick around. I think we're going to have some  
16 questions for you. Is Sandra Johnson, can you hear me? Are  
17 you there?

18 MS. SANDREA JOHNSON: Yes, it is pronounced  
19 Sandra.

20 CHAIRPERSON HILL: Oh, thanks, Sandra.

21 MS. SANDREA JOHNSON: Yes.

22 CHAIRPERSON HILL: You're not related to the other  
23 Johnson, correct?

24 MS. SANDREA JOHNSON: I am.

25 CHAIRPERSON HILL: Okay. So Sandra, do you want

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1 to give your testimony? You have three minutes also. Or is  
2 it the same testimony?

3 MS. SANDREA JOHNSON: Yes, sir. I would like to  
4 give testimony.

5 CHAIRPERSON HILL: Okay.

6 MS. SANDREA JOHNSON: Okay. So my name -- well,  
7 good afternoon, everyone. My name is Sandra Johnson. I am  
8 here on behalf of my grandmother, Sheila Johnson, who lives  
9 at 19 15th Street, Northeast.

10 Her parents -- her great grandparents -- well, my  
11 great grandparents purchased that home in the 1960s for  
12 12,000 dollars. So this home has been our legacy for our  
13 family for five generations. I just want to express growing  
14 up in the neighborhood.

15 It was indeed a community. We knew all of our  
16 neighbors by name. They were extensions of family for us.  
17 My grandmother was and is a beacon of that neighborhood, and  
18 she also purchased groceries for neighbors that was in need.

19 I went to all the neighborhood schools. So I'm  
20 just giving a back story of my upbringing in that  
21 neighborhood. Unfortunately when I went to high school,  
22 things changed in 2003, and that's when we started to see the  
23 gentrification and we started to see new development and  
24 renovations of buildings attached to my grandmother's home.

25 So witnessing something new was a breath of fresh

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1 air. But unfortunately, we started to see a shift where it  
2 was no longer a community. It turned into everyone for  
3 themselves, hence why I am here to speak on behalf of my  
4 family.

5 Contractors did take advantage of my grandmother's  
6 kindness in the past. When my mother, who just spoke, Sonia  
7 Johnson, they built a garage on my grandmother's property and  
8 completely blocked her in. We can only go in the front end  
9 of the house.

10 We cannot exit out the back. So we can only exit  
11 one way in and one way out. I am here because the new  
12 neighbors show that they only care about what serves them  
13 best. It no longer feels like a community.

14 It's no longer in good faith where people reach  
15 out to each other. I have been with my grandmother where we  
16 welcomed new neighbors and introduced ourselves. But  
17 unfortunately, that was the last time I've seen them. I have  
18 witnessed neighbors only contact my grandmother when they are  
19 in need of something concerning their home.

20 So my grandmother, again, she is elderly. She's  
21 75 years old. And I just wanted to express that I am here  
22 to oppose the new development of anything because I just feel  
23 like it's more so of an execution of people going around us  
24 rather than coming to us in good faith. So I hope my message  
25 and witness is clear. So thank you for your time, and happy

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1 Black History Month.

2 CHAIRPERSON HILL: Thank you, Ms. Johnson. And  
3 thank you also Ms. Johnson. Let's see. I don't know who  
4 would like to answer this. The garage -- Ms. Sonia Johnson,  
5 you had mentioned a garage or both of you had, that something  
6 is built in the back of your mother's/grandmother's home.  
7 But that's not this -- I just want to make sure I'm  
8 understanding. That's a different developer, correct?

9 MS. SONIA JOHNSON: So what was explained to me,  
10 yes, from when it happened. The builder that did both homes  
11 on either side of the house came to my mom and wanted to buy  
12 her home. She refused.

13 He said, well, I have another property you can go  
14 look at and we can do an exchange. We went and looked, but  
15 my mom said no. So because she refused, he took and removed  
16 the items that we had in the back and then blocked it in.

17 And it's been like that ever since. But there's  
18 no building permit. I'm not saying anything as far as  
19 against the neighbor because they weren't there when all this  
20 took place. These were the first home buyers that came in  
21 that was made aware of the situation. So no, that garage  
22 thing in the back in our easement to get out have been  
23 blocked in and locked out.

24 CHAIRPERSON HILL: Okay. Ms. Hardwick, can you  
25 hear me?

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1 MS. HARDWICK: Yes, I can.

2 CHAIRPERSON HILL: Do you understand anything  
3 that's going on and do you have something to say about it?

4 MS. HARDWICK: I do. I think I did. So Ms.  
5 Johnson, I believe the garage you're referring to is  
6 perpendicular to your lot and is at the back of your house.  
7 Is that correct?

8 MS. SONIA JOHNSON: Yes, ma'am.

9 MS. HARDWICK: Okay. So unfortunately, I feel  
10 horrible that someone did that to your property and to your  
11 home. But that is not attached to the lot in question, to  
12 my client's home or lot and is not -- my clients have nothing  
13 -- no control over that and nothing to do with it. We're the  
14 -- my clients own the lot directly to your south.

15 And that garage you speak of actually is on their  
16 side yard, I believe, like, the last ten feet of their lot  
17 as well. But we have no control over that and nothing to do  
18 -- we couldn't do anything with that garage even if we wanted  
19 to. And our project doesn't even remotely come close to  
20 affecting that.

21 CHAIRPERSON HILL: Okay. So you, Ms. Hardwick,  
22 you don't have any history to that garage that you can share  
23 with the Johnsons?

24 MS. HARDWICK: No. So I believe -- and Liz Lyons,  
25 please correct me if I'm wrong. But I believe that they are

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1 the first owners of the house that was built to the south of  
2 the Johnsons. And so when they moved in, they haven't done  
3 anything to the house that they bought or the lot.

4 CHAIRPERSON HILL: Okay, okay. So Ms. Johnsons,  
5 or first, I'll start with you, Ms. Sonia Johnson. So do you  
6 know about this project that they're doing and whether or not  
7 the extension that they're speaking of, you're opposed to  
8 that extension? Or you're just kind of opposed to them doing  
9 development with the property?

10 MS. SONIA JOHNSON: Well, I'm not opposed to  
11 anything that would further. So when I have the fire marshal  
12 schedule to come in to do a safety check and I know they're  
13 going to say something about that garage thing down at the  
14 end of our home to the south of our neighbor's home. I know  
15 that they utilize it because it's built for four homes.

16 So there's two to the right of us and two to the  
17 left of us. And they utilize that storage thing. So if they  
18 take and have them to knock that down or get rid of it,  
19 whatever they're storing in there, they're going to need to  
20 move. I mean, it's going to affect them in one way or  
21 another, whether it be -- it not be -- even if it's not for  
22 them to build out. That structure is going to end up having  
23 to come down.

24 CHAIRPERSON HILL: Ms. Hardwick, are you guys  
25 storing stuff in that garage? I don't understand.

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1 MS. HARDWICK: No, we're not. We have absolutely  
2 no relationship to that garage whatsoever except that it  
3 borders our property line.

4 CHAIRPERSON HILL: Okay. So Ms. Sonia Johnson,  
5 you're still -- the garage is what you're talking about now,  
6 but you don't necessarily have objection to what they're  
7 proposing in this applicant's case, correct?

8 MS. SONIA JOHNSON: Correct. As long as it's not  
9 going to bother then, eventually something has got to give  
10 way for us to have an exit through the rear. My mom nor I  
11 is actually opposed to it. I just wanted them -- everybody  
12 to know because they're not the first people to own that  
13 home. I've seen at least one family, the first family come  
14 in, move out and sell and leave out. So they are not the  
15 first tenants there in that home to the right of us or the  
16 left.

17 CHAIRPERSON HILL: Okay. Thank you. And I don't  
18 know if I'm going to pronounce this correct, but Sandra  
19 Johnson. Are you again speaking of the garage or are you  
20 speaking of the development that's happening to the south of  
21 your grandmother's property?

22 MS. SANDREA JOHNSON: Okay. So it is pronounced  
23 Sandra. Thank you so much. And I am opposed to everything.  
24 I don't want to move forward with anymore construction and  
25 development.

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1           If we are going to act on a neighborly policy, we  
2 need to work together and try to rectify the problem, even  
3 though it has no relationship to this matter. I don't want  
4 to move forward in regards to new development until we get  
5 that rectified. But hopefully, the parties that are here,  
6 they will agree to that and we can actually work something  
7 out and move forward.

8           CHAIRPERSON HILL: Yeah, I mean, so then if this  
9 -- Ms. Hardwick, I'm trying to look at your drawings and  
10 understand.

11           MS. HARDWICK: Yeah.

12           CHAIRPERSON HILL: It's -- if this gets approved,  
13 then you guys are going to go past that garage, correct?

14           MS. HARDWICK: No, no, not even remotely. So if  
15 you could pull up the drawings, is that possible?

16           (Simultaneous speaking.)

17           CHAIRPERSON HILL: Which exhibit? Which exhibit?

18           MS. HARDWICK: I believe it's number -- is it  
19 number 4? Sorry. I'm not sure which exhibit it is. But the  
20 garage --

21           CHAIRPERSON HILL: Give me a second.

22           (Simultaneous speaking.)

23           MS. HARDWICK: Oh, sorry.

24           CHAIRPERSON HILL: I think it's number 9. Mr.  
25 Young. Okay. Mr. Young, if you could pull up number 9.

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1 Great, thanks.

2 MS. HARDWICK: If you could go -- yeah, the next  
3 sheet. There we go. So the top drawing is existing  
4 condition. I think the garage in question is the Lot No. 73  
5 that's grayed out.

6 CHAIRPERSON HILL: Yes.

7 MS. HARDWICK: So I mean, I wish we could help and  
8 be good neighbors. But we have absolutely no control over  
9 that --

10 CHAIRPERSON HILL: That's fine. I'm just trying  
11 to understand where that garage is in relationship to your  
12 proposed --

13 MS. HARDWICK: Right.

14 CHAIRPERSON HILL: -- extension.

15 MS. HARDWICK: I see. So we're Lot 39.

16 CHAIRPERSON HILL: Yeah.

17 MS. HARDWICK: The extension that we're proposing  
18 is that 7 feet. There's on the bottom drawing. Do you see  
19 where it says -- like, there's the lot measurement that says  
20 94.0.

21 CHAIRPERSON HILL: Which slide are you looking at?  
22 Oh, I'm sorry. I'm looking at that one. Okay. Sorry. I  
23 got you.

24 MS. HARDWICK: 810.

25 CHAIRPERSON HILL: Yeah, yeah. Okay.

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1 MS. HARDWICK: So we're proposing to add a one-  
2 story addition. That's 7 feet long to the back of Lot -- to  
3 the back of the house that's on Lot 39. And the drawing on  
4 the top shows the house without the extension. And the  
5 drawing on the bottom shows the house with the extension.  
6 There's still, I'm guessing, about 9 feet between the  
7 extension and the problematic garage to the north.

8 CHAIRPERSON HILL: Okay.

9 MS. HARDWICK: It does not touch or come close to  
10 that garage, that other lot. The other thing I'd like to  
11 note is that we have reached out and we have tried to be good  
12 neighbors and pull them in to the conversation. There's just  
13 -- our hands are sort of tied. There's nothing my clients  
14 can do about it.

15 CHAIRPERSON HILL: I know you can't do anything  
16 about the garage. I understand. I'm just trying to  
17 understand where the garage was. Okay?

18 MS. HARDWICK: Yes.

19 CHAIRPERSON HILL: Okay, fine. You can drop that  
20 slide deck, Mr. Young. What happened to the witnesses?  
21 Okay. They're there. Does my Board have any questions of  
22 anybody?

23 No? Okay. All right. Ms. Johnson, thank you  
24 both for your testimony. And we'll see how this gets -- how  
25 this moves forward, and I do wish you luck with the garage

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1 because I don't know -- unfortunately, it's not this  
2 applicant. But thank you for your testimony.

3 MS. SONIA JOHNSON: Thank you.

4 CHAIRPERSON HILL: Thank you. All right. Does  
5 anybody need anything? I'm looking at my Board members.

6 MS. HARDWICK: Do I need to walk you through any  
7 of the light and air impacts?

8 CHAIRPERSON HILL: Yes, sure, Ms. Hardwick. Ms.  
9 Hardwick, you can -- I mean, I know you don't -- have you  
10 come before us before?

11 MS. HARDWICK: A long time ago. Not a long time  
12 ago, but pre-COVID.

13 CHAIRPERSON HILL: A little bit, pre-COVID. Okay.  
14 Yeah, I mean, I thought it was relatively straightforward.

15 MS. HARDWICK: Yeah.

16 CHAIRPERSON HILL: But unfortunately, the -- you  
17 can point whatever you want to point to then concerning light  
18 and air.

19 MS. HARDWICK: Okay. So the addition is just over  
20 10 feet tall at that attachment point of their wall. So the  
21 addition is not going to have any effect on the privacy, the  
22 light and air of the existing house at all. It won't -- it  
23 will not affect it remotely.

24 It will barely reach over the 7 foot high fence.  
25 And even though the 7 foot high property line fence is not

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1 a permanent structure, it's very unlikely that fence would  
2 ever be removed. So as the addition slopes down, it's barely  
3 going to be over that fence line.

4 The ANC Commissioners have also reached out to the  
5 northern neighbors. From my understanding, there's been  
6 outreach in the community to get support. And basically, the  
7 historic -- the enjoinder of the back yard is not going to  
8 be impacted by this addition, the northern neighbor. I'm  
9 sorry. I can't hear you now.

10 CHAIRPERSON HILL: I was on mute. I said does my  
11 Board have any last questions?

12 Okay. I going to close the hearing on the record.  
13 Thank you, Ms. Hardwick.

14 MS. HARDWICK: Yes.

15 CHAIRPERSON HILL: Okay. I'm going to turn to  
16 somebody else. Okay. So, like, the architect, I love it.  
17 You get the architect to tell us stuff. So I mean, this is,  
18 like -- so I'll let the -- the architect can start or anybody  
19 else can start because I'm trying -- I would like somebody  
20 else to explain it to me there in their deliberations.

21 MEMBER IMAMURA: I'll let Board Member Smith  
22 first.

23 CHAIRPERSON HILL: Okay. Did somebody -- okay.  
24 (Simultaneous speaking.)

25 MEMBER SMITH: I'm still trying to wrap my head

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1 around it myself. I would prefer to defer to somebody else.

2 VICE CHAIR JOHN: I'll go ahead and start. So  
3 what happened to the Johnsons is very unfortunate. And I  
4 would recommend that they consult an attorney to see if they,  
5 in fact, had an easement and if that easement is enforceable  
6 and maybe continue to work through the city if there's  
7 someone who can guide them.

8 But the easement unfortunately is not part of this  
9 application. And I'm really sorry that happened to them.  
10 It looks as if that Lot 73 where that garage might be as I  
11 understand it is an alley lot.

12 So I would encourage them to be vigilant and to  
13 continue to try to sort this out if they think they have an  
14 easement that was established so many years ago. As to this  
15 application, I think it is fairly straightforward. Applicant  
16 is building a one floor extension at the rear.

17 So I didn't think there would be any impact on  
18 light and air. What struck me is that this is an extremely  
19 narrow lot, only 14.13 feet and width. But there is still  
20 a pretty decent rear yard even with the extension.

21 So again, I think this is straightforward even  
22 though this rear wall extension is 7 feet longer than what  
23 we've ordinarily would allow on the north side. Because it's  
24 only one floor, I don't think there would be any adverse  
25 impact. And I would be in support of the application.

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1 CHAIRPERSON HILL: All right. Thank you. I can  
2 follow up Ms. John now that it got clarified. I got a little  
3 lost on the one story. So it is the one story, and that's  
4 where I guess sometimes I run a little bit on the  
5 presentation too much from the applicant.

6 But the Office of Planning clarifies it. And  
7 their report clarifies that one story is not going to have  
8 any undo impact on light and air or the enjoyment or privacy  
9 of the neighbor. And the applicant mentions there's a fence  
10 there also.

11 And so I don't think that this small addition or  
12 this small amount of relief that's requested, I guess, is  
13 something that I think is going to be an issue. So I am  
14 going to also vote in favor. Mr. Smith?

15 MEMBER SMITH: So I by and large agree with what  
16 everyone has stated regarding this case. I do believe that  
17 the nature of this construction is a one-story addition that  
18 is more than 10 feet beyond the rear wall of the adjacent  
19 townhomes. Based on the design of this addition, it doesn't  
20 seem to me that we would have an undo impact on light and air  
21 of the adjacent property to the north which would be most  
22 impacted because the apartment to the south is -- that  
23 building, it sticks out more than the applicant's building,  
24 even with the addition.

25 Being that it's not attached to building in Lot

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1 73, it looks like it is about 10 to 15 feet away from the  
2 proposed rear wall of the applicant's addition. So I don't  
3 think -- again, I don't think it will have a major impact on  
4 the light and air to the apartment to the north. I do share  
5 Ms. John saying that it is unfortunate what happened to the  
6 neighboring residents that are in opposition to this  
7 property.

8           And I would recommend again, echo what Ms. John  
9 stated, to continue to work with a lawyer to see if you had  
10 an easement or just to get an accurate survey of the property  
11 just to ensure that the construction of the alley -- in the  
12 alley is fully on that property. So that would be my  
13 recommendation to them to work with a lawyer, also with a  
14 surveyor to pursue any avenues that they need to pursue to  
15 address some of the concerns that they raised. But the  
16 matter at hand, that's not directly related to this  
17 particular application. But I do believe that this  
18 application meets the burden of proof for us to grant these  
19 special exceptions and will support the application.

20           CHAIRPERSON HILL: Okay. I neglected to mention  
21 again, we did have the approval of the ANC in this  
22 application.

23           MEMBER SMITH: And Capitol Hill Restoration  
24 Society.

25           CHAIRPERSON HILL: Oh, sorry. Thank you. Capitol

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1 Hill Restoration Society as well. Dr. Imamura?

2 MEMBER IMAMURA: Thank you, Mr. Chairman. I'm in  
3 agreement with all of my colleagues and your summary as well  
4 as I think as Board Member Smith pointed out, this applicant  
5 has the support of the community. I think this is pretty  
6 straightforward as Vice Chair John stated.

7 I would have a little heartburn and probably a  
8 different point of view if this were a two story addition.  
9 But because it is a one story addition and the height of the  
10 fence, I think the light, air, and shadows or rather the  
11 shadows that are cast, I think will be negligent. So I don't  
12 there will be an undo impact by air. And I'm prepared to  
13 vote in support.

14 CHAIRPERSON HILL: All right. Thank you. I'm  
15 going to make a motion to approve Application No. 21046  
16 that's captioned and read by the Secretary and ask for a  
17 second. Ms. John?

18 VICE CHAIR JOHN: Second.

19 CHAIRPERSON HILL: The motion has been made and  
20 seconded, Mr. Moy. If you take a roll call.

21 MR. MOY: If you'd please respond to the motion  
22 made by Chairman Hill to approve the application for the  
23 relief requested. A motion to approve was second by Vice  
24 Chair John. Zoning Commissioner Dr. Imamura?

25 MEMBER IMAMURA: Yes.

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1 MR. MOY: Mr. Smith?

2 MEMBER SMITH: Yes.

3 MR. MOY: Vice Chair John?

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill?

6 (No audible response.)

7 MR. MOY: Staff would record the vote as 4 to 0  
8 to 1. And this is on the motion made by Chairman Hill to  
9 approve. The motion to approve was second by Vice Chair  
10 John. Vice Chair John also voted to approve the application  
11 as well as the approval from Zoning Commissioner Imamura, Mr.  
12 Smith, Vice Chair John, Chairman Hill, no other Board member  
13 participating. The motion carries, sir, 4 to 0 to 1.

14 CHAIRPERSON HILL: Okay, thank you. I just found  
15 out we have a hard stop at 4:15 for some members here. So  
16 we have four cases left, and Mr. Moy can call the next one.

17 MR. MOY: Next case before the Board is  
18 Application No. 21048 of Zachary and Amy Faden, self-  
19 certified application pursuant to Subtitle X, Section 901.2  
20 for a special exception under Subtitle U, Section 421 to  
21 allow a new residential development. Properties located in  
22 the RA-1 zone at 5006 North Capitol Street, Northwest, Square  
23 3404, Lot 28. And that's all I have, sir.

24 CHAIRPERSON HILL: Thank you. If the applicant  
25 can hear me, if they can please introduce themselves for the

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1 record.

2 MR. SULLIVAN: Thank you, Mr. Chair and Board  
3 members. Marty Sullivan with Sullivan and Barros on behalf  
4 of the applicant.

5 CHAIRPERSON HILL: Okay, great. Mr. Sullivan, if  
6 you want to go ahead and walk us through your client's  
7 application of why you believe they meet the criteria for us  
8 to grant the relief requested. I have your slide deck pulled  
9 up, and you can begin whenever you like.

10 MR. SULLIVAN: Okay. Thank you. So this is RA-1  
11 relief. Please load the presentation. Next slide, please.  
12 This is -- it's an existing single family row house in the  
13 RA-1 district becoming a flat without any exterior work.

14 And for some reason, it needs relief as a new  
15 residential development. So next slide, please. We're  
16 asking for relief under U421 supported by the Office of  
17 Planning. ANC 4D has voted in support of the application.  
18 They just filed their Form 129. So hopefully that's in the  
19 record.

20 CHAIRPERSON HILL: We see it. We see it. It's  
21 in the record.

22 MR. SULLIVAN: And there's letters of support from  
23 surrounding neighbors. Next slide, please. There's a  
24 location of it. It's a row house district, but it is in the  
25 RA-1. Next slide, please. Next slide.

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1           There's the front. Next slide. Next slide. Next  
2 slide, please. That's the rear of it. And sorry I put so  
3 many photos.

4           CHAIRPERSON HILL: No, go ahead. I appreciate it.

5           MR. SULLIVAN: Next slide, please. Next slide.  
6 Just in case you didn't see the rear clearly on the other  
7 three. Next slide, please. So these are plans. It's just  
8 interior work because their FAR was maxed out.

9           So they weren't able to expand because it's a walk  
10 out basement, so gross square area in the back as well. So  
11 once they looked at it, they realized they couldn't expand  
12 that at all. So it's just interior, but they're adding a  
13 unit within there. So next slide, please. You can go  
14 through the plans and if there's anything specific, the Board  
15 has --

16           CHAIRPERSON HILL: You can go right to your  
17 conclusion there. I flipped through your plans.

18           MR. SULLIVAN: Thank you. It's clearly in harmony  
19 with the general purpose and intent of the zoning  
20 regulations. Next slide, please. It meets the specific  
21 requirements of U421, including the relevant agencies,  
22 including DC public schools and public streets, recreation,  
23 other services. Property is well served by public  
24 transportation, including bus routes and walking distance for  
25 Tartan Park.

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1           And I defer to the Office of Planning's report  
2 regarding 421.3 for their comment and recommendation. Next  
3 slide, please. And that's it. Thank you.

4           CHAIRPERSON HILL: Thank you, Mr. Sullivan. Can  
5 I hear from the Office of Planning?

6           MS. THOMAS: Yes, good afternoon, Mr. Chair.  
7 Karen Thomas with the Office of Planning. And we are in  
8 support of this application. It is essentially an interior  
9 renovation and without any impact -- direct impact on the  
10 neighbors -- abutting neighbors. So we rest on the record  
11 of our report. Thank you.

12           CHAIRPERSON HILL: Thank you, Ms. Thomas. Does  
13 anybody have any questions of the applicant or the Office of  
14 Planning?

15           Okay. Mr. Young, is there anyone here wishing to  
16 speak?

17           MR. YOUNG: We do not.

18           CHAIRPERSON HILL: Okay. Mr. Sullivan, is there  
19 anything you'd like to add at the end?

20           MR. SULLIVAN: No, thank you, Mr. Chair.

21           CHAIRPERSON HILL: Thank you, Mr. Sullivan. All  
22 right. I didn't have any issues with this. It's all  
23 interior. There's nothing that I think could possibly rise  
24 to something that I'd be concerned about, and I believe  
25 they're meeting the criteria as the Office of Planning has

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1 outlined.

2 I would repeat that, again, the ANC has submitted  
3 their report in support. And it sounds like the applicant  
4 has done a very fine job with their due diligence of the  
5 community. I'm going to be voting in favor. Mr. Smith?

6 MEMBER SMITH: I don't have anything to add,  
7 Chairman Hill. I agree with your assessment of this  
8 particular application and will also vote.

9 CHAIRPERSON HILL: Dr. Imamura?

10 MEMBER IMAMURA: Nothing further to add, Mr.  
11 Chairman. I'm in agreement with both you and Board Member  
12 Smith and prepared to vote in support.

13 CHAIRPERSON HILL: Thank you. It's unclear to me  
14 if Vice Chair John was having some technical issues. Vice  
15 Chair John, do you hear me?

16 Okay. Let the record note that Vice Chair John  
17 is not participating in this case. And it's just Mr. Smith  
18 and Dr. Imamura. I'm going to make a motion to approve  
19 Application No. 21048 and ask for a second. Mr. Smith?

20 MEMBER SMITH: Second.

21 CHAIRPERSON HILL: Motion may and second. Mr.  
22 Moy, if you can take a roll call, please.

23 MR. MOY: If you'll please respond to the motion  
24 made by Chairman Hill to approve the application for the  
25 relief requested. The motion to approve was second by Mr.

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1 Smith. Zoning Commissioner Dr. Imamura?

2 MEMBER IMAMURA: Yes.

3 MR. MOY: Mr. Smith?

4 MEMBER SMITH: Yes.

5 MR. MOY: Chairman Hill?

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: Staff would record the vote as 3 to 0  
8 to 2. And this is on the motion made by Chairman Hill to  
9 approve. The motion to approve was second by Mr. Smith. Mr.  
10 Smith also voted to approve the application as well as  
11 approval from Zoning Commissioner Dr. Imamura, Mr. Smith,  
12 Chairman Hill with two members not participating on this  
13 case. Motion carries on the vote of 3 to 0 to 2.

14 CHAIRPERSON HILL: Okay, great. Thank you. For  
15 the record, I'd also like to say that Vice Chair John is back  
16 with us. And so that was the only case that she missed due  
17 to technical issues. Mr. Moy, if you could call our next  
18 case, please? You're on mute, Mr. Moy.

19 MR. MOY: All right. Thank you. All right. The  
20 next case before the Board is Application No. 21050 of  
21 Praveen, P-R-A-V-E-E-N, Ramalingam -- again, I'm sorry I'm  
22 butchering this last name, but I'm going to spell it -- R-A-  
23 M-A-L-I-N-G-A-M. This is a self-certified application  
24 pursuant to Subtitle X, Section 901.2 for a special exception  
25 under Subtitle D, Section 5201 from the rear yard

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1 requirements, Subtitle D, Section 207.1. The property is in  
2 the R-2 zone at 3601 34th Street, Northwest, Square 2061, Lot  
3 96. And that's all I have other than the applicant's team  
4 is in the panel. And that's all I have to say, sir. Thank  
5 you.

6 CHAIRPERSON HILL: Thank you. If the applicant  
7 hear me, if they could please introduce themselves for the  
8 record.

9 MR. SULLIVAN: Marty Sullivan with Sullivan and  
10 Barros on behalf of the applicant. And the architect and the  
11 property owner are here. But I don't think that -- I think  
12 I will do the presentation myself in case there's questions  
13 for them. They'll be here.

14 CHAIRPERSON HILL: Thank you, Mr. Sullivan. We're  
15 in a bit of a time crunch. If you want to go ahead and walk  
16 us through your client's application, and you can begin  
17 whenever you like.

18 MR. SULLIVAN: Thank you. If we could load the  
19 slide presentation, please. Thank you. It's 3601 34th  
20 Street, Northwest. Next slide, please. If you go to the  
21 next slide, please. This might have more context. Next  
22 slide. Let me get to a photo first.

23 So the back porch you see there on the first floor  
24 of the rear of the building. There's going to be an addition  
25 that will go to the same rear line as that back porch. So

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1 it's going to go up to the second floor, but it's not going  
2 any further back out.

3           So if you could go back two slides, please, Mr.  
4 Young. And so for that, we'll need 3 feet 5 inches of rear  
5 yard relief. The property is in the R-2 zone.

6           The existing rear covered deck which has been  
7 there for many years. But we couldn't establish that it was  
8 there in 1958. If we had, we could've gone up on the same  
9 line under D-207.3.

10           So for that reason, we need this relief, this  
11 special exception. Next slide, please. House planning is  
12 in support. ANC 3C supported the application. Next slide,  
13 please.

14           There we see the photo again. Next slide, please.  
15 Next slide, please. There's a lot of photos, none of them  
16 very large. But this is the area on them. You can see the  
17 existing deck from the alley. Next slide, please. This is  
18 the site plan.

19           (Simultaneous speaking.)

20           CHAIRPERSON HILL: Mr. Sullivan, if everyone could  
21 just take a look whether they're muted if you could mute  
22 yourself unless you're speaking. And Mr. Sullivan, these  
23 slides are helpful. So please go ahead.

24           MR. SULLIVAN: Okay. So you see the footprint of  
25 the addition here on the right in the proposed site plan.

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1 Next slide, please. Next slide, please. These are floor  
2 plans. Next slide, please. And there's a roof plan. Next  
3 slide.

4 We'll get to the elevations. There you see the  
5 side elevation. On the left is the existing. On the right  
6 is the proposed. Next slide, please. Next slide.

7 And there's the rear elevation. This doesn't go  
8 any further out that the rear line of the deck of the  
9 adjacent building. Next slide, please. There's a rendering  
10 from the side showing the rear.

11 You can see it on the right, the proposed view  
12 front street. You can see it to the far right, the addition  
13 in the back. Next slide, please. Next slide. Next slide,  
14 please. The R-2 zone is intended to provide various  
15 predominately developed semidetached houses on moderately  
16 sized lots.

17 The property will remain semidetached. It's a  
18 single family. The proposed project is more in harmony with  
19 the general purpose and intent of the zoning regulations and  
20 maps.

21 And the granting of a special exception will also  
22 not intend to adversely affect the use of neighboring  
23 properties as this just replaces the existing deck and goes  
24 up one story. Next slide, please. And the relief requested  
25 is only less than 3 and a half feet too.

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1 CHAIRPERSON HILL: I think Mr. Sullivan froze.  
2 Mr. Young, if you could drop the slide deck, please. I'm  
3 going to turn to the Office of Planning while Mr. Sullivan  
4 gets back online.

5 MR. SULLIVAN: You can hear me?

6 CHAIRPERSON HILL: I can hear you now.

7 MR. SULLIVAN: Okay.

8 CHAIRPERSON HILL: Okay. But you were done, Mr.  
9 Sullivan, I believe.

10 MR. SULLIVAN: I'm fine being done. I think it  
11 safely meets light and air, privacy and character scale and  
12 pattern. And also it was reviewed by HPO and being approved  
13 on the staff level as well.

14 CHAIRPERSON HILL: All right. Thank you. Can I  
15 turn to the Office of Planning?

16 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman.  
17 Can you hear me?

18 CHAIRPERSON HILL: Yes.

19 MS. BROWN-ROBERTS: Yeah, unfortunately, my camera  
20 just went out. But you can hear me. Okay. Good afternoon,  
21 Mr. Chairman and members of the BZA. Maxine Brown-Roberts  
22 from the Office of Planning.

23 Regarding the special exception to allow a reduced  
24 rear yard with an addition of a two -- and a two story rear  
25 addition, as outlined in the OP report, the proposal meets

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1 the requirements of Subtitle D-5201 and Subtitle X-901 and  
2 would not adversely affect the light and air privacy to the  
3 adjacent neighbors. The proposal would be in harmony with  
4 the purpose and intent of the zoning regulation as it meets  
5 all of the above and use provisions of the zone. OP  
6 therefore recommends approval of the application. Thank you,  
7 Mr. Chairman.

8 CHAIRPERSON HILL: Thank you. Does anybody have  
9 any questions for the Office of Planning or the applicant?

10 Mr. Young, is there anyone here wishing to speak?  
11 Mr. Sullivan, would you like to add anything at the end?

12 MR. SULLIVAN: No, thank you.

13 CHAIRPERSON HILL: All right. Thank you. I'm  
14 going to go ahead and excuse the applicant and the witnesses.  
15 Okay. I would've let the applicant speak, but we're kind of  
16 moving through here. So I didn't have an issue with it.

17 I thought, again, the 3.5 feet of rear yard relief  
18 to match the covered deck that is on that first story I  
19 didn't think was going to cause any undo impact concerning  
20 light or air or the other items with which we do our review.  
21 I think that I would agree with the plans -- I'm sorry, the  
22 report that the Office of Planning has put forward as well  
23 as giving great weight to the ANC which was in support. If  
24 I might ask if anyone has anything else to add? Mr. Smith?

25 MEMBER SMITH: I agree with your assessment.

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1 CHAIRPERSON HILL: Thank you. Dr. Imamura?

2 MEMBER IMAMURA: Nothing to add, Mr. Chairman.  
3 The volumetric space doesn't change any.

4 CHAIRPERSON HILL: Thank you. Vice Chair John?

5 VICE CHAIR JOHN: -- to add, Mr. Chairman.

6 CHAIRPERSON HILL: Thank you. I'm going to make  
7 a motion to approve Application No. 21050 as captioned and  
8 read by the Secretary and ask for a second. Ms. John?

9 VICE CHAIR JOHN: Second.

10 CHAIRPERSON HILL: Motion made and seconded, Mr.  
11 Moy. I'm taking a roll call, please.

12 MR. MOY: When I call your name, if you'll please  
13 respond to the motion made by Chairman Hill to approve the  
14 application for the relief requested. The motion to approve  
15 was second by Vice Chair John. Zoning Commissioner Dr.  
16 Imamura?

17 MEMBER IMAMURA: Yes.

18 MR. MOY: Mr. Smith?

19 (No audible response.)

20 MR. MOY: Vice Chair John?

21 VICE CHAIR JOHN: Yes.

22 MR. MOY: Chairman Hill?

23 (No audible response.)

24 MR. MOY: Staff would record the vote as 4 to 0  
25 to 1. And this is on the motion made by Chairman Hill to

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1 approve. The motion to approve was second by Vice Chair  
2 John. Vice Chair John voted to approve the application as  
3 well as approval from Zoning Commissioner Dr. Imamura, Mr.  
4 Smith, of course, Vice Chair John and Chairman Hill. We have  
5 no other Board members participating. Motion carries 4 to  
6 0 to 1.

7 CHAIRPERSON HILL: Thank you. Mr. Moy, you may  
8 call our next case.

9 MR. MOY: The next case is Application No. 21051  
10 of P.T. Blooms, LLC. Self-certified application pursuant to  
11 Subtitle X, Section 901.2 for the following special  
12 exceptions. Subtitle C, Section 714.3 from the screening  
13 requirements for surface parking under Subtitle C, Section  
14 714.2, Subtitle F, Section 5201.

15 From the lot occupancy requirements, Subtitle F,  
16 Section 210.1. Property is located in the RA-2 Zone at 1836-  
17 1840 Kalorama Road, Northwest, Square 2553, Lot 826. Other  
18 than that, Mr. Chairman, if the applicant can provide clarity  
19 regarding the lot occupancy percentage as well as the number  
20 of parking spaces. And other than that, that's all I have,  
21 sir.

22 CHAIRPERSON HILL: Okay. Could the applicant  
23 please introduce themselves for the record.

24 MR. BLOOMFIELD: Hi, my name is Patrick -- I'm  
25 sorry. Go ahead.



1 MR. SULLIVAN: Marty Sullivan with Sullivan Barros  
2 on behalf of the applicant. Go ahead, Patrick.

3 MR. BLOOMFIELD: Patrick Bloomfield. Marty is my  
4 wonderful attorney.

5 CHAIRPERSON HILL: Great, thank you. Mr.  
6 Sullivan, if you'd like to go ahead and walk us through your  
7 wonderful client's application and also explain again the  
8 discrepancies and lot occupancy as to which one it is. And  
9 then the plat and plans had four parking spaces. And then  
10 six were mentioned somewhere. And then also the four long-  
11 term bike parking spaces, if that is something you're doing  
12 where that is on the plans. And you can begin whenever you  
13 like.

14 MR. SULLIVAN: Thank you, Mr. Chair. And I'll go  
15 ahead and clear up the discrepancies right off the bat. The  
16 lot occupancy proposed is 68.9 percent.

17 And the self-certification in the record has that.  
18 And the plans, the most recently filed plans, Exhibit 27A  
19 have that number as well. So that lines up.

20 And the Office of Planning's report was based on  
21 a number from the previous plans. The reason the lot  
22 occupancy was reduced slightly is because the balconies were  
23 reduced a little bit. And so 68.9 is the number and that's  
24 what we have in the final Form 135 and the current set of  
25 plans.

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1 CHAIRPERSON HILL: Okay.

2 MR. SULLIVAN: Parking is four spaces, and that  
3 is on the surveyor's plat at 27B. So those are listed there.  
4 And then those are included on the plat, the current plat in  
5 27B.

6 CHAIRPERSON HILL: Okay.

7 MR. SULLIVAN: And long-term bike parking is not  
8 required. And that is the subject of DDOT's supplemental  
9 report. They corrected that comment. They revised that  
10 comment from their previous report.

11 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
12 Sullivan. Those answer those housekeeping issues. Now  
13 please go ahead and walk us through what you like.

14 MR. SULLIVAN: Thank you. Next slide, please.  
15 Properties located in RA-2 Zone. It's approved with two  
16 separate portions of a single building which are connected.  
17 The west half of the property at 1840 Kalorama is a four  
18 story structure.

19 It's most recently been used as a Montessori  
20 school. The east half of the property is a two-story  
21 structure. And the applicant is proposing to construct an  
22 addition to the building and to convert the building to 11  
23 residential units, including an IZ unit.

24 The addition will increase the total lot occupancy  
25 to 70 percent or 60 percent as allowed. I'm sorry. That's

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1 68.9 percent. Accordingly, the addition requires special  
2 exception relief from the lot occupancy requirements.

3 We are also asking for special exception relief  
4 from the parking screening requirements of C-714.2. Next  
5 slide, please. We have the support of the Office of  
6 Planning. ANC 1C voted unanimously in support. DDOT is in  
7 support.

8 And we have letters of support from both adjacent  
9 neighbors as well. Next slide, please. And I'll turn it  
10 over to Mr. Bloomfield to take you through the project.

11 MR. BLOOMFIELD: Hi, good afternoon. So this is  
12 a site photo of the location of the property cutting on mid-  
13 block Kalorama Road. Next slide, please. This is an aerial  
14 satellite view showing virtually the same thing. Next slide,  
15 please.

16 This is the front image kind of showing the  
17 discrepancy in height between existing structures, two story  
18 1836 on the left, four story 1840 on the right. Next slide,  
19 please. This is the street image you looked at. It's a  
20 little bit hard to see with the trees, but these show the  
21 front elevations. Next slide, please.

22 Another view of the front elevation from a  
23 different angle. Next slide, please. Another photo. This  
24 makes it a little bit more clear. The left building is 1840  
25 which is ours and 1844 is the neighbor to that right side of

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1 that. Next slide, please.

2 This is the image of what it looks like across the  
3 street. Next slide, please. This is an image of the real  
4 property line. This is just kind of showing -- that's  
5 actually the left arrow is the right side of our property,  
6 and that is actually sitting -- that open parking space is  
7 sitting on 1834's property. Next slide, please.

8 This is a view from the alley. As you can see,  
9 there's a retaining wall we'll have to bring down. That's  
10 the only remaining retaining wall.

11 The grate is elevated about 8 or 9 feet. We'll  
12 be bringing that down so we can have parking access in the  
13 rear. Next slide, please. Here's another image from the  
14 other side of the alley. Next slide, please.

15 Here's a picture of the surveyor plat. You'll see  
16 we've indicated rear yard setbacks. You'll see the number  
17 of parking spaces is four. Patched areas indicate balconies  
18 above the first level projection.

19 And you will see various rooftop pullbacks and  
20 setbacks that were occurring along the building. Next slide,  
21 please. Here's a front image of what the proposed structure  
22 is. On the left side of the project, the two stories that  
23 are existing right there and then the new addition steps back  
24 two feet to align with the existing exterior facades. Next  
25 slide, please.

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1           These are some images showing what's existing at  
2 the rear of the site. As you'll see, it's pretty heavily  
3 vegetated right now and there's a lot of additional soil that  
4 will be removed in the proposed design. Next slide, please.  
5 These are examples of historic elements that match on the  
6 block that we try to pull together.

7           And that's why we got our approval through HPRB.  
8 And we got support from the ANC that advocates for staying  
9 true to the neighborhood's character. Next slide, please.  
10 This is our zoning summary.

11           The red is considered the penthouse square footage  
12 outside of the FAR calculations. Everything in that light  
13 bluish kind of turquoise green is our FAR. And the darker  
14 navy blue are exterior outdoor spaces and balconies. Next  
15 slide, please.

16           This is a copy of an existing site plan. Next  
17 slide. Just a demolition of those existing plans, part of  
18 the historic set. Next slide, please. Next slide, please.  
19 This is what the existing building looks like in elevation,  
20 just a little bit more clearer without the trees. Next  
21 slide, please.

22           These are sight lines that we're preserving for  
23 the expanded edition that goes above the existing structures.  
24 They were kind of hidden behind the parapet. And they're not  
25 really visible from the street virtually at all.

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1 CHAIRPERSON HILL: Mr. Bloomfield, can I interrupt  
2 you one second?

3 MR. BLOOMFIELD: Sure.

4 CHAIRPERSON HILL: I see all your slides in the  
5 slide deck and it's very helpful to have the slide deck in  
6 the record so that I can flip through it. I'm going to just  
7 move Mr. Sullivan actually all the way to his summary which  
8 is on 35, Mr. Young. Okay. Thank you. And thank you, Mr.  
9 Bloomfield.

10 MR. BLOOMFIELD: No problem.

11 MR. SULLIVAN: Thank you, Mr. Chair. The RA-2  
12 Zone provides for areas developed with predominately moderate  
13 density residential. So this proposed development is in  
14 harmony with the general purpose of intent of the RA-2 Zoning  
15 regulations and zoning map.

16 An IZ unit will be provided. And also it's an  
17 excellent adaptive reuse and improvement for contributing a  
18 historic building. Next slide, please. Specific  
19 requirements for the lot occupancy relief, the proposed lot  
20 occupancy will only result in 596 square feet of building  
21 area, more than the matter of rights square footage.

22 The additional 10 percent lot occupancy will not  
23 unduly affect the light and air available to neighboring  
24 properties. A significant portion of the lot occupancy  
25 relief from the rear is for a rear stairway and open rear

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1 balconies. And again, we have the support of both neighbors  
2 on record.

3 In the case, no windows on the east or west  
4 sidewalls of the expansion. So no impact on privacy, use,  
5 and enjoyment. And the proposed addition has been designed  
6 to fit the character, scale, and pattern of houses as viewed  
7 from the street and the alley.

8 And again, it does enjoy HPRB approval as well.  
9 Next slide, please. Specific requirements for the parking  
10 screening relief first impact on the pedestrian environment  
11 with adjacent streets. I'll leave it to the Board to read  
12 that slide. I won't go through it word for word.

13 But we meet the conditions, the special exception  
14 conditions for relief. It will be screened effectively by  
15 the retaining wall at the front of the parking area and on  
16 the sides as well. So it's just the relief at the rear.

17 And if we didn't have that relief, we would have  
18 to put up sort of a faux fence to break off the 20-foot. So  
19 it makes more sense to get this relief as we usually do in  
20 situations like this. Next slide, please. And if the Board  
21 has any questions for myself or Mr. Bloomfield. Thank you.

22 CHAIRPERSON HILL: Thank you. I'm going to turn  
23 to the Office of Planning, please.

24 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
25 and members of the BZA. It's Maxine Brown-Roberts again from

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1 the Office of Planning. I would just like to maybe adjust  
2 our report to acknowledge that the lot occupancy is 68.9  
3 percent as stated by the applicant.

4 But it's a reduction in how much we have in our  
5 report. So I don't think that it will affect our  
6 recommendation. So as demonstrated in the OP report, the  
7 applicant meets the requirements of Subtitle D-5201 and  
8 Subtitle X-901 for the special exception relief from the lot  
9 occupancy requirements and for not providing screen of the  
10 surface parking lot from the alley.

11 The relief would not have any impact on the  
12 adjacent neighbors or the neighborhood. And therefore OP  
13 recommends approval of the application. Thank you, Mr.  
14 Chairman.

15 CHAIRPERSON HILL: Thank you. Does anybody have  
16 any questions of the Office of Planning or the applicant?

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

18 MR. YOUNG: We do not.

19 CHAIRPERSON HILL: Mr. Sullivan, do you have  
20 anything you'd like to add at the end?

21 MR. SULLIVAN: Thank you.

22 CHAIRPERSON HILL: Thank you. Mr. Bloomfield, if  
23 this passes, good luck to you. It's an interesting project.

24 MR. BLOOMFIELD: Thank you very much.

25 CHAIRPERSON HILL: All right. I'm going to close

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1 the hearing on the record. Okay. I appreciate the applicant  
2 putting forward all of the slides that they had and the due  
3 diligence they had done towards the outreach for the ANCs and  
4 the neighbors. Due to all of that work, I'm more comfortable  
5 with the application.

6 I do appreciate the clarification of the 68.9 lot  
7 occupancy and that the parking spaces are four that are  
8 actually referred to on the plat or with the plat.  
9 Concerning the expansion, there is no windows that are going  
10 on to be on the expansion. So I don't think that that would  
11 be an issue, again, the line of privacy.

12 I was a little more curious about the screening.  
13 But I would refer to the Office of Planning's report. I  
14 think as they have outlined why the screening is not going  
15 to be an issue.

16 And I also then will mention that the ANC has  
17 provided their support as well as at least enjoying the  
18 support of HPRB. I'm going to be voting to approve. And I  
19 will turn to you, Mr. Smith.

20 MEMBER SMITH: I have nothing to add, Chairman  
21 Hill, and will support the applicant.

22 CHAIRPERSON HILL: Thank you. Dr. Imamura?

23 MEMBER IMAMURA: I'm comfortable with the  
24 application as proposed and presented by the applicant today  
25 and feel comfortable supporting this.

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1 CHAIRPERSON HILL: Thank you. Vice Chair John?

2 VICE CHAIR JOHN: I have nothing to add, Mr.  
3 Chairman. I agree with all of the comments, and I'm in  
4 support.

5 CHAIRPERSON HILL: Thank you. I'm going to make  
6 a motion to approve Application No. 21051 as captioned and  
7 read by the Secretary and ask for a second. Ms. John?

8 VICE CHAIR JOHN: Second.

9 CHAIRPERSON HILL: The motion has been made and  
10 seconded. Mr. Moy, would you take a roll call, please?

11 MR. MOY: Yes, sir. Thank you. When I call your  
12 name, if you'd please respond to the motion made by Chairman  
13 Hill to approve the application for the relief requested.  
14 A motion to approve was second by Vice Chair John. Zoning  
15 Commissioner Dr. Imamura?

16 MEMBER IMAMURA: Yes.

17 MR. MOY: Mr. Smith?

18 MEMBER SMITH: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: Staff would record the vote as 4 to 0  
24 to 1. And this is on the motion made by Chairman Hill to  
25 approve. Motion to approve was second by Vice Chair John who

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1 also voted to approve the application as well as approval  
2 from Zoning Commissioner Dr. Imamura, Mr. Smith, Vice Chair  
3 John, Chairman Hill. No other members participating. Again,  
4 the motion carries on a vote of 4 to 0 to 1.

5 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
6 Moy. If you can please call our last case, Mr. Moy.

7 MR. MOY: Yes, thank you, sir. It's just on my  
8 part, but I don't want to jinx it. But I think you're moving  
9 too fast.

10 CHAIRPERSON HILL: Yeah, I know. That's okay.  
11 That's funny, Mr. Moy. I know. I have a hard stop I was  
12 trying to get to. So I got to get to it.

13 MR. MOY: I understand. So last case, Application  
14 No. 21052 of Michael Morris, self-certified application  
15 pursuant to Subtitle X, Section 901.24, special exception  
16 under Subtitle E, Section 5201.1 from the rear yard  
17 requirements under Subtitle E, Section 207.1 and from the lot  
18 occupancy requirements under Subtitle E, Section 210.1,  
19 property in the RF-1 Zone at 1635 C Street, Southeast, Square  
20 1089, Lot 96. And that's all I have, sir.

21 CHAIRPERSON HILL: Thank you, Mr. Moy. If the  
22 applicant can hear me, if they could please introduce  
23 themselves for the record.

24 MS. BRITTINGHAM: Chairman and members of the  
25 Board, my name is Lacy Brittingham for Brittingham

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1 Architecture. I'm the architect for the project. I'm the  
2 agent for the homeowner.

3 I'm joined today by the applicant and the  
4 homeowner, Michael Morris. We are here today to request  
5 special exception relief for the property located at 1635 C  
6 Street, Southeast. This is a very -- sorry, actually, Mr.  
7 Young, can you bring up the presentation?

8 CHAIRPERSON HILL: Mr. Young, is that presentation  
9 in the record?

10 MR. YOUNG: I do not know.

11 CHAIRPERSON HILL: Okay. Mr. Moy, if you could  
12 drop that presentation into the record or try. Okay, thanks.

13 MR. MOY: Let me work on that.

14 CHAIRPERSON HILL: Okay, thanks. Ms. Brittingham,  
15 you can go ahead and begin.

16 MS. BRITTINGHAM: Sure. This presentation is  
17 Exhibit 15. It's just the drawing package.

18 CHAIRPERSON HILL: Oh, thanks. Never mind, Mr.  
19 Moy.

20 MS. BRITTINGHAM: Yeah, it was emailed to Mr. Moy  
21 too.

22 CHAIRPERSON HILL: Okay, great.

23 MS. BRITTINGHAM: Great. Okay. So this is a  
24 pretty small lot, a very small lot actually. It's 12.99 feet  
25 wide by 75 feet. It's worth noting that the front yard,

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1 normally in the row house zones, the front wall of the house  
2 is on the property line.

3           And on this block, we're shifted back. The front  
4 wall of the house is about 15 -- just over 15 feet from the  
5 front property line. So that makes the rear yard smaller  
6 than on a normal block in a row house zone.

7           Our proposal is to construct a rear two story  
8 addition which would add only three feet in length to the  
9 house. We are requesting relief from Section E-210.1 to go  
10 beyond the by-right limit of lot coverage to 69.8 percent as  
11 well as from Section E-207.1 for a proposed rear yard of 12.6  
12 feet. While we're on this slide, I just want to quickly note  
13 that the project is proposing to add several windows to the  
14 existing alley wall of the house.

15           In September of last year, we began neighbor  
16 outreach. And the homeowners knocked on doors to discuss the  
17 project and share the drawings. And we're able to obtain  
18 letters of support from 301, 303, and 307 on 17th Street.

19           So they are the houses that are sort of looking  
20 at the sidewall of the existing house. And 305, we were not  
21 able to make contact with. But we sent a drawing packet and  
22 a letter of explanation to the homeowners of 305, asking that  
23 they contact us with any questions or to discuss the project,  
24 and we have not heard from them.

25           And we also sent packets to the owners of 309,

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1 311, and 313 17th Street. They're sort of a little bit  
2 further down, not looking directly -- or not directly  
3 impacted by the proposed windows on the alley. But  
4 nevertheless, they are looking sort of at the back of the  
5 house and would be in view of the proposed changes.

6 We also have a letter of support from the adjacent  
7 owner at 1633 C Street as well as from the owner of 1660  
8 Ebenezer Court which is the alley dwelling directly to the  
9 rear of the subject property. Next slide, please. So here  
10 you can see the block plan. It is a large alley.

11 It has multiple entrances. It has wide alleys and  
12 also for alley buildings or alley lots. So there's a lot of  
13 open air and light available to the interior of this block.  
14 Next slide, please.

15 The house at 1635 is located on one of the  
16 entrances to the alley, although it does not currently have  
17 any windows on the alley wall. Even on the other houses'  
18 entrances to the alley were constructed with windows on the  
19 alley. Next slide, please. The neighbor to the west at 1633  
20 is an existing three story house that extends more than 10  
21 feet beyond the rear wall of the subject property.

22 The existing dogleg at 1635 is now largely in  
23 shadow since the expansion of the house next door. So you  
24 can see here are some images of that dogleg and also the  
25 height difference between the subject property and the

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1 property to the west. Next slide, please. The existing rear  
2 yard is elevated above the alley.

3           So there's no existing parking at this property  
4 and no proposed parking. Next slide, please. As you know,  
5 the Office of Planning is recommending approval of the  
6 requested relief. But I will quickly address the criteria  
7 for granting of a special exception.

8           Let's see. Can you go actually to Slide 11,  
9 please, Mr. Young? I'm happy to answer any questions about  
10 the plans.

11           CHAIRPERSON HILL:       Actually, I'm going to  
12 interrupt you for a minute --

13           MS. BRITTINGHAM:    Sure.

14           CHAIRPERSON HILL:    -- and just -- Mr. Young, if  
15 you could just drop the slide deck. Ms. Brittingham, I'm  
16 just going to kind of move along here and see if my Board  
17 members have issues. I mean, the slide deck was helpful  
18 because then you can kind of scroll through it. Can I turn  
19 to the Office of Planning, please.

20           MS. BROWN-ROBERTS:   Good afternoon again, Mr.  
21 Chairman and members of the BZA. For the record, I'm Maxine  
22 Brown-Roberts from the Office of Planning. As demonstrated  
23 in OP report, the applicant meets the requirements of  
24 Subtitle E-5201 and Subtitle X-901 for the reduction in the  
25 rear yard and increasing the lot occupancy for a rear

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1 addition.

2           The addition should not negatively impact the  
3 light and air or privacy of adjacent neighbors or intrude on  
4 the character along the street or alley. The proposal would  
5 be in harmony with the zoning regulations. And therefore,  
6 the Office of Planning recommends approval of the  
7 application. Thank you, Mr. Chairman.

8           CHAIRPERSON HILL: Thank you, Ms. Brown-Roberts.  
9 Does the Board have any questions for the applicant or the  
10 Office of Planning?

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

12           MR. YOUNG: We do not.

13           CHAIRPERSON HILL: Okay. Mr. Brittingham, do you  
14 have anything to add at the end?

15           Okay. Thank you. I'm going to close the hearing  
16 and the record. Mr. Young, if you can please excuse  
17 everyone. I've seen little houses and little extensions  
18 before. But this is a little house and a little extension.

19           And so I don't have any issues with what they're  
20 trying to do. I think it's fantastic they did all the  
21 outreach that they did. I think that the windows that  
22 they're trying to get in their little house is very helpful.

23           That will make it more livable. It looks very  
24 cute, very nice design. And I don't have -- I don't think  
25 that there's any problem with meeting the criteria.

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1           And I'd agree with the analysis the Office of  
2 Planning has provided as well as that of the ANC as well as  
3 all the letters of support. And again, the outreach that the  
4 applicant has done as well as that of the architect is why  
5 this is all so able to move along so smoothly. With that,  
6 Mr. Smith, do you have anything you'd like to add?

7           MR. MOY: Nothing to add. I agree with your  
8 statements. Also that is a very cute house.

9           CHAIRPERSON HILL: Dr. Imamura?

10          MEMBER IMAMURA: Nothing to add, Mr. Chairman.

11          CHAIRPERSON HILL: Thank you. Vice Chair John?

12          VICE CHAIR JOHN: Nothing to add, Mr. Chairman.

13          CHAIRPERSON HILL: Thank you. I'm going to make  
14 a motion to approve Application No. 21052 as captioned and  
15 read by the Secretary and ask for a second. Ms. John?

16          VICE CHAIR JOHN: Second.

17          CHAIRPERSON HILL: The motion has been made and  
18 seconded. Mr. Moy, take a roll call.

19          MR. MOY: When I call your name, if you'll please  
20 respond to the motion made by Chairman Hill to approve the  
21 application for the relief that's been requested. The motion  
22 was second by Vice Chair John. Zoning Commissioner Dr.  
23 Imamura?

24          MEMBER IMAMURA: Yes.

25          MR. MOY: Mr. Smith?

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1 MEMBER SMITH: Yes.

2 MR. MOY: Vice Chair John?

3 VICE CHAIR JOHN: Yes.

4 MR. MOY: Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MR. MOY: Staff would record the vote as 4 to 0  
7 to 1. And this is on the motion made by Chairman Hill to  
8 approve. The motion to approve was second by Vice Chair John  
9 who also voted to approve the application as well as approval  
10 from Zoning Commissioner Dr. Imamura, Mr. Smith, Vice Chair  
11 John, Chairman Hill. No other member participating. Motion  
12 carries 4 to 0 to 1.

13 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. Mr.  
14 Moy, is there anything else before the Board today?

15 MR. MOY: Nothing from the staff, sir.

16 CHAIRPERSON HILL: Okay. I actually now was  
17 trying to make a 4:00 o'clock meeting. So I'm actually going  
18 to try to make it. So you all have a good day. Happy  
19 Valentine's Day. And enjoy it.

20 (Whereupon, the above-entitled matter went off the  
21 record at 3:48 p.m.)

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 02-14-24

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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