

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY  
APRIL 17, 2024

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 9:36 a.m. EDT, Lorna L. John, Vice-Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LORNA L. JOHN, Vice-Chairperson  
CARL BLAKE, Member  
CHRISHAUN S. SMITH, NCPC Designee  
KEARA MEHLERT, Secretary

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

RON BARRON  
MAXINE BROWN-ROBERTS  
MATTHEW JESICK  
CRYSTAL MYERS  
MICHAEL JURKOVIC  
SARAH BAJAJ, ESQ.  
RYAN NICHOLAS, ESQ.

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The transcript constitutes the minutes from the Regular Public Hearing held on April 17, 2024.

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

(9:36 a.m.)

1  
2  
3 VICE-CHAIR JOHN: Good morning, ladies and  
4 gentlemen. The Board of Zoning Adjustments April 17 Public  
5 Hearing will please come to order. My name is Lorna John,  
6 Vice-Chair person of the District of Columbia, Board of  
7 Zoning Adjustment.

8 Joining me today are Board Members Carl Blake and  
9 Chrishaun Smith and Zoning Commissioner Rob Miller. Today's  
10 meeting and hearing agendas are available on the Office of  
11 Zoning's website.

12 Please be advised that this proceeding is being  
13 recorded by a court reporter and is also broadcast live via  
14 Webex and YouTube Live. The webcast will be available in the  
15 Office of Zonings' website after today's hearing.

16 Accordingly, everyone who is listening on Webex  
17 or by telephone will be muted during the hearing. Once  
18 again, if you have, if you experience difficulty accessing  
19 Webex or with your telephone call in, then please call the  
20 OZ hotline number at 202-727-5471 to receive Webex login or  
21 call-in instructions.

22 At the conclusion of the decision meeting, I shall  
23 in consultation with the Office of Zoning determine whether  
24 a full order or summary order or they may be issued. A full  
25 order is a requirement. A decision contains as adverse to

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1 a party including an effective ANC.

2 A full order may also be needed if the Board's  
3 decision defers from the Office of Planning's recommendation.  
4 Although the Board favors use of summary orders whenever  
5 possible, an applicant may not request the Board to issue  
6 such an order.

7 In today's hearing session, everyone who is  
8 listening on Webex or by telephone will be muted during the  
9 hearing. And the only persons who have signed up to  
10 participate or testify will be unmuted at the appropriate  
11 time.

12 Please state your name and home address before  
13 providing oral testimony or your presentation. All  
14 presentations should be limited to a summary of your most  
15 important points.

16 When you are finished speaking, please mute your  
17 audio so that your microphone is no longer picking up sound  
18 or background noise. Once again, if you experience  
19 difficulty accessing Webex or with your telephone call in,  
20 or if you've forgotten to sign up 24 hours prior to this  
21 hearing, then please call our OZ hotline number at  
22 202-727-5471 to sign up to testify and to receive Webex login  
23 or call-in instructions.

24 All persons planning to testify either in favor  
25 or in opposition should have signed up in advance. They will

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1 be called by name to testify. If this is an appeal, only  
2 parties are allowed to testify.

3 By signing up to testify, all participants  
4 completed the oath or affirmation as required by Subtitle Y,  
5 Section 408.7. Requests to enter evidence at the time of an  
6 online virtual hearing such as written testimony or  
7 additional supporting documents other than live video which  
8 may not be presented as part of the testimony may be allowed  
9 pursuant to Subtitle Y, Section 103.13 provided that the  
10 person making the request to enter an exhibit explains how  
11 the proposed exhibit is relevant.

12 The good cause that justifies allowing the exhibit  
13 into the record including an explanation of why the requester  
14 did not file the exhibit prior to the hearing pursuant to  
15 Subtitle Y, Section 206 and how the proposed exhibit would  
16 not unreasonably prejudice any party.

17 The order of procedure for special exceptions and  
18 variances pursuant to Subtitle Y, Section 409 will be as  
19 follows: preliminary and procedural matters, statement of  
20 the applicant and the applicant's witnesses, report and  
21 recommendation from the D.C. Office of Planning, reports and  
22 recommendations from other public agencies, reports and  
23 recommendations from the affected Advisory Neighborhood  
24 Commission.

25 And the ANC witnesses, if any, or the area within

1 which the property is located, parties in support of the  
2 application, individuals and organization representatives in  
3 support of the application, parties in opposition to the  
4 application, individuals and organization representatives in  
5 opposition to the application, individuals and organization  
6 representatives who are undeclared with respect to the  
7 application, rebuttal and closing statements by the  
8 applicant.

9           Okay. Just a minute. I seem to have an issue  
10 with my documents. The oral procedure for special, the oral  
11 procedure for appeal applications pursuant to Subtitle Y,  
12 Section 507 will be as follows:

13           Preliminary procedure matters, statement of the  
14 appellant and appellant's witnesses, the respective cases of  
15 the parties, or intervenors in support of the appeal in the  
16 following order:

17           The owner, lessees, operator or contract purchaser  
18 of the property involved if not the appellant, the effected  
19 ANC, if not the appellant, and any other party permitted to  
20 intervene in the proceedings in support of the appeal.

21           The Statement of the Administrative Officials  
22 case, the respective cases of the parties or intervenors in  
23 opposition to the appeal in the following order: The owner,  
24 lessee, operator or contract purchaser of the property  
25 involved, the affected ANC.

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1           And any other party permitted to intervene in the  
2 proceeding in opposition to the appeal. Rebuttal evidence  
3 from the appellant followed by rebuttal evidence from the  
4 parties in support of the appeal in the order indicated in  
5 subparagraphs 3 of this paragraph M, closing arguments in the  
6 order established in subparagraphs 2 through 5 of this  
7 paragraph.

8           Pursuant to Subtitle Y, Sections 408.2 and 408.3,  
9 the following time constraints shall be maintained. The  
10 applicant, appellant and all parties except unaffected ANC  
11 in support including witnesses, exclusive of  
12 cross-examination maximum of 60 minutes collectively, the  
13 appellee, persons and parties except unaffected ANC and  
14 opposition including witnesses collectively have an amount  
15 of time equal to that of the applicant and parties in  
16 support.

17           But in no case more than 60 minutes collectively.  
18 Individuals, a maximum of three minutes. Organization  
19 representatives maximum of five minutes. These time  
20 constraints do not include cross-examination and/or questions  
21 from the Board.

22           Cross-examination of witnesses by the applicant  
23 or parties including the ANC is permitted. The ANC will then  
24 reach the properties located is automatically a party and a  
25 special exception of variance case.

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1           Nothing prohibits the Board from placing  
2 reasonable restrictions in cross-examination including time  
3 limits and limitations on the scope of cross-examination  
4 pursuant to Subtitle Y, Section 408.5.

5           At the conclusion of each case, an individual who  
6 is unable to testify because of technical issues may file a  
7 request for need to file a written version of their party  
8 testimony to the record within 24 hours following the  
9 conclusion of public testimony in the hearing.

10           If additional written testimony is accepted, then  
11 parties will be allowed a reasonable time to respond as  
12 determined by the Board. The Board will then make its  
13 decision at its next meeting session.

14           But no earlier than 48 hours after the hearing.  
15 Moreover, the Board may request additional specific  
16 information to complete the record. The Board and the staff  
17 will specify at the end of the hearing exactly what is  
18 expected and the date when persons must submit the evidence  
19 to the Office of Zoning.

20           No other information shall be accepted by the  
21 Board. Once again, after the Board adjourns the hearing, the  
22 Office of Zoning in consultation with me will determine  
23 whether full or summary order may be issued.

24           A full order is required when the decision it  
25 contains is adverse to a party including an effective ANC.

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1 A full order may also be needed if the Board's decision  
2 differs from the Office of Planning's recommendation.

3           Although the Board favors the use of summary  
4 orders whenever possible, an applicant may not request the  
5 Board to issue such an order. Finally, the District of  
6 Columbia Administrative Procedure Act requires that the  
7 public hearing on each case be held in the open before the  
8 public.

9           However, pursuant to Sections 405B and 40C of that  
10 Act, and 406 of that Act, the Board may consistent with its  
11 rules of procedure and the Act and to enter a closed meeting  
12 on a case for purposes of seeking legal counsel on a case  
13 pursuant to D.C. Official Code Section 2575(B)(4) and/or  
14 deliberating on a case pursuant to D.C. Official Code Section  
15 2575(B)(13).

16           But only after providing the necessary public  
17 notice and in the case of, and in the case of an emergency  
18 closed meeting, after taking a roll call. Madame Secretary,  
19 do we have any preliminary matters?

20           MEMBER MELHERT: Good morning. Just one thing to  
21 note. The Vice-Chair has reviewed and granted a waiver to  
22 allow a late filing into the applicable case record pursuant  
23 to Subtitle Y, Section 206.7 and Section 103.13. Any other  
24 late filings during the course of today's live hearing should  
25 be presented before the Board by the Applicant or parties or

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1 witnesses after the case is called.

2           And any other preliminary matters will be noted  
3 when the case is called.

4           VICE-CHAIR JOHN: Thank you, Madame Secretary.  
5 And that was with reference to Case No. 21049?

6           MEMBER MEHLERT: Correct.

7           VICE-CHAIR JOHN: Okay, thank you. Okay, so can  
8 we call our first case?

9           MEMBER MEHLERT: Yes, the first case for today's  
10 hearing session is Application No. 21091 of Freedom 828 21st  
11 Street Northeast, LLC. This is a self-certified application  
12 pursuant to Subtitle X, Section 901.2 for special exceptions  
13 under Subtitle E 204.4 from the rooftop and upper floor  
14 element requirements of Subtitle E, Section 204.1 to allow  
15 removal of a rooftop architectural element.

16           And under Subtitle E, Section 207.5 to allow the  
17 rear wall of a rear building to extend further than ten feet  
18 beyond the farthest rear wall of any adjoining principal  
19 residential building on an adjacent property.

20           This project is to construct a new third story and  
21 three-story rear addition to an existing two-story attached  
22 principle dwelling for conversion to a three-unit apartment  
23 house in the RF-4 zone.

24           This is located at 828 21st Street Northeast,  
25 Square 4495 Lot 5. And there is a pending request for

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1 postponement from the applicant.

2 VICE-CHAIR JOHN: Thank you. Good morning, Mr.  
3 Cross. Can you introduce yourself for the record?

4 MR. CROSS: Michael Cross. Principle architect  
5 for the project related to 21091.

6 VICE-CHAIR JOHN: Thank you. Do you intend to  
7 call Ms. Stuart as well?

8 MR. CROSS: Ms. Stuart is here. She is the senior  
9 project coordinator in the same office.

10 VICE-CHAIR JOHN: Ms. Stuart, can you introduce  
11 yourself please?

12 MS. STUART: Sure. Elizabeth Stuart, senior  
13 project coordinator and here on behalf of the applicant.

14 VICE-CHAIR JOHN: Thank you. And, Mr. Cross, can  
15 you tell us about your motion to postpone?

16 MR. CROSS: Yes. We do apologize for the late  
17 filing. It was not our intention to postpone at this late  
18 hour. We and our client have worked diligently to try to be  
19 prepared for this case today.

20 Unfortunately, we met with the ANC last week on  
21 the 9th, the evening of the 9th and received some opposition  
22 that we had not heard previously despite meeting with them  
23 on two separate occasions prior.

24 And our client's committed to trying to work with  
25 the community to resolve those oppositions prior to bringing

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1 the case before the Board. I, sorry, I should add the ANC  
2 had recommended asking for a postponement and so we do this  
3 in conjunction with that recommendation. Thank you.

4 VICE-CHAIR JOHN: Okay thank you very much. So  
5 I'm inclined to grant the request for postponement. Do my  
6 Board Members have any comments? Okay.

7 MEMBER MILLER: I support your position, Madame  
8 Chair.

9 VICE-CHAIR JOHN: Thank you, Commissioner Miller.  
10 So Ms. Mehlert, do we have a date when we could possibly hear  
11 this case?

12 MS. MEHLERT: Sure so given the upcoming hearing  
13 schedule, staff would recommend July 3rd as the reschedule  
14 date.

15 VICE-CHAIR JOHN: Okay. Mr. Cross, I hate to ask  
16 you if that's a good date for you because we don't have any  
17 other date right now so it looks as if it's going to be July  
18 3rd.

19 MR. CROSS: We understand and appreciate the  
20 opportunity to present. We will look forward to seeing you  
21 on July 3rd.

22 VICE-CHAIR JOHN: Okay, thank you.

23 MR. CROSS: Thank you. Okay, Ms. Mehlert,  
24 Secretary Mehlert, can we move to the next case?

25 MEMBER MEHLERT: Yes. So the next case on the

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1 Board's agenda is Appeal No. 21049 of Gernot Brodnig and  
2 Alison Schafer. This is an appeal from the decision made on  
3 August 11th, 2023 by the Department of Buildings Zoning  
4 Administrator to issue Building Permit No. B2305113.

5 This is located in the R-3 GT Zone at 2716 O  
6 Street Northwest, Square 1239, Lot 143. And there is also  
7 a pending request to postpone from the Appellant.

8 VICE-CHAIR JOHN: Okay. Thank you. Mr. Young,  
9 can you let the parties in? Oh I see a few. Good morning.  
10 Can you introduce yourselves please. I see Mr. Fuller and  
11 Mr. Sullivan. Okay. Mr. Sullivan?

12 MR. SULLIVAN: Yes, thank you, Madam Chair. Marty  
13 Sullivan on behalf of the property owner.

14 VICE-CHAIR JOHN: And Mr. Fuller?

15 MR. FULLER: And good morning. This is Brent  
16 Fuller on behalf of Department of Buildings.

17 VICE-CHAIR JOHN: Thank you. Now, who is moving  
18 for a continuance?

19 MEMBER MEHLERT: I believe the property, or the  
20 appellant actually is not here.

21 MR. SULLIVAN: Madame Chair, I believe that there  
22 was two appellants in this case. Mr. Gernot Brodnig and then  
23 Ms. Alison Schafer. I know it was Mr. Brodnig I think that  
24 moved for the continuance based on a death in his family.

25 I know I heard from Ms. Schafer, she sent an email

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1 yesterday and then again this morning. Ms. Schafer is on  
2 here. Okay, I was going to say Ms. Schafer was asking about  
3 if we needed to attend and I think I said yes, we need to  
4 call in despite the motion to continue.

5 So Ms. Schafer can kind of I guess speak for  
6 herself at this point.

7 VICE-CHAIR JOHN: Ms. Schafer, can you introduce  
8 yourself for the record please?

9 MS. SCHAFER: My name is Alison Schafer.

10 VICE-CHAIR JOHN: And you're requesting a  
11 postponement?

12 MS. SCHAFER: Yes, we are please.

13 VICE-CHAIR JOHN: And I understand this is because  
14 of a death in the family?

15 MS. SCHAFER: Yes, exactly.

16 VICE-CHAIR JOHN: So I have no objection to the  
17 postponement. I noticed that the property owner is also in  
18 support of the postponement, but based on the late filing is  
19 requesting a hearing date on April 24th.

20 And I don't know if that date is available. Ms.  
21 Mehlert, do you have a proposed date for us?

22 MEMBER MEHLERT: So the 24th would be, would work  
23 and honestly after that it would have to be July 3rd.

24 VICE-CHAIR JOHN: And Ms. Schafer and Mr. Fuller,  
25 I assume April 24th works for you as well?

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1 MS. SCHAFER: Right, yes, please.

2 VICE-CHAIR JOHN: Okay, all right.

3 MR. FULLER: Madame Chair, just briefly, one I  
4 think in the motion to postpone or motion to continue that  
5 was filed by Mr. Brodnig, he's obviously not here. I just  
6 wanted to alert you that he requested a new hearing date  
7 after April 29th.

8 From Department of Buildings' perspective, the  
9 24th could work. I know the Zoning Administrator, without  
10 going into too much detail, she has a I think an appointment,  
11 medical appointment, next Wednesday morning.

12 If the hearing was set for April 24th in the  
13 afternoon, I think that would definitely be feasible or  
14 doable with respect to the Department of Buildings. I know  
15 that the docket looks a little short next Wednesday.

16 So I just mention that because I don't know if you  
17 actually would maybe get to this hearing, you know, in the  
18 morning, but we'd have to actually do it in the afternoon if  
19 that was possible if it does go forward on the 24th.

20 VICE-CHAIR JOHN: So Ms. Mehlert, is that a -- I  
21 mean we could certainly hear the appeal in the afternoon, but  
22 I don't know how many, how difficult the cases are in the  
23 morning.

24 So it all would depend on when we get through the  
25 morning cases. But I wanted to go to Ms. Schafer. Ms.

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1 Schafer?

2 MS. SCHAFFER: Yes.

3 VICE-CHAIR JOHN: So with respect to that April  
4 29th date, is that something that the request for April 29th  
5 is that something that would work for the appellants?

6 MS. SCHAFFER: Yes, that would be great if that  
7 works. I thought it was 24th or July, but the 29th would be  
8 super.

9 VICE-CHAIR JOHN: No, I'm sorry, Mr. Brodnig based  
10 on Mr. Fuller's representation is requesting April 29th. I  
11 don't have the request to postpone in front of me so I don't  
12 have that information. I'm working with one computer today  
13 so --.

14 MR. FULLER: I'm sorry, Madam Chair. I believe  
15 that the and I have to pull it up, I believe that he was  
16 asking for a date after April 29th. Let me just look and see  
17 if I can clarify.

18 I thought that's what his motion indicated. No  
19 and I'm just mentioning this in fairness to --

20 VICE-CHAIR JOHN: Yes.

21 MR. FULLER: -- to him.

22 VICE-CHAIR JOHN: So, Ms. Schafer, are you able  
23 to represent to, to represent yourself in the absence of Mr.  
24 Brodnig?

25 MS. SCHAFFER: Not as well as I could with the

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1 presence of Mr. Brodnig. Does that make sense?

2 VICE-CHAIR JOHN: Well I guess I'll hear from Mr.  
3 Sullivan. I think based on the schedule, April 24th is  
4 reasonable or we're looking at July 3rd. I would hate to  
5 schedule something if one of the parties is not able to be  
6 present.

7 MS. SCHAFER: I don't, I just don't know enough.  
8 Mr. Brodnig is out of the country so I just don't know quite  
9 what his schedule is. I mean I suppose if it makes any  
10 sense, we could go to July 3rd, but that seems awfully far  
11 away.

12 MR. FULLER: And just to, his -- I just have his  
13 motion in front of me. He says I am writing to request a  
14 postponement of the scheduled hearing date from 17 April to  
15 any suitable date after 29 April and then he goes on to  
16 discuss the basis of the request.

17 So like I said, from DoD's perspective, we're okay  
18 with the 24th as long as it's, you know, in the afternoon.  
19 But we're okay with a later date as well.

20 VICE-CHAIR JOHN: Okay. I am going to schedule  
21 it for July 3rd.

22 MR. SULLIVAN: Can the property owner speak?

23 VICE-CHAIR JOHN: Yes.

24 MR. SULLIVAN: So this is an unusual case and that  
25 the project is virtually completed although their filing was

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1 timely, it was based on a technical issue of the replacement  
2 permit or revised permit or substitute permit. That's what  
3 they're appealing, so the project is virtually completed.

4 My client will be able to sell this within weeks.  
5 And any delay beyond that is very burdensome financially for  
6 him. I want to add that it's going to be a short hearing  
7 first of all. There's no witnesses proposed.

8 It's a strictly legal issue. Everybody agrees on  
9 the facts. And you could probably decide it on the filings.  
10 This is the third appeal by Mr. Brodnig, including Court of  
11 Appeals. There's a filing of appeal at OAH to which my  
12 client merely responded by eliminating most of the work or  
13 all of the work that was leading to the complaint under OAH  
14 to which then they refused to withdraw that appeal.

15 And that's still ongoing. And my client's -- it's  
16 just July 3rd is six, seven weeks away and in the virtual  
17 world, I've had meetings, hearings and ANC meetings with my  
18 clients on the other side of the world participating.

19 So I don't think that being out of the country  
20 necessarily is a reason to get seven weeks' delay. I think  
21 the appeal is baseless too, but that doesn't matter for the  
22 purposes of this decision. So the property owner, that's our  
23 position that going to July 3rd would not be fair so.

24 VICE-CHAIR JOHN: So let me hear from the rest of  
25 my Board Members based on the property owner's information.

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1 Anyone?

2           Okay. All right, so I guess I'll reverse myself  
3 then and go ahead with April 24th because it does make sense  
4 considering that the property, you know, the work is done and  
5 the applicant really, I'm sorry, the property owner does need  
6 to have a decision.

7           So I'll go ahead and reconsider and schedule this  
8 for April 24th possibly in the afternoon to accommodate the  
9 Zoning Administrator. Okay? Thank you all.

10           MR. SULLIVAN: Thank you.

11           MS. SHAFER: Thank you.

12           MEMBER MILLER: I support your decision.

13           VICE-CHAIR JOHN: Thank you. Okay, Ms. Mehlert,  
14 could you call the next case?

15           MEMBER MEHLERT: Okay the next case is Application  
16 No. 21054 of Marie-Joelle Voil. As amended, this is an  
17 application pursuant to Subtitle X, Section 901.2 for a  
18 special exception under Subtitle D, Section 5201 and Subtitle  
19 D, Section 5004.1(a) to allow an accessory building in a  
20 required rear yard.

21           And pursuant to Subtitle X 1002 for an area  
22 variance from the accessory building requirements of Subtitle  
23 D 1105.6. This project is to construct a one-story accessory  
24 structure with roof deck and required rear yard and existing  
25 attachment principle dwelling in the R-3/GT Zone.

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1 This is located at 1921 37th Street Northwest  
2 Square 1296, Lot 356. This, the hearing for this case began  
3 on March 6th and the Board requested additional information  
4 from the applicant and scheduled a continued hearing.

5 And participating today are Vice-Chair John, Mr.  
6 Blake and Mr. Smith.

7 VICE-CHAIR JOHN: Thank you, Madam Secretary. Mr.  
8 Young, I see that the parties are in. Mr. Ramirez?

9 MR. RAMIREZ: Yes.

10 VICE-CHAIR JOHN: Can you introduce yourself for  
11 the record please.

12 MR. RAMIREZ: Yes. Roberto Ramirez. I'm  
13 representing the home owner.

14 VICE-CHAIR JOHN: I'm sorry, I cannot hear you.  
15 Can you turn up your microphone?

16 MR. RAMIREZ: Okay, can you hear me now?

17 VICE-CHAIR JOHN: Much better, much better.

18 MR. RAMIREZ: Okay, yes, Roberto Ramirez. I am  
19 here representing the homeowner.

20 VICE-CHAIR JOHN: Okay, can you tell us what has  
21 happened since the last hearing?

22 MR. RAMIREZ: Yes, Ms. Crystal Myers from Office  
23 of Planning and I were in contact after the hearing. We  
24 submitted additional images of the rear yard depicting the  
25 constraints of the private area left at, you know, having the

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1 existing garage and the walkway into the basement apartment.  
2 And that was one thing we submitted.

3 We additionally added more information to the  
4 burden of proof. We also received a letter of recommendation  
5 from the ANC. And there was a revised letter, again, from  
6 Office of Planning, I'm sorry, Office of Zoning adjusting  
7 their, there's a section that was needed for us to do a, you  
8 know, seek relief on which was the rear lot encroachment.

9 And the variance was changed from a use to an area  
10 variance request. So after all of that, we received an  
11 additional, I guess a revised letter from Office of Planning  
12 and they have gratefully, you know, recommended that the roof  
13 deck does meet the criteria for an area variance.

14 And also the setback, the rear setback is no  
15 longer, those also, I think that was on the first hearing  
16 that was kind of, you know, decided that it wasn't really  
17 necessary.

18 So because it was, you know, it complied so that's  
19 kind of where we are today. And so, just to give you a  
20 little bit of background. I don't know if you guys had a  
21 chance to look at the additional photos that shows the really  
22 narrow private area left for rear yard, you know, which is  
23 basically just a path to get from the accessory building to  
24 the house.

25 And for the tenant to get into the apartment. The

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1 house only has a rear entry into the apartment so.

2 VICE-CHAIR JOHN: Okay. Does the Board have any  
3 questions?

4 Anyone? Okay, I'll go to the office of Planning.

5 MS. MYERS: Myers with the Office of Planning.  
6 The Office of Planning continues to recommend approval of a  
7 special exception and can now also recommend approval of the  
8 variance relief.

9 As was discussed a little earlier, the Office of  
10 Planning went back, talked with the applicant and also talked  
11 with the zoning administrator's office and through the  
12 conversations with the zoning administrator's office, they  
13 reconsidered their referral.

14 And came to the conclusion that this is an area  
15 variance and they also kind of had conversations with Office  
16 of Planning to better understand the special exception  
17 relief. So we are all in agreement that the special  
18 exception relief is the correct relief.

19 This zone is a little bit different than some of  
20 the other zones, residential zones so in this particular  
21 zone, you do have to request the special exception relief the  
22 way it is requested.

23 And as for the variance, because of the, this is  
24 a different type of use than accessory building so in that,  
25 I believe it's the D 1105 Section, the other uses in that

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1 section are considered use variances.

2 But the Zoning Administrator's Office said that  
3 a roof deck is not the same type of use and a use variance  
4 is a little too much to request. An area variance would be  
5 the more appropriate route so that's the, their  
6 determination.

7 Their final letter is actually not in the record.  
8 They are working on it so that is a little delayed. But  
9 their earlier versions of their letter are in the record and  
10 I believe it's the last one is where they determine the area  
11 variance so that is, there is a written version of that now.

12 But the confirmation of the special exception  
13 relief is what they're working on now so that, they tell me  
14 that is going to be ready today, but unfortunately it hasn't,  
15 it hasn't been submitted as of this, by the time of the  
16 hearing so.

17 But I did want to let you know that the final  
18 letter will have the relief as shown in the OP Report and the  
19 area variance again on it. So again, Office of Planning is  
20 recommending approval and now of all areas of relief.

21 VICE-CHAIR JOHN: Okay, does the Board have any  
22 questions for the Office of Planning?

23 Anyone?

24 MEMBER SMITH: I have no questions.

25 VICE-CHAIR JOHN: Okay. So in my view the correct

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1 relief is as stated. Mr. Young, could you pull up I believe  
2 it's Exhibit 18 that shows Slide 1A I believe that shows the  
3 rear yard? I don't have my second computer today.

4 I believe the architectural plans are at Slide 18.  
5 Please scroll to the next slide. Keep going. Yes, I think  
6 that's the one. Can you enlarge it a bit? Okay, so Ms. --  
7 go back to the Office of Planning. If you look at, can you  
8 see this slide?

9 MS. MYERS: Yes, I can.

10 VICE-CHAIR JOHN: Okay. So the garage basically  
11 is in the required rear yard based on the measurements that  
12 are shown there. Is that your understanding?

13 MS. MYERS: Yes.

14 VICE-CHAIR JOHN: And so the way the Office of  
15 Planning looked at this, the total area is from the building  
16 to the property line would be 44 feet. So and if the  
17 required rear yard is 25 feet, a part of the building sits  
18 in that rear yard, required rear yard.

19 MS. MYERS: And they requested relief for that.

20 VICE-CHAIR JOHN: Okay.

21 MS. MYERS: Yes.

22 VICE-CHAIR JOHN: All right so then does any Board  
23 Member have any questions before I move on? Thank --

24 MEMBER BLAKE: No questions.

25 VICE-CHAIR JOHN: -- thank you, Mr. Young. Is

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1 there anyone wishing to testify, Mr. Young?

2           Okay. So I'm going to go ahead then and close the  
3 hearing and the record. Are we ready to deliberate?

4           Okay, so go ahead and start. So this is a bit  
5 awkward because of the questions about the Zoning  
6 Administrator's decision. However, I think this is an area  
7 where the Board can determine how to interpret the  
8 regulation.

9           And I think that with respect to the required rear  
10 yard, as I understand that rule, the garage cannot sit in the  
11 area that's required to meet the dimensions for the rear yard  
12 which in this case is 25 feet.

13           So I am inclined to go ahead and approve that  
14 portion, the special exception portion as captioned as a  
15 request for relief under Subtitle 5004.1(a) which would allow  
16 an accessory building in a required rear yard.

17           And as to the area variance, I believe as OP  
18 explained, that the area variance is more appropriate in this  
19 situation because it's a question of where the roof deck  
20 would be situated. So does anyone have any comments?

21           Would like to chime in? I'll go to you, Mr.  
22 Smith, since I assume you are going to volunteer to comment?

23           MEMBER SMITH: Sure. I'll volunteer to comment.  
24 I agree with your assessment of this particular case and I'm  
25 glad that we had some additional time for the applicant and

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1 the Office of Planning and the Zoning Administrator to take  
2 a look at this to make sure that we are approving the, we're  
3 analyzing this from the correct regulatory stance.

4 So I do agree with your assessment on the special  
5 exception case, the interpretation of the required rear yard  
6 relief and I'm also inclined to agree with you and the Office  
7 of Planning that the area variance is the most appropriate  
8 relief for this particular case given the location of the  
9 accessory structure to the rear yard.

10 So I am inclined to grant the, certainly give the  
11 benefit of the doubt here and can see how the Zoning  
12 Administrator arrived at the need for this relief. So I do  
13 believe they met the standards for us to approve the area  
14 variance as well and will support both of the applications.

15 VICE-CHAIR JOHN: Thank you. And I neglected to  
16 say that I agreed with the OP's analysis of how the request  
17 for area variance meets the criteria for approval. So Mr.  
18 Blake, do you have any comments?

19 MEMBER BLAKE: Yes, Madam Vice-Chair. I agree  
20 with the analysis that you and Board Member Smith put  
21 together with regard to the appropriate relief being the area  
22 variance and the Building D207.1.

23 I agree with the Office of Planning's analysis  
24 that they presented in the supplemental report of how the  
25 three prongs of the area variance test had been met. I have

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1 also agreed with the Office of Planning's analysis of how the  
2 conditions had been met for the rear yard requirement.

3 And I would give great weight to the Office of  
4 Planning's recommendation for approval, also give great  
5 weight to the written report of ANC 2E which is in support  
6 with no issues or concerns.

7 And I'll also note the letters of support from the  
8 neighbors, from two neighbors. I would be willing to be in  
9 favor of this application.

10 VICE-CHAIR JOHN: Thank you. Okay, so it seems  
11 as if we're all in agreement and so I will make a motion to  
12 --

13 MEMBER BLAKE: Vice-Chair Miller, did Vice-Chair  
14 Miller speak?

15 VICE-CHAIR JOHN: No, I don't believe he's on this  
16 case, Mr. Miller. It was Dr. Imamura. And I don't know if  
17 he's submitted anything to the record. So I'll go ahead and  
18 make a motion to approve application No. 21054 as captioned  
19 and read by the Secretary and ask for a vote.

20 MEMBER BLAKE: Second.

21 VICE-CHAIR JOHN: A second. Sorry. Ms. Mehlert,  
22 the application was seconded. Could you take a roll call  
23 please?

24 MEMBER MEHLERT: Just to confirm, this is a motion  
25 to approve special exception relief from Subtitle D,

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1 5004.1(a) as captioned?

2 VICE-CHAIR JOHN: Yes.

3 MEMBER MEHLERT: When I call your name, please  
4 respond to the Vice-Chair's motion to approve the  
5 application. Vice-Chair John?

6 VICE-CHAIR JOHN: Yes.

7 MEMBER MEHLERT: Mr. Smith?

8 MEMBER SMITH: Yes.

9 MEMBER MEHLERT: And Mr. Blake?

10 MEMBER BLAKE: Yes.

11 MEMBER MEHLERT: Staff would record the vote as  
12 three to zero to two. This is to approve Application 21054  
13 on the motion made by Vice-Chair John and seconded by Mr.  
14 Blake with two Board Members not participating.

15 VICE-CHAIR JOHN: Correct. And you were referring  
16 also to the second part which is Subtitle X 1002 for the  
17 variance.

18 MEMBER MEHERT: Right.

19 VICE-CHAIR JOHN: Okay.

20 MEMBER MEHERT: Right.

21 VICE-CHAIR JOHN: So that's what's in the caption  
22 so just to, yes. Okay, Ms. Mehlert, Commissioner Mehlert,  
23 did we have any information from Dr. Imamura?

24 MEMBER MEHLERT: We did not.

25 VICE-CHAIR JOHN: Okay. Thank you. Okay, welcome

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1 back Commissioner Miller.

2 MEMBER MILLER: Good to be back.

3 VICE-CHAIR JOHN: So let's call our next case, Ms.  
4 Mehlert.

5 MEMBER MEHLERT: The next case is Application No.  
6 21088 of 3583 13th LLC. This is a self-certified application  
7 pursuant to Subtitle X, Section 901.2 for special exceptions  
8 under Subtitle U, Section 320.2 to allow the conversion of  
9 an existing residential building to an apartment house.

10 And under Subtitle E, Section 204.4 or from,  
11 sorry, under Sections of Subtitle E, Section 204.4 from the  
12 rooftop and upper floor element requirements of Subtitle E  
13 204.1 to allow removal of rooftop architectural requirements.

14 And this is the conversion of an existing  
15 two-story semi-detached principle dwelling to a three-unit  
16 apartment house with a new third story and three story rear  
17 addition in the removal of an existing front porch roof and  
18 upper floor architectural elements original to the building.

19 This is located in the RF-1 zone at 3583 13th  
20 Street Northwest, Square 2833, Lot 173.

21 VICE-CHAIR JOHN: Thank you. Let's see. Good  
22 morning, again, Mr. Cross. Are you representing the  
23 applicant?

24 MR. CROSS: Good morning. I am. Michael Cross,  
25 principle architect on behalf of the applicant at 3583 13th

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1 Street Northwest. I'm joined here by project designer Alfred  
2 Manalang as well as project coordinator Elizabeth Stuart.

3 VICE-CHAIR JOHN: Thank you. Can you describe the  
4 relief you are requesting and why it meets the criteria for  
5 approval?

6 MR. CROSS: Certainly. If Mr. Young could bring  
7 up the presentation at Exhibit 29. We're seeking two areas  
8 of relief as outlined. Both the conversion of a building in  
9 the RF-1 zone to a three-unit apartment building as well as  
10 the removal of an architectural rooftop element. Next slide.

11 The project is proposed at 3583 13th Street  
12 Northwest. It's on the east side of the block and it's  
13 between Monroe and Otis. Next street, sorry, next slide.  
14 All other aspects of the proposed projects conform to the  
15 matter of right requirements including its height which is  
16 proposed at the allowable 35-foot height.

17 The lot occupancy is only proposed at 48 percent  
18 where 60 percent would be allowed. We are providing the two  
19 required parking spaces at the rear of the lot off the alley.  
20 The front side and rear yards are all conforming.

21 Additionally, the structure is to remain adjoined  
22 to the property to the north and we'll have a five-foot side  
23 yard between the proposed structure and the property to the  
24 south. Next slide.

25 The first area of relief being requested is to

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1 convert the structure to a three-unit multi-family building.  
2 The existing structure is single family on a lot that is  
3 3,600 square feet.

4 In this zone, properties are eligible for  
5 conversion to multi-family buildings at a ratio of 900 square  
6 feet of lot area per dwelling unit. That would make this  
7 property actually eligible for conversion up to four dwelling  
8 units.

9 But our client is proposing to develop three  
10 dwelling units in this application. Both the adjacent  
11 structures are also multi-family developments therefore this  
12 would be in kind with the character of the existing  
13 neighborhood. Next slide please.

14 The second area of relief being requested is for  
15 the removal of the architectural rooftop element, the front  
16 of the building. The applicant is requesting to remove the  
17 existing mansard roof.

18 This block has a variety of volumes along it.  
19 Most of which have had their mansards removed. Furthermore,  
20 the adjoining building no longer has a mansard and therefore  
21 the removal would make the new structure more cohesive with  
22 the adjacent connected structure. Next slide.

23 We're proposing a matter of right rear addition  
24 which will only project ten feet past the adjoining neighbor  
25 to the north. And the proposed structure is, again, limited

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1 to 48 percent lot occupancy a good bit less than the  
2 allowable 60 percent.

3 There's three letters of support in the record as  
4 well as support from the ANC and Office of Planning. We're  
5 happy to answer any questions that you might have.

6 VICE-CHAIR JOHN: Thank you, Mr. Cross. Does the  
7 Board have any questions for the applicant?

8 Commissioner Miller?

9 MEMBER MILLER: Thank you, Madam Vice-Chair.  
10 Thank you, Mr. Cross, for your presentation of this  
11 application. Can you respond? Your presentation kind of  
12 responded to the, gave information which responded to the  
13 Office of Planning's comment.

14 But I wanted you to directly respond which maybe  
15 you'll have another opportunity after they present their  
16 report today, but if you could respond to their comment that  
17 they were encouraging design-related improvements to the  
18 façade.

19 And to the, because the front porch and rooftop  
20 element was not replaced even though there, as you pointed  
21 out, the adjacent structure and other buildings do have  
22 similar characteristics.

23 Their comment on Page 4 of their report under the  
24 specific special exception criteria for this type of relief,  
25 which is that the proposed, that criteria is the proposed

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1 construction as viewed from the street, the alley or other  
2 public way shall not substantially visually improve upon the  
3 character, scale and pattern of houses along the street or  
4 alley frontage.

5           They say that the proposed addition as at the top  
6 of Page 4 includes the removal of rooftop and porch elements  
7 which requires this relief. They say going to take this  
8 would not result in a building that would be generally  
9 inconsistent.

10           So they're saying it's not inconsistent with the  
11 massing and scale of neighboring buildings which includes  
12 other recent construction, but then they go on to say that,  
13 however, this building is designed what appears in the  
14 renderings to be a relatively blank front façade with no  
15 substantive replacement element for the ones being removed.

16           And little detailing while this, while the street  
17 scape includes buildings of varied character, this building  
18 would appear to stand out in terms of its, in terms of its  
19 lack of character from most of the other buildings on the  
20 street.

21           The applicant is encouraged to look at ways to  
22 provide a façade that is more consistent with the street  
23 scape particularly in terms of the relief to review the porch  
24 and rooftop articulation, but also in terms of material and  
25 details.

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1           So if you could just respond to that comment and  
2 say whether any changes were made in the design as a result  
3 of your dialogue with Office of Planning or others.

4           MR. CROSS:    Yes, I appreciate that.    And I  
5 appreciate the feedback from Office of Planning.    It's my  
6 understanding that we got that feedback basically at the time  
7 of the report being issued and again, welcome the feedback.

8           I think it's our position to support OP's position  
9 or recommendation on Page 1 citing that they will continue  
10 to work with the applicant and discuss improvements to ensure  
11 that the proposal better addresses all relevant criteria.

12           We welcome that.    We welcome that interaction and  
13 dialogue and, you know, I just apologize that it didn't  
14 happen before the issuance of this report.

15           VICE-CHAIR JOHN:    Okay.    Thank you.    Are you fine  
16 with that, Commissioner Miller?

17           MEMBER MILLER:    Yes, I appreciate that response,  
18 Mr. Cross.    So no changes have been made as a result yet of  
19 that, to that because of that comment?

20           MR. CROSS:    That's right.    Because of the timing,  
21 we got the comments around the time of the report and so not  
22 to generate a late filing, have not made any changes at this  
23 time.

24           MEMBER MILLER:    Okay.    So no specific design  
25 changes have been recommended by Office of Planning to date

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1 yet?

2 MR. CROSS: We did get a separate email that had  
3 maybe a little bit more discussion, specific discussion than  
4 what's in the report. But we have not made any specific  
5 changes at this time.

6 MEMBER MILLER: Okay, well I will talk further  
7 with the Office of Planning and maybe come back to you.  
8 Thank you very much.

9 MR. CROSS: Thank you.

10 VICE-CHAIR JOHN: Thank you, Commissioner Miller.  
11 Does the Board have any other questions?

12 Okay, oh, Board Member Smith?

13 MEMBER SMITH: I would like to go off of what Mr.  
14 Miller was saying. Mr. Cross, even before that comment, was  
15 there some intent to design this in a manner that is in  
16 keeping with the character, so to speak, to the design and  
17 whether it looked to the yard and neighborhood around you or  
18 within the square regarding the design?

19 MR. CROSS: Yes, certainly. I think as I stated  
20 in my presentation, this area has seen a lot of development,  
21 the two adjacent properties have been developed in a similar  
22 manner.

23 The existing building seems to have built possibly  
24 as a duplex at a single point in time built as one structure  
25 with similar styling on both sides. The adjoining half has

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1 already been renovated and a lot of that character has been  
2 removed.

3           We felt that the styling of our addition was  
4 consistent with the character of the current existing  
5 adjacent structures, but always welcome the opportunity to  
6 improve that.

7           MEMBER SMITH: Okay, thanks. Chair John, I don't  
8 have anything additional.

9           VICE-CHAIR JOHN: Thank you. Board Member Blake?

10          MEMBER BLAKE: The Office of Planning.

11          VICE-CHAIR JOHN: Okay, thank you. So we'll go  
12 to the Office of Planning next.

13          MR. BARRON: Good morning, Commissioners. For the  
14 record, my name is Ron Barron, Development Review Specialist  
15 with the D.C. Office of Planning. Office of Planning  
16 submitted a report in Exhibit 27 in which we recommended  
17 approval in concept of the requested special exceptions in  
18 this application.

19                 The Office of Planning supports the approval of  
20 the special exception relief to allow conversion of a single  
21 family structure to three unit in the RF-1 zone. However,  
22 OP still has concerns about the quality of the design as  
23 presented in the case record particularly as it relates to  
24 consistency with the design elements of the adjacent building  
25 and character of the neighborhood.

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1           The remainder of my statement has essentially  
2 already been read into the record by Commissioner Miller.  
3 However, I did want to emphasize that we did not believe that  
4 this rose to the level of preventing the approval of the  
5 special exception relief, but we wanted to have the  
6 opportunity to try to improve the design so that it would be  
7 more consistent with the remainder of the neighborhood.

8           We received comments from our design division  
9 particularly and we did forward those to the applicant and  
10 we would hope that we would be able to get some of those  
11 recommended changes approved. But I'm happy to answer any  
12 other questions that you may have.

13           VICE-CHAIR JOHN:       Does the Board have any  
14 questions?

15           MEMBER BLAKE:    Sure, I have a question for the  
16 Office of Planning. I'm not convinced, I'm not accustomed  
17 to the conceptual approval of conceptual plans. We typically  
18 like to have what we're going to do in place to make  
19 decisions.

20           Would you, could you go through some of the  
21 changes that you have recommended if I missed it? Just  
22 specifics on that?

23           MR. BARRON:   The principle recommendation that was  
24 sent to us by the design division which we agreed with was  
25 that the renderings of the very least, the design is proposed

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1 seems very inconsistent with the building that it is next to.

2           And the concern is that the building that it is  
3 adjacent with to the north is already very different from all  
4 of the, most of the other buildings along that street in  
5 terms of design.

6           While it's true that many of the buildings have  
7 had their mansards removed, there are still many buildings  
8 along that street that maintain those architectural elements.  
9 And the concern that they raise is that we were facing a  
10 possibility of having each lot having a completely  
11 inconsistent design with all the other ones there.

12           Now it may be that that's just how the renderings  
13 are presenting it, but the recommendation was that the design  
14 should at the very least show how it is consistent with the  
15 building it will be attached to and including the materials  
16 that are being used.

17           And the, how the windows are lining up and how the  
18 roof lines are all lining up.

19           MEMBER BLAKE: Okay, thank you.

20           VICE-CHAIR JOHN: Commissioner Miller, your hand  
21 was up.

22           MEMBER MILLER: Member Blake asked my question.  
23 It was going to be what were the specific recommendations of  
24 the design division that were forwarded. So you said that  
25 it's the façade material and the relining up of the windows

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1 primarily. Was this, am I missing something or --

2 MR. BARRON: Going to be, there's a projection on  
3 the front of the building that does not go all the way or  
4 does not appear to go all the way to the roofline and the  
5 design division had recommended changing that.

6 So that it's more presented as a single structure  
7 or at least a more coherent term of the structure.

8 VICE-CHAIR JOHN: Is there a slide that would  
9 demonstrate this, Mr. Cross? Can you point us to something?  
10 Mr. Young, can you --

11 MR. CROSS: Sure. Sure. Mr. Young, again, this  
12 is Exhibit No. 29. And I think we can pretty much look at  
13 just Slides 1 and 2. Maybe in reverse order. If we jump to  
14 Slide No. 2, this is the existing condition that's there  
15 today.

16 You see the proposed subject site on the right as  
17 well as the renovated adjoining structure on the left labeled  
18 3585 13th Street. And then if you flip to Slide 1, you'll  
19 see at least the proposed structure which, you know, has I  
20 would argue similar language that we have agreed that we  
21 could work on the materiality, the height of the adjoining  
22 bay structure, and potential window alignments which mostly  
23 align as they are.

24 VICE-CHAIR JOHN: Can we move to that slide so I  
25 can better understand it? What you are saying, Mr. Cross?

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1 MR. CROSS: So that's Slide No. 1, Mr. Young.

2 VICE-CHAIR JOHN: And could you please explain  
3 what you are going to do again?

4 MR. CROSS: Well, the request was to use a more  
5 similar material to extend the adjoining bay to meet the  
6 height of the adjacent structure and to review the window  
7 alignments which I think are all feasible.

8 And I think should all fall within the allowance  
9 that the Office of the Zoning Administrator has on  
10 applications such as this and their approval in the building  
11 department.

12 VICE-CHAIR JOHN: Okay, so the bay window that I'm  
13 seeing would be almost -- the top of the bay window would be  
14 at the ceiling of the roof level? Is that what you're  
15 saying?

16 MR. CROSS: That's the request from OP's design  
17 division.

18 VICE-CHAIR JOHN: I see. Does any Board Member  
19 have another question?

20 MEMBER MILLER: And what is the, for Office of  
21 Planning or for Mr. Cross, what is the difference in material  
22 that we're talking about between this proposal and the  
23 adjacent structure? What's the difference in material?

24 MR. CROSS: I believe currently we are showing an  
25 exterior insulation finish system on the front façade. The

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1 adjacent structure may actually have that in part, but the  
2 adjoining section is like more of the lap siding I believe.

3 And so I would presume and maybe OP can clarify  
4 that the request for making the materials more similar is the  
5 integration of lap siding.

6 VICE-CHAIR JOHN: I'll go to OP.

7 MR. BARRON: That is, as I understand, would be  
8 correct. I am not familiar with what siding material the  
9 adjacent building is, but the request was for consistency in  
10 the design between the two buildings.

11 VICE-CHAIR JOHN: Okay. So if there are no other  
12 questions, have we exhausted all of our questions for the  
13 Office of Planning? I don't have any questions. Okay, Mr.  
14 Young, has anyone signed up to testify?

15 MR. YOUNG: No one.

16 VICE-CHAIR JOHN: And the ANC is not here?

17 MR. YOUNG: Correct.

18 VICE-CHAIR JOHN: Okay. Thank you. So we'll go  
19 ahead and close the record and the hearing and excuse the  
20 witnesses. Okay, so are we ready to testify? I'm sorry, to  
21 deliberate? So I don't have a lot of issues with this  
22 application.

23 And I thought that in terms of the development  
24 standards that the applicant met, as the architect stated,  
25 met all of the criteria for relief except for the conversion

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1 which it clearly has the square footage.

2           And the removal of the architectural element is  
3 I guess something we can discuss. I thought that in terms  
4 of OP's analysis I didn't have any objection to the analysis  
5 for the removal of the upper floor elements in terms of, you  
6 know, the light and air and privacy.

7           Those, there was no substantial impact as I could  
8 see. As to the request to change the design elements, I  
9 think, you know, as I believe you stated somewhere else or  
10 someone mentioned that we typically like to have all of, a  
11 complete record in the file before we make a decision.

12           Now OP has said that the request for design  
13 changes does not affect OP's approval, recommendation of  
14 approval of the application. So I don't have strong feelings  
15 about the current design, but I would like to hear from other  
16 Board Members, see what your thoughts are.

17           I mean, any change that would require zoning  
18 approval would have to come back to the Board. And the  
19 Zoning Administrator does have discretion. I don't know if  
20 the 2 percent discretion would come into play in this case.  
21 But I'd like to hear -- I saw your hand up Mr. Blake.

22           MEMBER BLAKE: Yes, I mean, I agree with your  
23 analysis on the -- every element of the U320 and when you  
24 look at 204.4, this issue to me with the Office of Planning  
25 is obviously visual intrusion.

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1           And it's very difficult, we have, we're kind of  
2 going backwards in this to some extent because we are saying  
3 that it doesn't, this argument is made that is somewhat  
4 visually interested.

5           At the same time, we're saying, but it's okay, but  
6 if we don't require the plans to show something that is less  
7 visibly intrusive, there's no reason that it would ultimately  
8 being any different than it is today because we don't, we  
9 haven't, you know, put together something that says this is  
10 what we agreed to and what we plan for.

11           So if we approve the current plans, we're  
12 basically saying we are comfortable with the plans as they  
13 are and we expect maybe they'll be something different, but  
14 we haven't figured out what that is yet.

15           So I do have, I think that the Office of -- what  
16 we have to work with is challenging because I don't have  
17 anything that draws the line in the sand for the visual  
18 intrusion element.

19           And I don't see where, I understand the argument  
20 that's being made, there's been no attempt to address the  
21 argument and we don't have the documentation to do that so  
22 I do have -- I am still on the fence with this.

23           But I, it's challenging without the plans in place  
24 and some adjustments that address the issue.

25           VICE-CHAIR JOHN: Thank you. Board Member Smith.

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1           MEMBER SMITH: I agree with your assessment with  
2 Rule 20.2, Chair John, as well. And to piggyback on what on  
3 what Mr. Blake was speaking about with 204.4, it is difficult  
4 to make an analysis.

5           I do understand the concerns where he's about  
6 visual intrusion. While I do believe that this house is  
7 currently designed is in itself out of character with what's  
8 along that block, I do understand OP's concerns about visual  
9 intrusion.

10           And I will also go a little further that I think  
11 OP has in this particular case done a little bit more  
12 analysis on something that I think I have asked or even some  
13 other Board Members have asked regarding, you know, visual  
14 intrusions and how the new design of these types of  
15 renovations when they come before us to move our rooftop  
16 architectural elements, how that new design is more, is in  
17 character with the, with the adjacent properties.

18           And I think reaching out to the Office of  
19 Planning's early design team is an attempt to remedy some of  
20 those concerns I think that we raise as a Board. So I am  
21 more inclined given the questions and concerns raised by the  
22 Office of Planning and it seems that the applicant is  
23 comfortable with continuing this dialog.

24           I would rather not decide this today, give the  
25 applicant a week to address some of the Office of Planning's

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1 concerns and, you know, have put itself in a decision next  
2 week or keep this as just a limited scope hearing to get that  
3 additional information and make a decision next week.

4 VICE-CHAIR JOHN: Thank you, Board Member Smith.  
5 Commissioner Miller?

6 MEMBER MILLER: Thank you, Madam Vice-Chair and  
7 thank you, Board Members Blake and Smith for your comments  
8 which I agree with. I think it would be helpful too for the  
9 applicant to submit a revised design if they can in a week  
10 or within the week.

11 It seems like relatively minor adjustments, the  
12 applicant's representative said that they thought it might  
13 be within the Zoning Administrator's discretion even to  
14 approve so I think it probably should be, I don't want to  
15 redesign it.

16 But I want to see the designer's redesign based  
17 on, I want to see some attempt to respond to Office of  
18 Planning's comments. They went to the trouble to get  
19 design-related improvements and I haven't seen those specific  
20 recommendations although we heard Mr. Barron represent what  
21 they were. I don't want to get into designing it.

22 I would like to see Mr. Cross's teams design  
23 response to that if there is one within this week that we can  
24 make the decision. If it wasn't, you know, I would  
25 definitely be much more strongly in favor of -- I don't want

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1 to delay it beyond that because we do have the support of the  
2 adjacent property owners.

3           There is similar property next door, we have the  
4 ANC 1A support. If we didn't have their support, I would be  
5 very strongly, all of that support, I would be very strongly  
6 encouraging them to come back and with a redesign.

7           But I'd like to see within the week that if we can  
8 respond to the design and I guess that might have to go back  
9 out to I don't know if that has to go back out to the ANC or  
10 anything, but you had the support of the ANC and the owners  
11 for this design.

12           But I'd like to see a response from the applicant  
13 from a design perspective before we make a decision.

14           VICE-CHAIR JOHN: Thank you, Mr. Miller. Mr.  
15 Young, can you let Mr. Cross back in please? I guess I have  
16 to reopen the record. Sorry. So, Mr. Cross, I know you've  
17 been listening, or I assume you've been listening.

18           And so it seems as if the Board, I don't object  
19 to the Board's suggestion so it seems as if Board Members  
20 would like you to, you know, coordinate again with the Office  
21 of Planning to see what changes can be made, design changes.  
22 And normally I don't get very involved in design changes, but  
23 in this particular case, because the request is for approval  
24 of the removal of the rooftop and the porch elements, those  
25 changes do call into question whether or not the new design

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1 is consistent or compatible with the other houses along the  
2 street frontage.

3 So in this case, I would not be opposed for the  
4 dialogue with the Office of Planning. Now, Secretary  
5 Mehlert, I do believe if we make these changes, we would need  
6 to have the ANC comment again. So I'm not sure we could hear  
7 this next week on the 24th. I'm inclined to --

8 MEMBER MILLER: I'm not sure we need a hearing.  
9 I think --

10 VICE-CHAIR JOHN: Right.

11 MEMBER MILLER -- we just need the information for  
12 a decision meeting.

13 VICE-CHAIR JOHN: Decision. Yes, thank you. I  
14 would agree to that. Okay, so let's close the record again.  
15 Mr. Cross, unless you have something to say?

16 MR. CROSS: I don't. Obviously, you know, we'll  
17 accommodate the Board's request. But do you have a date for  
18 when you're proposing this would be heard again? I just, I  
19 worry about the potential delay here.

20 VICE-CHAIR JOHN: Right. If it's a decision, then  
21 we wouldn't have to be concerned about the hearing calendar.  
22 You would just submit the revised design because the zoning  
23 approval is not changing just the design elements.

24 So if you were to submit something to the record,  
25 and I would suggest that you coordinate with ANC as well.

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1 Is your hand up, Mr. Blake?

2 MEMBER BLAKE: Yes. Vice-Chair. I would like to  
3 obviously get comment back from the Office of Planning on the  
4 progress that they've made and their view on the changes.

5 VICE-CHAIR JOHN: Okay. So then, Mr. Cross,  
6 you're not opposed to the suggestion that you try to see what  
7 you could do to accommodate the Office of Planning's comments  
8 mindful that this is not absolutely required for approval.

9 MR. CROSS: Yes, I don't mind. I welcome the  
10 comments. We are always open to accommodating the Board's  
11 desires. But I do have some consternation about the fact  
12 that this delay is being caused by a matter that is, as you  
13 say, not actually required for the relief being sought. And  
14 so --

15 VICE-CHAIR JOHN: Yes.

16 MR. CROSS: -- it's not a historic district. We  
17 are complying with the code as stated in the OP report.  
18 They've added some design suggestions which we're open to,  
19 but again, those design elements do not require relief from  
20 this Board nor input from the ANC for materiality changes,  
21 et cetera.

22 VICE-CHAIR JOHN: I see Mr. Blake has his hand up.

23 MEMBER BLAKE: Yes, Mr. Cross, I agree with what  
24 you're saying except for the fact that earlier you indicated  
25 the primary reason that you weren't able to respond was of

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1 timing issues because you wanted to avoid a late filing in  
2 this report, not necessarily that you didn't want to comply  
3 with that.

4 And I think the issue for us is more so having  
5 something in the record that's consistent with what we  
6 approved. So I think part of it is I think you probably  
7 could have had the late filing and gotten this done and we'd  
8 be finished with this.

9 But I don't think it's just basically that it  
10 doesn't agree with the Vice-Chair for approval. I think that  
11 as we have demonstrated today, there's a visual intrusion  
12 issue which is not resolved.

13 So in my mind, you've got at least one vote of no  
14 because of this. And so I just assume you go ahead and just  
15 make this correction from our perspective.

16 MR. CROSS: We'll make the correction. Thank you.

17 VICE-CHAIR JOHN: Ms. Mehlert, when can -- when  
18 do you think we can put this back on the agenda for decision  
19 meeting?

20 MEMBER MEHLERT: So --

21 VICE-CHAIR JOHN: Is it --

22 MEMBER MEHLERT: Go ahead.

23 VICE-CHAIR JOHN: Two weeks from today?

24 MEMBER MEHLERT: There are five decisions on May  
25 1st. And then four hearing cases so if you'd like to add

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1 another decision case to the 1st, we can.

2 VICE-CHAIR JOHN: Yes, I think this one is fairly  
3 straightforward so, Mr. Cross, you were going to make these  
4 changes anyway. You said you were going to work with the  
5 Office of Planning.

6 MR. CROSS: Yes, we were committed to working with  
7 the Office of Planning in the same way that Office of  
8 Planning suggests they would work with us in the report.

9 VICE-CHAIR JOHN: Okay. So two weeks and we will  
10 just hear this as a decision case. Okay. I will excuse you  
11 now, Mr. Cross, and thank you for your patience.

12 MR. CROSS: Thanks for your time.

13 VICE-CHAIR JOHN: All right.

14 MEMBER MEHLERT: Vice-Chair John, when would you  
15 like to set --

16 VICE-CHAIR JOHN: I think two weeks from today.

17 MEMBER MEHLERT: So the decision will be two weeks  
18 on May 1st?

19 VICE-CHAIR JOHN: Yes.

20 MEMBER MEHLERT: And you would like the applicant  
21 to submit revised plans by --

22 VICE-CHAIR JOHN: A week and if the ANC and OP  
23 wanted to chime in, they can do that before the hearing,  
24 before the decision.

25 MEMBER MEHLERT: Okay, so why don't we set the

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1 decision or the revised plans for to receive those from the  
2 applicant by next Tuesday the 23rd and then by Tuesday the  
3 30th and your responses from the ANC or OP so you have those  
4 before the hearing.

5 VICE-CHAIR JOHN: Right. Which are not required.

6 MEMBER MEHLERT: Right. So I'll just --

7 VICE-CHAIR JOHN: Which are subject to the design  
8 changes only.

9 MEMBER MEHLERT: Right. Okay.

10 VICE-CHAIR JOHN: Okay. All right, thank you.  
11 So I think we should take a quick break. Maybe a ten-minute  
12 break. Is that okay or do you need longer? I don't think  
13 we'll have lunch today because looking at the schedule, I  
14 think we should have an early day.

15 So maybe ten, 15-minute break? Okay, 15 minutes.  
16 So we'll reconvene at 11:15 a.m. Okay, thank you.

17 (Whereupon, the above-entitled matter went off the  
18 Record at 10:59 a.m. and resumed at 11:23 a.m.)

19 VICE-CHAIR JOHN: Okay. The Board is back in  
20 session. Ms. Mehlert, would you like to call us back in?

21 MEMBER MEHLERT: The Board is back from a quick  
22 recess. And next is Application No. 21099 of Thomas Martin.  
23 This is an application pursuant to Subtitle X, 901.2 for  
24 special exceptions under Subtitle D, 5201 from the rear yard  
25 requirements of Subtitle D, Section 207.1 and the accessory

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1 structure location requirements of Subtitle D, 5004.1(a) to  
2 allow an accessory building in the required rear yard. This  
3 is to construct a one-story accessory structure in the rear  
4 yard of an existing two-story detached principle dwelling in  
5 the R1B Zone. This is located at 1310 Monroe Street NE,  
6 Square 3964, Lot 10. And I believe there's an expert witness  
7 request for Thomas Ahmann.

8 VICE-CHAIR JOHN: Okay. Let me take a quick look  
9 at that. Would you let the witnesses in please? It would  
10 be Mr. Ahmann is representing the Applicant. Mr. Ahmann, can  
11 you tell me a little bit about your experience in  
12 architecture?

13 Can you hear me?

14 MR. MARTIN: Good morning, Madam John. My name  
15 is Tom Martin. I'm the property owner at 1310 Monroe Street  
16 NE. Tom Ahmann is here. I don't see him in the room though.

17 (Simultaneous speaking.)

18 MR. AHMANN: Can you hear me?

19 MR. MARTIN: There he is.

20 VICE-CHAIR JOHN: I can hear him. Okay, thank  
21 you. Mr. Ahmann, can you hear me?

22 MR. AHMANN: Yes, I hear you.

23 VICE-CHAIR JOHN: Okay. Is there a reason you're  
24 not using your -- Oh, I see you now.

25 MR. FULLER: I'm here.

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1           VICE-CHAIR JOHN: I see you. I see both of you  
2 now. I was not reading the name correctly. Okay, please  
3 introduce yourself and also tell me a little about your  
4 experience in architecture.

5           MR. AHMANN: Yes. I've been an architect in  
6 Maryland, Virginia, and the District of Columbia for, you  
7 know, 20 something years. I'm, you know, like I said  
8 registered in D.C. and have done numerous projects and have  
9 presented in front of the Board on numerous occasions for  
10 special exceptions and variance issues.

11          VICE-CHAIR JOHN: Okay, thank you. So I have no  
12 objection to adding you as an expert and I'm not sure why  
13 you're not in the witness book if you've been testifying  
14 before us before. But anyway, you've been admitted as an  
15 architect and I assume the Board has no objection.

16          Okay, so who is presenting today? Would that be  
17 you, Mr. Ahmann or would it be --

18          MR. AHMANN: I think Tom Martin wanted just to  
19 have a brief statement and then I was going to kind of walk  
20 through. I did submit a presentation and if Mr. Young could  
21 pull that up when he has a moment.

22          VICE-CHAIR JOHN: Okay. Let's wait for the  
23 presentation to be pulled up. And then Mr. Martin, you can  
24 -- I believe you introduced yourself already, so you can make  
25 your presentation.

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1 MR. MARTIN: Yes. Good morning again, everyone.  
2 My name is Tom Martin, the property owner of 1310 Monroe  
3 Street. I purchased the property in 2018 and Mr. Ahmann, his  
4 architecture firm had built the -- designed the house about  
5 ten years earlier after a fire. In the last five years, I've  
6 been beautifying the yard, adding green space, permeable  
7 pavers, trees, and beautifying the house.

8 On the property, while the house was built in 2008  
9 /2009, there's an old garage. And so I worked with --  
10 collaborated with my neighbors, Anne Anderson and others in  
11 designing a new kind of -- because it's currently a garage,  
12 but it's basically a shed. And so I've worked to kind of  
13 design this out with them to look like the front of the  
14 house, but also in the rear view, to look like Anne  
15 Anderson's house. And all of the neighbors have agreed to  
16 the design.

17 Back in, I think March and April of last year, I  
18 hired Mr. Ahmann again to do the architectural drawings for  
19 this new -- this replacement building. And he had met with,  
20 I guess a pre-planning review and was approved for the  
21 initial design. When we submitted it in June, it came back  
22 saying that it needed -- that it was not to code. That the  
23 trellis structure and the position was not to code -- the  
24 current code and there seems to be a difference. So in  
25 March, we were approved. In June, a different reviewer

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1 looked at it and said it didn't meet it. And that's why  
2 we're here today.

3           So I've met with the ANC. I've gotten signatures  
4 from all of my neighbors. I've collaborated with them. And  
5 where it's positioned is in relatively the same position it  
6 is. And the reason for that is I've -- there's a lot of  
7 grass and green in the area now and I'm trying to keep that  
8 and not do any additional concrete work and stuff. So with  
9 that, I look forward to the hopeful approval of this Board  
10 here today. And I'll go ahead and turn it over to Tom  
11 Ahmann, the architect to go through some of the special  
12 exceptions at this time. Thank you.

13           VICE-CHAIR JOHN: Thank you.

14           MR. AHMANN: Yes, thank you. And I appreciate the  
15 time from the Board for this. Mr. Young, could you go to the  
16 next slide please? So if you can look on this slide, the  
17 gray area is the proposed accessory structure. The dash red  
18 lines are indicating the existing garage, which is, you know,  
19 fairly deteriorated. And there was a trellis that connected  
20 it to the house at one point that did collapse. That trellis  
21 was, I guess, what allowed the garage to be allowed next to  
22 the house in its current position at the time. And that  
23 trellis structure was again suggested to us by one of the  
24 design technicians as a way to putting this structure as an  
25 addition to the house. That turned out not to be the case

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1 when it went through to the Permit Review, so we then started  
2 this special exceptions process. If you notice, there's no  
3 alley behind this property. So moving the garage further  
4 back would be a longer driveway and extend, you know, the  
5 concrete structure as Mr. Martin had suggested. And we feel,  
6 you know, keeping as much green, you know, is helpful.

7           So we are requiring -- the project requires relief  
8 from D207.1 and D5004.1(a). In the Office of Planning  
9 report, they only focus on D5004.1(a), but in the referral  
10 letter from the Office of the Zoning Administrator, both were  
11 referenced. And so we are requesting both. And I guess the  
12 Office of Planning can weigh in on, you know, their decision,  
13 you know, in regards to that.

14           Next slide, Mr. Young. You can see here the  
15 existing garage is on the right and there's a neighboring  
16 garage adjacent to it on the left. And I'll go through, the  
17 review criteria so that you can see how we feel that we're  
18 meeting the standards for the special exceptions. This is  
19 in harmony with the intent of the zoning maps. So as a  
20 proposed accessory building is in the approximate location  
21 and a similar size to the original garage that's been on site  
22 for decades. So it's in a sense, a minor change to the  
23 existing condition or we should say status quo kind of  
24 design. It's in a similar location to the neighboring  
25 garage. And the Office of the Zoning Administrator suggested

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1 the location itself is fine. All we would need to do to meet  
2 their requirements would be to attach it with more building  
3 that met their standards, you know, so called a meaningful  
4 connection. But that did not work, you know, in this  
5 situation.

6           Next slide please. Again, there's no alley. So  
7 moving the garage further back would require additional  
8 driveway and lessening the green area. We don't see how  
9 that's a benefit to the zoning in this situation. There's  
10 also ample rear yard remaining behind the proposed structure,  
11 over 35 feet. And you know, from the back of the existing  
12 house to the back of the property is a wide open 61 feet.  
13 So there's plenty of yard still there. We're designing this  
14 structure in character with the existing house using similar  
15 materials and it's in the texture of the neighborhood. Mr.  
16 Martin has gotten support from six adjoining and confronting  
17 neighbors, as well as the ANC. And the Office of Planning  
18 report seems to suggest that they're supportive as well.

19           Next slide please. It will not affect adversely  
20 the use of the neighboring property. The placement is in a  
21 similar location to the neighboring garage and allows the  
22 rear yard to be more open to adjoining properties. If you  
23 look at the slide -- the photo below and see A and B, those  
24 are the two existing garages. And if you look at the area  
25 kind of in the oval, that's a wide open green area shared

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1 between, you know, the three properties. All their yards are  
2 open in that area. And the intent is to keep it as open in  
3 that area as possible. Again, support of six adjoining and  
4 confronting neighbors and the ANC 5B is supportive.

5           Next slide please. And then there are additional  
6 criteria under D5201.4(a), light and air available to the  
7 neighboring properties shall not be unduly compromised. The  
8 placement of the accessory building is adjacent to the  
9 neighboring garage maintains then the most expanse of the  
10 open yard as possible. Further back in the yard would be  
11 more intrusive on the light and air to the neighboring  
12 properties. And again, the support from the neighbors and  
13 the ANC suggests that there's no concern for loss of light  
14 and air.

15           Next slide please. Privacy of use and enjoyment  
16 of neighboring properties shall not be unduly compromised.  
17 Again, the placement of the building, you know, is in the  
18 place where it's been for decades so it maintains the status  
19 quo and has the support of the neighbors and the ANC. Shall  
20 not visually intrude upon character, scale, and pattern along  
21 the street frontage. You can see the design of the character  
22 dormer on the garage kind of mimics the front dormer of the  
23 house. And again, you know, Mr. Martin was able to show this  
24 to his neighbors. You know, take their input, and you know,  
25 it is reflected in the design.

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1           Next slide please. The other criteria is that we  
2 submit enough graphical representation, so we've included  
3 site plans, you know, plan drawings, building sections,  
4 photographs, area photographs, et cetera. And here you can  
5 see the signatures that he's gotten from his neighbors in  
6 support. That's my statement and I'm happy to answer any  
7 questions.

8           VICE-CHAIR JOHN: Thank you, Mr. Ahmann. Does the  
9 Board have any questions? So I'll go to the Office of  
10 Planning.

11          MR. JURKOVIC: Good morning, Vice Chair and  
12 members of the Board.

13          VICE-CHAIR JOHN: Good morning.

14          MR. JURKOVIC: This is Michael Jurkovic,  
15 development review specialist with the Office of Planning.  
16 OP recommends approval of the rear yard accessory building  
17 relief requested by the Applicant and stands on the record  
18 of our report. I'm here to answer any questions. Thank you.

19          VICE-CHAIR JOHN: Okay. So there was an issue  
20 with what the ZA recommended. Am I correct on that or not?

21          MR. JURKOVIC: It looks to me that the ZA  
22 recommended the relief for an accessory building in the  
23 required rear yard. I'm not seeing another relief item.

24          VICE-CHAIR JOHN: Okay. So was it ZA that  
25 requested the -- recommended the 5004 relief and the

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1 Applicant added the rear yard relief.

2 MR. AHMANN: Could I -- Actually in the record --  
3 in the notice from -- in the memo from the Office of the  
4 Zoning Administrator, both are referenced.

5 VICE-CHAIR JOHN: Okay.

6 MR. AHMANN: I think you may have that as an  
7 exhibit, but both were referenced. They are parallel. You  
8 know, they basically mean the same thing, but they are two  
9 different references.

10 VICE-CHAIR JOHN: Okay. Give me a minute. Okay.

11 MEMBER BLAKE: The memo of Exhibit 7 with the  
12 notes and computations has the rear yard 207.1 and Exhibit  
13 14 does in fact have the -- the accessory structure location  
14 requirements. So it's two different things. Just the notes  
15 and computations where you see that first one.

16 VICE-CHAIR JOHN: That's Exhibit 7. Could you  
17 please put that up for me, Mr. Young? I'm sorry. I don't  
18 have my second computer today. Can you enlarge that a bit?  
19 Okay. So there's a difference in how the Office of Planning  
20 is measuring the rear yard. So Mr. Jurkovic, could you again  
21 explain how OP is measuring this differently from the Zoning  
22 Administrator?

23 MR. JURKOVIC: From that exhibit, the minimum  
24 required rear yard is 25 feet and that exhibit shows that the  
25 available rear yard is, you know, a little bit over 61 feet.

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1 From the case record and the location of the new structure  
2 in the required rear yard, I am -- I am not seeing the need  
3 for other rear yard relief --

4 VICE-CHAIR JOHN: Okay.

5 MR. JURKOVIC: -- other than the location of the  
6 accessory structure, which is the 5004.1 development  
7 requirement.

8 VICE-CHAIR JOHN: Okay. Okay. Does the Board  
9 have any questions for the Office of Planning or for the  
10 Applicant?

11 MEMBER MILLER: Madam Vice chair?

12 VICE-CHAIR JOHN: Go ahead, Commissioner Miller.

13 MEMBER MILLER: I don't have any questions at this time. I  
14 just wanted to thank the Applicant for their presentation and  
15 for their community outreach to both the ANC and to the  
16 surrounding property owners from whom you have each of their  
17 support. And for the renderings and presentation written  
18 submissions that you made, which were very helpful to analyze  
19 what's being proposed. So I just wanted to thank the  
20 Applicant for that and for the improvements that they're --  
21 that have been made over time, including this proposal.

22 MR. MARTIN: Thank you, sir. This is my forever  
23 home and so I'm part of the fabric of the neighborhood. And  
24 so it's my -- my duty and pleasure to help build a community  
25 with my neighbors. And this is one way to do it.

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1 MEMBER MILLER: Thank you for that.

2 VICE-CHAIR JOHN: Thank you. Does any other board  
3 member have questions? So the ANC is not here. Right?  
4 Okay. Is there anyone signed up to testify?

5 MR. YOUNG: We do not.

6 VICE-CHAIR JOHN: Okay. So I don't have any  
7 questions of anyone. And I noticed that the ANC submitted  
8 a letter in 5(b), but as I understand it, it does not meet  
9 all the requirements for great weight. However, we can --  
10 we can consider the ANC support. Okay, so if there are no  
11 questions and no witnesses signed up, I just want to thank  
12 the parties for their testimony and excuse them at this time.

13 MR. AHMANN: Thank you, Ms. John.

14 VICE-CHAIR JOHN: Have a good day.

15 MR. MARTIN: Thank you.

16 VICE-CHAIR JOHN: And we're going to close the  
17 hearing and the record and I assume we're ready to decide.  
18 So does anyone want to start? Okay.

19 MEMBER BLAKE: I have a question before we begin  
20 this. The rear yard requirement of D207.1, should we vote  
21 on that or do we not assume -- we assume that the accessory  
22 structure, D504.1 is the appropriate relief?

23 VICE-CHAIR JOHN: So I think out of an abundance  
24 of caution, I mean I believe the appropriate relief is  
25 D5004.1 and not the 207.1, but I don't know what any other

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1 board member thinks. Which would be consistent with how the  
2 Office of Planning, if I'm correct, approached this  
3 application. So can I hear from other board members? Board  
4 Member -- Do I need to call on someone?

5 MEMBER MILLER: No, I'll interject myself. Thank  
6 you, Madam Vice chair. Yeah, I don't think there's any --  
7 I think we can -- Well, I happen to agree -- I personally  
8 agree with the Office of Planning's measurement and that the  
9 rear yard relief under 207.1, I guess that's the right one,  
10 is not necessary. However, I don't see any harm -- and I  
11 think in other cases we have -- where the ZA has somehow  
12 indicated that a relief was necessary, I don't see any harm  
13 in approving it. If there's a notation we can make in the  
14 -- if we need to make in the summary order, if that's what  
15 it was, which I assume it would be, that the Board didn't  
16 think it was necessary. But out of abundance of caution,  
17 just what you said, Madam Chair, that we're approving it  
18 because the ZA indicated some indication that it was needed.  
19 So I have no problem with granting the relief requested for  
20 the accessory structure location in the required rear yard.  
21 That part, the OP did agree that relief was necessary. And  
22 I have no -- I have no objection -- no problem with approving  
23 the rear yard relief even though I don't think it's  
24 necessary. And if we can note that if the Board agrees and  
25 if our counsel thinks it's appropriate, I'll leave it to them

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1 how to phrase it in the summary order. I hope that's clear.  
2 Thank you, Madam Chair.

3 VICE-CHAIR JOHN: Thank you. That's good and  
4 thank you for volunteering, Commissioner Miller. Does anyone  
5 have any thoughts?

6 MEMBER BLAKE: Madam Chair, this is Carl. I would  
7 agree with the assessment made by Vice Chair Miller with  
8 regards to the treatment of that and out of abundance of  
9 caution would agree to vote in favor of both. I do believe  
10 that we've seen in this case and a prior case that D5004.1  
11 seems to be the right approach. However, it is -- out of  
12 abundance of caution, probably best to do that.

13 That said, in looking at the overall case, I do  
14 believe that the Applicant has met the burden of proof for  
15 the requested relief pursuant to Subtitle D5201, as well as  
16 the general standards of X901.2, special exception. They  
17 have demonstrated that the proposed accessory structure  
18 should not have any substantial adverse effect on use of  
19 neighboring or abutting or adjacent properties as it relates  
20 to light and air available to neighboring properties, as well  
21 as the privacy of use of enjoying neighboring properties.  
22 The proposal would be basically replacing existing structure  
23 on a property of the larger building in approximately the  
24 same location. The proposed structure is well within  
25 development standards for the zone and contains a number of

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1 windows and facade that's actually facing the closest  
2 neighbor, but not -- you know, it doesn't provide any impact  
3 on privacy. And the proposal should not result in impact on  
4 light and air of any adjacent properties or anything like  
5 that. The structure would be visible from the street, but  
6 it's design is very -- is similar visually to the existing  
7 principle structure and actually looks pretty nice from what  
8 I can see. Therefore, I don't think it would intrude upon  
9 existing character scale or pattern of houses along the  
10 street.

11           OP recommends approval for the relief. I give  
12 great weight to that recommendation. ANC 5B is in support.  
13 However, as you stated, the ANC does not completely comply  
14 with the great weight requirements as there are no statement  
15 about the number of commissioners that constitute a forum.  
16 So while we do know they're in support, we do not -- I'm able  
17 to provide great weight to that assessment. And I'll also  
18 note the persons in support of multiple neighbors in the  
19 community. I'll be voting in favor of the application.

20           VICE-CHAIR JOHN: Thank you, Board member Blake.  
21 Board member Smith.

22           MEMBER SMITH: I agree with everyone's assessment  
23 of this case. I do believe that out of an abundance caution  
24 as stated by Mr. Blake, that we defer to the zoning  
25 administrators interpretation on this and grant the

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1 additional relief just out of abundance of caution so this  
2 Applicant wouldn't have to come before us. So I agree with  
3 everyone's assessment on this case and Mr. Blake for his  
4 reasons why the Applicant meets the burden of proof as to  
5 grant both of these special exceptions and I'll in support.

6 VICE-CHAIR JOHN: Thank you. Commissioner Miller,  
7 did you have anything else to add?

8 MEMBER MILLER: No, thank you. I agree with  
9 everything that my colleagues touched on.

10 VICE-CHAIR JOHN: Thank you. And I'm also in  
11 agreement with what everyone has said. And thank Mr. Blake  
12 for stepping through all of the elements. So it looks as if  
13 we're ready to vote. So I will make a motion to approve  
14 Application 21099 as captioned and read by the Secretary and  
15 ask for a second, Mr. Blake.

16 MEMBER BLAKE: Second.

17 VICE-CHAIR JOHN: Ms. Mehlert, would you please  
18 take the roll call?

19 MEMBER MEHLERT: Respond to the Vice Chair's  
20 motion to approve the application. VICE-CHAIR JOHN.

21 VICE-CHAIR JOHN: Yes.

22 MEMBER MEHLERT: Mr. Smith.

23 MEMBER SMITH: Yes.

24 MEMBER MEHLERT: Mr. Blake.

25 MEMBER BLAKE: Yes.

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1 MEMBER MEHLERT: And Commissioner Miller. The  
2 proposed vote is 4-0-1 to approve Application 21099 on the  
3 motion made by VICE-CHAIR JOHN and seconded by Mr. Blake with  
4 one board member not participating.

5 VICE-CHAIR JOHN: Thank you, Secretary Mehlert.  
6 I like saying that. So if you can call the next case when  
7 you have a minute. And am I correct in saying this is our  
8 final case or have I forgotten one?

9 MEMBER MEHLERT: Correct. This is the last case.

10 VICE-CHAIR JOHN: Okay, thank you.

11 MEMBER MEHLERT: This is Application No. 21102 on  
12 St. Paul's Episcopal Church. This is as amended and  
13 self-served application pursuant to Subtitle X, Section 901  
14 for special exceptions under Subtitle U, Section 203.1(m) to  
15 expand an existing private school use and Subtitle X, Section  
16 104 to amend an existing private school plan to allow  
17 expansion for private school use. Again, this is to expand  
18 existing private school use by increasing enrollment in  
19 staff, while allowing use of another existing building at the  
20 subject property in the R3RA1 Zone. The address is 201 to  
21 210 Allison Street NW, PAR0111/0037.

22 VICE-CHAIR JOHN: Okay, thank you. Will the  
23 parties introduce themselves please? I think we have Ms.  
24 Rogers who is representing the Applicant.

25 MS. ROGERS: Yes. Good morning, Madam Chair and

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1 members of the Board. For the record, my name is Elizabeth  
2 Rogers from the law firm of Lerch, Early, and Brewer. It's  
3 a pleasure to be here today representing the Christian Family  
4 Montessori School. With me here today is Keely Boomhower,  
5 Head of School for the Christian Family Montessori School and  
6 Jon Zubiller with David M. Schwartz Architects.

7 VICE-CHAIR JOHN: Okay, thank you. Does the  
8 architect and Ms. Boomhower wish to introduce themselves at  
9 this time?

10 MS. BOOMHOWER: Good morning. My name is Keely  
11 Boomhower. I'm a Ward 4 resident and I'm the Head of School  
12 at Christian Family Montessori School.

13 VICE-CHAIR JOHN: Okay. And Mr. Zubiller.

14 MR. ZUBILLER: Yes. My name is Jon Zubiller. I'm  
15 a resident of Ward 4 as well. And my children actually  
16 attend Christian Family Montessori School. And I've been  
17 assisting them on this expansion of their school. I'm with  
18 David M. Schwartz Architects helping out with the project.

19 VICE-CHAIR JOHN: Thank you. And is the ANC here?  
20 Okay, thank you. So Ms. Rogers, can you please tell us why  
21 you're here and why your application meets the criteria for  
22 approval?

23 MS. ROGERS: Yes, absolutely. Just one  
24 preliminary matter I wanted to make sure -- we did send in  
25 a pre-hearing and a revised self-certification after the

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1 21-day deadline in order to respond to Office of Planning's  
2 report and recommendation that we also address the school  
3 plan requirements under Subtitle X, Section 104. It didn't  
4 present any new information. It just tailored the  
5 information already in the record -- those additional  
6 findings. So those are Exhibits 33 and 34. I just want to  
7 make sure they're fully part of the record.

8 VICE-CHAIR JOHN: Okay. Are they -- I believe  
9 they're already in the record. Are they not, Ms. Mehlert?

10 MEMBER MEHLERT: I believe they're in the record,  
11 yes.

12 VICE-CHAIR JOHN: Okay, thank you. I believe I  
13 saw them when I was reviewing the case. Okay, so please go  
14 ahead with your statement.

15 MS. ROGERS: Thank you. Mr. Young, if you could  
16 pull up our presentation, that's Exhibit 37. Thank you.  
17 We're requesting special exception relief to allow for a  
18 modest increase in the student enrollment and staff for the  
19 existing Christian Family Montessori School located in the  
20 R3 and RA1 Zoning District.

21 Next slide please. The Christian Family  
22 Montessori School is located within the expansive 86-acre  
23 property owned by the St. Paul's Episcopal Church, which  
24 includes the historic Rock Creek Church Cometary. The school  
25 currently operates out of a portion of the St. Paul Center

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1 and as you'll hear today is looking to expand their  
2 educational programming and footprint by utilizing an  
3 existing 2-story cottage located on the property, which is  
4 just across from the St. Paul Center. I would like to turn  
5 it over to Keely Boomhower who is going to say a few remarks  
6 and then I will get into the necessary findings.

7 MS. BOOMHOWER: Good morning again. Thank you  
8 once again to the Board for considering our application  
9 today. By way of background on the next slide, you can see  
10 that CFMS was first established in 1981 and we seek to  
11 provide an affordable Montessori education where children  
12 will be prepared to meet the academic, social, and moral  
13 challenges ahead of them through a progressive curriculum.

14 CFMS originally operated out of a church in Mount  
15 Rainier, Maryland. And after receiving approval from the  
16 Board of Zoning Adjustment in December of 2010, they  
17 relocated to 201 Allison Street NW, which is shown in this  
18 photograph -- the slide of our school. When we first  
19 relocated to the property, many of the families previously  
20 enrolled at CFMS relocated with the school. And as such, our  
21 enrollment drew heavily from the neighborhoods just outside  
22 of the District in the first few years. However, as  
23 anticipated over the past 12 years as CFMS has become  
24 established in this neighborhood, the number of students  
25 enrolled from Wards 4 and 5 has steadily increased. And in

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1 fact, currently 50 percent of our existing student reside in  
2 Wards 4 and 5. And we're really pleased to be able to serve  
3 the local Petworth community and surrounding neighborhoods.

4 We currently serve students ages 2-1/2 to 12 years  
5 old. However, in order to better serve the existing families  
6 and families in our surrounding neighborhood, we would like  
7 to expand our programming to include 7th and 8th grade  
8 curricula. This adolescent program will allow us to provide  
9 educational continuity for our existing students as they  
10 matriculate through the elementary school curriculum and  
11 better serve families within the surrounding neighborhood  
12 with both elementary and middle school-aged children. In  
13 order to accommodate this additional programming, we're  
14 seeking to increase our enrollment cap from 120 students to  
15 150 students. And to increase our staff from 18 to a maximum  
16 of 25 staff members on site at any given time.

17 On the next slide, you can see on the map, the  
18 location of the school currently, which operates out of St.  
19 Paul Center and it's highlighted in blue on the sort of  
20 zoomed in view. The adolescent program will be housed within  
21 an existing two-story cottage located across the private  
22 roadway from St. Paul Center and that building is shown in  
23 yellow on the map.

24 On the next slide, you can see an image of the  
25 existing cottage that we are proposing to adapt and re-use

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1 for the adolescent program. Both a close-up view and then  
2 also the red arrow shows the view from the Allison Street  
3 gate at the parameter of the property. We are not seeking  
4 any changes to the existing hours of operation. We really  
5 take pride in being able to serve the surrounding community,  
6 partnering with our landlord, St. Paul Rock Creek Church.  
7 And we're grateful for the support expressed by many of our  
8 nearby residents, as well as the ANCs unanimous support in  
9 March.

10 I'd like to turn it back over to Liz Rogers for  
11 the next slide. Thank you.

12 MS. ROGERS: Thanks, Keely. As detailed in the  
13 Applicant's burden of proof and pre-hearing statements, the  
14 proposed special exception satisfies the various requirements  
15 for the Board to grant the requested relief. Given the  
16 number of criteria, I'll be brief in our summary of these  
17 findings and rest on the record, but wanted to highlight a  
18 few points. The special exception meets the general  
19 requirements contained in Subtitle X, Section 901.2.  
20 Christian Family Montessori School as you've heard has  
21 operating and existed as an integral part of this community  
22 since 2011. And the school continues to be in harmony with  
23 the purpose and intent of the zoning regulations and map.  
24 We're not proposing any new construction with this  
25 application, but rather seeking to utilize an existing

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1 two-story cottage on the property. And as such, the existing  
2 buildings will continue to comply with all development  
3 standards of the zone and be compatible with the surrounding  
4 neighborhood. The modest expansion proposed by the special  
5 exception will not adversely affect the use of neighboring  
6 properties, which are both visually and physically buffered  
7 by virtue of the building's location within the expansive  
8 site.

9           The special exception also satisfies the  
10 conditions contained at Subtitle U, Section 2031(m) that  
11 governs special exception approval of a private school. This  
12 special exception will not result in any new adverse impacts  
13 in terms of noise, traffic, or other objectionable  
14 conditions. This is really a uniquely situated school. The  
15 larger 86 acre property on which it's located is sufficient  
16 to accommodate all necessary circulation, parking, pick-up  
17 and drop-off operations on site. As such, there will be no  
18 impacts to the surrounding streets. The modest enrollment  
19 in staff and students will not result in any adverse impacts  
20 from traffic. There was a traffic statement submitted into  
21 the record, Exhibit 10, which demonstrates that there will  
22 only be 26 additional a.m. peak hour trips with no new p.m.  
23 peak hour trips during the commuter p.m. peak hours and only  
24 15 additional vehicular trips during the school's p.m. peak  
25 hour. And the school's unique operations further limits any

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1 transportation impacts as 44 percent of the families served  
2 have multiple students enrolled and thus come by the same  
3 car. And based on a recent family survey, 11 percent of  
4 students car pool with other families.

5           Vehicular circulation will remain unchanged, next  
6 slide please, as required by Condition 4 of the Board's  
7 previous approval ingress. The site will continue to be  
8 accommodated through the Webster Street gate and exit egress  
9 will be accommodated through the Allison Street gate. The  
10 special exception will not generate any additional noise as  
11 no additional play areas are proposed. Exterior activities  
12 for the adolescent program will be accommodated entirely  
13 within the fenced in property and buffered from the  
14 surrounding community. We'd also note that, as you can see  
15 on this slide, there will be ample parking provided on site  
16 to accommodate students, teachers, visitors in accordance  
17 with the Zoning Board's requirement. In addition to the  
18 reserved formal parking spaces, we'd just note there's also  
19 ample parking along the internal streets within the expansive  
20 property to accommodate any extra parking that would be  
21 needed for special events.

22           Next slide please. The special exception also  
23 satisfies the specific conditions contained in Subtitle X,  
24 Section 104 for the Board to approve a school plan. As  
25 discussed, Christian Family Montessori School has become an

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1 integral part of this community over the last 12 years and  
2 are not proposing any changes to the existing use that would  
3 impact or affect its relationship with the surrounding  
4 community given the expansive nature of the property. The  
5 school will continue to be physically and visually buffered  
6 from the surrounding neighborhood, accommodating as I  
7 mentioned all necessary circulation and parking, pick-up,  
8 drop-off on site. As such, it will have no adverse impacts  
9 on surrounding neighborhood.

10 We would just note that we are pleased the ANC  
11 voted unanimously to support the proposed special exception  
12 application. Their support is in the record at Exhibit 35.  
13 Additionally as the Board I'm sure have seen, there are  
14 several letters of support from nearby property owners in the  
15 record at Exhibit 16 through 25 and 27 through 28. For all  
16 these reasons, we believe the Board may make the necessary  
17 findings to approve the special exception in order to  
18 facilitate this modest expansion and enrollment and allow the  
19 Christian Family Montessori School to better serve its  
20 existing students and the surrounding community. And would  
21 respectfully request the Board's approval and are happy to  
22 answer any questions you may have.

23 VICE-CHAIR JOHN: Thank you. Does the Board have  
24 any questions? Mr. Blake.

25 MEMBER BLAKE: Yes. For the Applicant, a question

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1 was when we look at the conditions that are proposed, we  
2 typically would apply these only to the incremental portion  
3 of the new building, but you've done several conditions. I'd  
4 like to know if this would apply to the entire school -- the  
5 whole operation, not just this particular incremental part  
6 of it, the conditions?

7 MS. ROGERS: Yes. The conditions of approval  
8 would continue to in our view, apply to the whole school  
9 operation on the property.

10 MEMBER BLAKE: Okay. And with regard to that, you  
11 have a TDM and a pick-up, drop-off conditions. Would that  
12 also apply to the entire operation?

13 MS. ROGERS: Yes.

14 MEMBER BLAKE: Okay, thank you. Thank you very  
15 much.

16 VICE-CHAIR JOHN: Does anyone else have a  
17 question, Commissioner Miller, Board Member Smith?

18 MEMBER MILLER: Thank you, Madam Vice chair. And  
19 thank you to St. Paul's -- the Applicant, for your  
20 presentation and for your contribution to the community and  
21 the city by your presence -- educational presence here. And  
22 thank you for your community outreach to both your neighbors  
23 and to ANC 4D, which we have a report from ANC 4D in support  
24 of this special exception. The Office of Planning report  
25 indicates that the property is located in both the ANC 4D and

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1 in ANC 4C. I just wonder if there was any outreach effort  
2 with ANC 4C, if you could comment on that. Thank you.

3 MS. ROGERS: Yes, thank you for the question. We  
4 did provide outreach to both ANC 4D and 4C. They were  
5 included in all of our notices of both the application  
6 acceptance and the pre-hearing statement. And we had  
7 correspondence with the Commissioners and the Chair of ANC  
8 4C and they deferred to ANC 4D. There's only a little small  
9 triangular corner of the property that falls within the  
10 boundaries of ANC 4C and so they deferred the review of this  
11 application to ANC 4D within which the majority of the  
12 property is located.

13 MEMBER MILLER: Okay. Thank you for that  
14 response. That makes sense. Let me just ask you one other  
15 question of, I guess, more out of curiosity. It doesn't have  
16 anything to do with the relief being requested. What is the  
17 current use -- or what has been the current use of the  
18 cottage that is going to be adaptively re-used for the  
19 expanding grades? Just curious.

20 MS. BOOMHOWER: The space sat vacant for at least  
21 the last six years. And it was -- about three years ago was  
22 struck by lightning, which required complete gutting of the  
23 building and renovation, but it still continued to be vacant  
24 for the last three years. So it's an under-utilized  
25 property. And I think that our partnership with St. Paul --

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1 in our partnership with St. Paul's, they were really excited  
2 to find a use for that building within their property that  
3 continues the mission of this school.

4 MEMBER MILLER: Thank you -- Thank you for that.  
5 I was just curious. So when it was renovated after the fire,  
6 I guess it wasn't necessarily renovated for classroom use.  
7 So it's --

8 MS. BOOMHOWER: It's kind of a blank slate  
9 actually on the interior. I think originally it was a  
10 residential space, but now it's really well suited for our  
11 purposes. We've submitted plans for some interior work to  
12 be done in order to bring it into the building permit process  
13 and we're awaiting approval from -- whatever the new name is  
14 for DCRA.

15 MR. ZUBILLER: DOB, the Department of Buildings.

16 MS. BOOMHOWER: I can't remember the name.

17 MR. ZUBILLER: DOD.

18 MS. BOOMHOWER: Thank you. Yes, the Department  
19 of Buildings. Jon, do you want to comment on that further?

20 MR. ZUBILLER: As Keely noted, the original  
21 function, I think as the structure originally sat was a  
22 caretaker home for the overall property that had been vacant  
23 for quite some time. It's been renovated. It has -- It's  
24 all finished inside. It actually has a kitchen and other  
25 uses. And the way that the Montessori program --

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1 specifically for the adolescent program, the notion of  
2 utilizing a house as a paradigm for the program actually  
3 works very well. So rooms -- the rooms are large enough to  
4 have classroom features, but also have a kitchen and  
5 socializing areas as well.

6 MEMBER MILLER: Well from the renderings, it looks  
7 like a very attractive learning environment, so good luck  
8 with that. Thank you very much.

9 VICE-CHAIR JOHN: Thank you. Any other questions?

10 So I'll go to the Office of Planning. Ms.  
11 Brown-Roberts.

12 MS. BROWN-ROBERTS: Good afternoon, Madam Chairman  
13 and members of the BZA. I'm Maxine Brown-Roberts on BZA Case  
14 21102. The Office of Planning recommends approval of the  
15 requested special exception relief as it meets the  
16 requirements of Subtitle U203.1(d) pursuant to X901.2 for a  
17 private to increase the number of students, the ages, and  
18 also the number of staff. These changes would not adversely  
19 affect the adjacent neighborhood due to noise or traffic.  
20 The plan also -- The request also meets the requirement of  
21 the private school plan or the Subtitle X104 pursuant to  
22 X901.2. The Applicant proposes to maintain the conditions  
23 for the prior BCA approval as amended to reflect the new  
24 number of students, the ages, and the number of staff. OP  
25 supports these changes. Again, we recommend approval of the

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1 requested expansion of the school. Thank you, Madam  
2 Chairman.

3 VICE-CHAIR JOHN: Thank you, Ms. Brown-Roberts.  
4 Does anyone from the Board have questions for the Office of  
5 Planning? Okay. Do we have anyone signed up to testify, Mr.  
6 Young? All right. So does the Applicant wish to make a  
7 closing statement or add any information?

8 MS. ROGERS: No, we have nothing further to add.  
9 Thank you very much for your consideration.

10 VICE-CHAIR JOHN: Okay. I'll go -- Oh, I did have  
11 one question. The portion of the property that's in ANC 4C,  
12 is that the area with the cottage that's going to be used for  
13 the adolescent program?

14 MR. ZUBILLER: The boundary splits more or less  
15 through the building as it currently exists.

16 VICE-CHAIR JOHN: Through the cottage?

17 MR. ZUBILLER: Through the cottage, correct.

18 VICE-CHAIR JOHN: Okay. All right, thank you.

19 MR. ZUBILLER: But I would like to just note as  
20 was noted before, we have communicated with 4C several times  
21 and they issued that they have discussed with 4D that the  
22 entire property would be under 4D's purview and that their  
23 support would be contingent on 4D's.

24 VICE-CHAIR JOHN: So 4D deferred to 4C?

25 MR. ZUBILLER: 4C deferred to 4D.

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1 VICE-CHAIR JOHN: And 4D did not submit a report?

2 MR. ZUBILLER: 4D submitted their report fully in  
3 support unanimously.

4 VICE-CHAIR JOHN: Okay, I did not see a report.  
5 Is there a report for 4D, Ms. Mehlert?

6 MEMBER MILLER: I believe it's Exhibit 35, Madam  
7 Chair.

8 VICE-CHAIR JOHN: Okay. All right, thank you.  
9 Okay. So if there's nothing further from the Applicant, I  
10 will -- And you did say you did wish to make a closing  
11 statement. Am I correct?

12 MS. ROGERS: No closing statement needed. We  
13 won't stand in the way of lunch for everyone. We appreciate  
14 your time.

15 VICE-CHAIR JOHN: Thank you. So thank you for  
16 your testimony and I'm going to excuse all of the witnesses  
17 at this time and close the record and the hearing. Thank  
18 you. So are we ready to deliberate? Would anyone like to  
19 start? Okay. So I thought this was -- Go ahead. Are you  
20 volunteering Board member Blake?

21 MEMBER BLAKE: Go ahead, Madam Vice chair. IF you  
22 start off, I'd probably be good.

23 VICE-CHAIR JOHN: Oh.

24 MEMBER BLAKE: I could if you like, but you  
25 started, so continue.

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1           VICE-CHAIR JOHN: No. I will defer to you, Board  
2 member Blake.

3           MEMBER BLAKE: Okay. Okay. Well, having reviewed  
4 this case, I do believe that the Applicant has met the burden  
5 of proof to be granted the requested relief pursuant to  
6 U203.1(m), as well as X104, as well as the general standards  
7 of Subtitle 9 for special exceptions. They provided  
8 substantial evidence in the record demonstrating that the  
9 proposed private school use is located so as not to likely  
10 become objectionable to adjoining nearby property because of  
11 noise, traffic, number of students, or otherwise  
12 objectionable conditions. The cottage is situated within the  
13 86-acre property, separated by significant vegetation and  
14 open space from the adjacent properties to the west and  
15 south. An additional 30 students and 7 staff will be fully  
16 accommodated in the existing buildings and recreational areas  
17 on site. There appears to be ample parking space to  
18 accommodate an increase in number of students and faculty.  
19 The transportation report, which is also -- as well as the  
20 pick-up and drop-off is included. And I believe that the  
21 Applicant has fully met the burden of proof to be granted the  
22 relief as I said.

23           I give great weight to the Office of Planning's  
24 recommendation for approval. I'll also note that DDOT is in  
25 support and they have recommended those plans, which the

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1 Applicant has said they would accept those conditions to  
2 apply to both this -- the individual cottage, as well as the  
3 entire school operation. We noted ANC 4D supports Exhibit  
4 35 and numerous letters and signatures in support in Exhibit  
5 16 through 25, 27, and 28. I'll be voting in favor of the  
6 application.

7 VICE-CHAIR JOHN: Thank you, Board member Blake.  
8 Commissioner Miller.

9 MEMBER MILLER: Thank you, Madam Chair and thank  
10 you, Board member Blake for your comments, all of which I  
11 agree with and I'm prepared to support the application with  
12 the conditions. Thank you.

13 VICE-CHAIR JOHN: Board member Smith.

14 MEMBER SMITH: I agree with the comments by my  
15 fellow board members on this particular case. I do believe  
16 that the Applicant has met the burden of proof for us to  
17 grant both of the special exceptions with the conditions as  
18 described by the Applicant for the expansion. Regarding the  
19 DDOT, DDOT is not opposed to it given the existing TDM and  
20 pick-up and drop-off measures. I do believe that within the  
21 record that the proposed expansion could have some impacts  
22 as it relates to pick-up and drop-off and would recommend  
23 extending those same TDM pick-up and drop-off measures to the  
24 -- to the Applicant's special exception that they are  
25 requesting today to extend those same measures into this --

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1 to both of these special exceptions. So with that, I will  
2 be in support of the application.

3 VICE-CHAIR JOHN: Okay, thank you. So just to  
4 clarify, I'm also in support of the application and I don't  
5 have a lot to add to what's already been stated. I would  
6 give great weight to the Office of Planning's report and the  
7 ANC report as well. So with respect to the conditions, the  
8 Applicant is adding only 30 students. And so condition one,  
9 increase in the enrollment from 120 to 150. And the age  
10 group would be changed from 2-1/2 years to 14 years old.  
11 Condition number two would limit the staff to 25 persons.

12 Condition numbers three and four would continue  
13 to extend to the entire operation. In other words, to the  
14 previous project, as well as the increased number of students  
15 and staff. With respect to this condition, we should edit  
16 it somewhat to show that the hours of operation should be  
17 between these times. You know, so it should say the hours  
18 of operation shall not exceed 8:00 a.m. to 6:00 p.m. The way  
19 it's drafted now is too prescriptive. It means that they  
20 must open from 8:00 to 6:00 when I don't believe that, that's  
21 what they want. They would like to be able to operate within  
22 these hours -- within 8:00 and 6:00. And then condition four  
23 in terms of the entrance and the exit from Webster Street and  
24 exiting at Allison Street, that condition would apply to the  
25 entire project, not just the new phase.

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1           So with that, if the Board agrees that I have  
2 summarized the conditions correctly, then I will --  
3 Commissioner Miller?

4           MEMBER MILLER: Yes, I agree with everything you  
5 said thus far, Madam Chair, including the conditions. I also  
6 personally would support including the DDOT conditions of  
7 transportation -- the TDM plan, including the pick-up and  
8 drop-off since the Applicant -- since DDOT recommended that  
9 and since the Applicant has no objection to that. I know  
10 sometimes in some cases, the Board is reluctant to include  
11 its conditions of approval with DDOT conditions because they  
12 can be enforceable through other means. But I think in some  
13 cases, the Board has included them in conditions,  
14 particularly in private school cases. I personally would  
15 favor including them, but if they're not included -- if the  
16 Board doesn't want to include them for whatever reason,  
17 that's okay. But I would prefer to include the TDM and  
18 pick-up and drop-off condition, in addition to the conditions  
19 that you read into the record. VICE-CHAIR JOHN: So as I  
20 understand it, there is no TDM plan for the existing portion  
21 of the project. And the TDM plan would only be for the 15  
22 new students -- 30 new students. I see your hand up, Mr.  
23 Blake.

24           MEMBER MILLER: No, I asked the Applicant that  
25 question earlier and he said it would apply to the entire

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1 project, so as to supersede the existing requirements.

2 VICE-CHAIR JOHN: There was no TDM plan in the  
3 original --

4 MEMBER BLAKE: That's correct, but we had asked  
5 that question at the beginning and the Applicant said that  
6 it would apply to the entire program.

7 VICE-CHAIR JOHN: Okay, all right. Seeking  
8 clarification. So we will add the TDM plan then as a  
9 condition for the entire project.

10 MEMBER MILLER: And the pick-up and drop-off.

11 VICE-CHAIR JOHN: Yes, that's in the --

12 MEMBER MILLER: Yes.

13 VICE-CHAIR JOHN: Yes. So we will add a fifth  
14 condition. In any event, the lawyers will include this  
15 appropriately to include the TDM plan if condition four is  
16 -- well, let me say this again. So we will include condition  
17 four and the TDM plan to apply to the entire project or  
18 application. Okay? To apply to the expansion, as well as  
19 what is existing. Sorry that took so long.

20 So I will make a motion then to approve  
21 application no. 21102 as captioned and read by the Secretary  
22 and ask for a second, Mr. Blake with the conditions -- with  
23 the conditions as I just described; 1, 2, 3, 4, and the TDM  
24 plan and ask for a second, Mr. Blake.

25 MEMBER BLAKE: Second.

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1           VICE-CHAIR JOHN: Thank you. Ms. Mehlert, would  
2 you please take the roll call?

3           MEMBER MEHLERT: Yes. Please respond to the Vice  
4 Chair's motion to approve the application with the conditions  
5 as stated. VICE-CHAIR JOHN.

6           VICE-CHAIR JOHN: Yes.

7           MEMBER MEHLERT: Mr. Smith.

8           MEMBER SMITH: Did she say Mr. Smith? Yes.

9           MEMBER MEHLERT: Mr. Blake.

10          MEMBER BLAKE: Yes.

11          MEMBER MEHLERT: Mr. Miller. The staff will  
12 record the vote as 4-0-1 to approve application 21102 with  
13 conditions noted in the motion made by Vice chair John and  
14 seconded by Mr. Blake with one board member not present or  
15 participating.

16          VICE-CHAIR JOHN: Thank you so much. Secretary  
17 Mehlert, is there anything else before the Board today?

18          MEMBER MEHLERT: There is nothing else.

19          VICE-CHAIR JOHN: Okay. Well, thank you all for  
20 your participation and I guess I will see you all next week.  
21 Thank you.

22                   (Whereupon, the above-entitled matter went off the  
23 record at 12:23 p.m.)

24

25



C E R T I F I C A T E

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In the matter of: Public Hearaing

Before: DC BZA

Date: 04-1-24

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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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