

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 1, 2024

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Conference, pursuant to notice at 12:01 p.m., EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT MILLER, Vice-Chairperson  
TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary  
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

JOEL LAWSON, Associate Director  
RON BARRON  
SHEPARD BEAMON

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

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SARAH BAJAJ, ESQ.  
COMETRIA COOPER, ESQ.  
MARY NAGELHOUT, ESQ.  
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from the  
Regular Public Hearing held on May 1, 2024.

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

(12:01 p.m.)

1  
2  
3 MS. MEHLERT: Okay. And I believe Mr. Blake is  
4 participating on this one. I'm not sure who is available.

5 BZA CHAIR HILL: Yes. I think so, yes.

6 MS. MEHLERT: So this case is in the Board's  
7 public hearing session. This is application number 20996 of  
8 106 13th Street, LLC. This is a self-certified application,  
9 pursuant to Subtitle X 1002 for a use variant in Subtitle U  
10 Section 301 to allow a restaurant use on the second floor of  
11 an existing building. Located in the RF-1 zone at 106 13th  
12 Street Southeast, Square 036, Lot 60.

13 The Board has previously heard this case on  
14 January 31st and March 6th. The Board postponed their March  
15 13th decision to April 10th. At the April 10th meeting, the  
16 Board reopened the record and scheduled a limited-scope  
17 hearing for today. Participating are Chairman Hill, Mr.  
18 Blake, Mr. Smith, and Commissioner Stidham.

19 BZA CHAIR HILL: Thank you. If the applicant can  
20 hear me, if they can please introduce themselves for the  
21 record.

22 MS. WILSON: Alexandra Wilson from Sullivan &  
23 Barros, on behalf of the applicant in this case.

24 BZA CHAIR HILL: Great. Thank you. Okay. Ms.  
25 Wilson, I think you were obviously watching the last time we

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1 were deliberating this, and from your filings I guess,  
2 actually, why don't you just go ahead and repeat what your  
3 what you put in the record here?

4 MS. WILSON: Sure. So, at the last meeting, the  
5 Board discussed conditions for any potential approval. The  
6 three main conditions were that the upstairs use would be  
7 limited to 60 chairs, the upstairs would have a closing time  
8 of 11:00 p.m., and the approval would have a 10-year time  
9 limit. And the Applicant is amenable to those conditions,  
10 as noted in our submission. And then, we also submitted  
11 additional information about mitigation for noise, trash, and  
12 that type of thing.

13 So, as part of the original approval, the  
14 Applicant went through the ABRA process and executed the  
15 settlement agreement with the ANC. And so, we put that  
16 agreement into the record, and it has very detailed  
17 information, especially with respect to trash management,  
18 specific noise mitigation measures, pest control, and hours  
19 of operation, as well as some other items, you know, that may  
20 or may not be within the Board's purview, but we felt it  
21 would certainly make everyone more comfortable that there  
22 were some strict conditions already in place as part of the  
23 alcohol licensing process.

24 BZA CHAIR HILL: Okay. Does anybody have any  
25 questions of the Applicant?

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1           Okay. All right. Ms. Wilson, I'm going to go  
2 ahead and close the hearing and the record. I hope you all  
3 have a nice day.

4           MS. WILSON: Thank you. You too.

5           BZA CHAIR HILL: Okay. Thanks.

6           Okay. So this has gone on for a very long time.  
7 We took a lot of testimony about this. And I think the Board  
8 has thought very hard about this. I want to be very clear  
9 that this is not, again, a popularity contest. It's not  
10 like, you know, whether or not there's so many people in  
11 favor, or so many people opposed. I mean, what we're faced  
12 with is looking at what the regulations say, and whether or  
13 not we believe they're meeting the criteria for us to grant  
14 the relief requested.

15           In this particular case, I think I stated it on  
16 the record a couple of times. But like, I think that they  
17 actually do meet the variance test because that second floor  
18 was just such I mean, I went back and even looked at the  
19 engineering diagrams again. And it really was just a mess,  
20 I think.

21           I mean, I think that, like, you know, they have  
22 met their why it so such a unique situation, and why  
23 trying to, you know, make that a residential area is not  
24 actually practical. And so, you know, so much so that, you  
25 know, there's the basement that's now been approved for the

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1 restaurant use, the main floor, obviously, is for the  
2 restaurant use, and then, what we're now approving or would  
3 be approving is for the second floor only, just the expansion  
4 to that second floor.

5           And then, now, there are conditions that we, the  
6 Board, have also kind of discussed, which is the order will  
7 be effective for a period of ten years. The operating time  
8 for the second floor shall not exceed 11:00 p.m. And the  
9 number of seats on the second floor shall not exceed 60. And  
10 then, it says, again, trash service will be provided five  
11 days a week because there was some concern about that as  
12 well.

13           So I believe they are meeting the criteria for us  
14 to grant this relief. I'm going to be voting in favor, and  
15 I turn to Mr. Smith for any additional comments.

16           MEMBER SMITH: Sure. And as you said before, it's  
17 been a long, winding road from when we first heard this  
18 particular case. And again, like you stated, this is not a  
19 popularity contest. It's I did not feel that it meets the  
20 regulations.

21           And I understand that the ANC may be in support.  
22 And we've had plenty of ANCs and neighborhoods being  
23 supportive of such that such and such in land variances,  
24 and we have still denied them if we did not believe that they  
25 met the standards for us to grant a variance. So I just want

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1 to be on the record with that and that, again, this is not  
2 a popularity contest. This is strictly reading the record.

3           Regarding you know, in the beginning, I did not  
4 believe that the Applicant has met the burden of proof for  
5 us to grant a variance. We granted a variance previously,  
6 within the basement space. The first-floor space is  
7 continues to be a non-conforming use, and the third floor was  
8 a the third floor was questionable about what it was. But  
9 in the previous variance, it was stated that it was  
10 residential. And there was some discussion that was had at  
11 that particular point that it would continue to go forward  
12 as residential.

13           As we've moved to this particular case, I did have  
14 heartburn about whether the request before us met the all  
15 the problems of the variance test. No specifically, no  
16 substantial detriment to the public good, and no substantial  
17 impairment to the intent, purpose, and integrity of the  
18 zoning regulations.

19           Over time, as the Applicant has attempted to  
20 address our concerns regarding this project. The Office of  
21 Planning has reevaluated this case, given some of these  
22 particular changes, and they have found that they would be  
23 no substantial detriment to the public good and no  
24 substantial impairment to the intent, purpose, and integrity  
25 of the zoning regulations. I will state that I was not as

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1 I was not convinced by the Office of Planning argument on  
2 that. It seemed to be fairly weak to me.

3 But I will state that with these additional  
4 conditions that the Applicant has would be in support of  
5 that were presented by Mr. Blake, related to the hours of  
6 operation, related to limiting the number of seats on the  
7 upper floor, that would mitigate some of the issues related  
8 to noise and just the operation of a restaurant in an area  
9 that is in the zoning ordinance and within the FLUM would be  
10 should be residential.

11 I think and also, with the condition that the  
12 order shall expire within ten years, I think would address  
13 some of my comments because it gives us the opportunity to  
14 reevaluate and also gives the office gives the Office of  
15 Planning and Zoning Commission the opportunity to, within ten  
16 years, reevaluate the FLUM and the zoning, whereby given the  
17 success of this restaurant or given the success of or the  
18 attempt to create some additional flexibility to have some  
19 walkable type of restaurants and services and goods within  
20 a residential neighborhood may lead to a change in zoning in  
21 itself, whereby this could become more conforming, I believe.

22 So with those particular conditions, I will  
23 support the application before us, with those three  
24 conditions.

25 BZA CHAIR HILL: Thank you.

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1 Commissioner Stidham?

2 MEMBER STIDHAM: I don't think there's much for  
3 me to add. I agree with what Board Member Smith has already  
4 stated, as well as yourself, related to a popularity contest,  
5 as well as I feel that they have met the requirements  
6 required by the regulation, and our and now prepared to  
7 support this with the conditions that we have already  
8 discussed.

9 BZA CHAIR HILL: Thank you.

10 Mr. Blake?

11 MEMBER BLAKE: I'm comfortable with the Office of  
12 Planning's analysis of the first problem of the case. I  
13 think that we did struggle with it a great deal, but I do  
14 I feel comfortable with the the factors contributing to  
15 an undue financial hardship, which is in excess of half a  
16 million dollars, given the conditions set forth of the second  
17 floor and with the support of the Office of Planning.

18 As Board Member Smith pointed out, that second  
19 problem was also an issue and for a slightly different  
20 reason. I think, given the broad base support of the  
21 neighborhood, it was clear that the community viewed this as  
22 a really positive event, you know, public good, space for it  
23 can be in it was an eyesore. But their enthusiasm kind  
24 of overshadowed the potential adverse effects, I think, of  
25 a 140-seat restaurant in a residential zone. You know, those

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1 things such as parking, trash management, noise, deliveries,  
2 hours of operation, all those risks still exist actually.

3           So I do appreciate the Applicant providing the  
4 agreement with the ANC and ABRA. It sheds a lot of light on  
5 the operational measures and procedures that they think could  
6 potentially mitigate adverse impacts to the use and enjoyment  
7 of the neighboring properties. And I would appreciate that  
8 being referenced in the order. Those issues: getting trash  
9 management, loading, hours of operation, noise mitigation,  
10 odor and emissions control, pest control, security.

11           The only other potential issue I see is with  
12 parking. There is no available parking at the site. There's  
13 nothing in the record about potential to manage parking, and  
14 there's nothing in the record about, whether there or nearby.  
15 That said, the Applicant expects the majority of patrons to  
16 walk to the restaurant or use car service. And frankly,  
17 there's nothing in the zoning regulations requiring parking  
18 under these circumstances. So we'll that's not I don't  
19 think that's really an issue at this point.

20           Additionally though, I think the variance would  
21 run with the land and can't be tied to the existing business,  
22 as we've clearly established. And I agree with the Office  
23 of Planning's desire to minimize the potential for more  
24 significant community impacts from more intense uses in the  
25 future. And so, I think those things would clearly not be

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1 consistent with the area that's intended for single-family  
2 use.

3           So I think the conditions agreed by the Applicant  
4 will mitigate the potential adverse effects on neighborhood,  
5 as well as preserve the integrity of zoning regulations, as  
6 Mr. Smith pointed out. He's reviewed those three additional  
7 conditions that we recommended, and that the Applicant has  
8 agreed to. And I believe that with those conditions, the  
9 relief can be granted without substantial detriment to the  
10 public good and without substantially impairing the intent,  
11 purpose, and integrity of the zoning plan embodied in the  
12 zoning regulations and map.

13           So I give great weight to the Office of Planning's  
14 recommendation for approval. I also give great weight to the  
15 report provided by ANC 6B, which takes no such concerns, and  
16 I acknowledge the support of the community for the requested  
17 relief. I'll be voting in favor.

18           BZA CHAIR HILL: Thank you, Mr. Blake. All right.  
19 I'm going to make a       so, just to be clear on one other  
20 item, the Office of Planning had recommended a condition  
21 about it would just be a restaurant use. And I think that  
22 in the caption itself, it says expansion of a restaurant use,  
23 so I don't think that repeating that is necessary.

24           So, therefore, I'm going to make a motion to  
25 approve application number 20996, as captioned and read by

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1 the Secretary, including the conditions that the order shall  
2 not be the order shall be effective for a period of ten  
3 years, operating times for the second floor shall not exceed  
4 11:00 p.m., the number of seats on the second floor shall not  
5 exceed 60, and that trash services will be provided five days  
6 a week, and ask for a second, Mr. Blake.

7 Mr. Blake?

8 MEMBER BLAKE: I said second, but I was

9 BZA CHAIR HILL: Oh, sorry.

10 MEMBER BLAKE: You had put in the trash services  
11 being included at five days a week? These conditions would  
12 only apply to the third to the second floor.

13 BZA CHAIR HILL: Yeah, I mean, I was leaving it  
14 in there just because some of our concern was trash, but I'm  
15 happy to take it out also.

16 MEMBER BLAKE: If we reference the ABRA agreement,  
17 it does have those issues covered in it. The Applicant also  
18 has one other thing, which is a time issue, which would  
19 probably have to be adjusted, but some of those issues are  
20 covered by a reference if you did that. But that's fine.

21 BZA CHAIR HILL: Okay. So I'll remove the five  
22 days a week as a condition with concerning the trash,  
23 however, ask the Office of Zoning's legal division to  
24 reference the ABRA agreement and the areas that we had just  
25 spoke about, and ask for a second, Mr. Blake.

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1 MEMBER BLAKE: Second.

2 BZA CHAIR HILL: Madam Secretary, the motion I  
3 made is seconded. Would you take a roll call, please?

4 MS. MEHLERT: When I call your name, please  
5 respond to the Chair's motion to approve the application with  
6 the three conditions.

7 Chairman Hill?

8 BZA CHAIR HILL: Yes.

9 MS. MEHLERT: Mr. Smith?

10 (No audible response.)

11 MS. MEHLERT: Mr. Blake?

12 MEMBER BLAKE: Yes.

13 MS. MEHLERT: And Zoning Commissioner Stidham?

14 MEMBER STIDHAM: Yes.

15 MS. MEHLERT: It's passed. Staff will record the  
16 vote as four to zero to one to approve application 20996 with  
17 conditions, on the motion made by Chairman Hill and seconded  
18 by Mr. Blake, with one board member not present or  
19 participating.

20 BZA CHAIR HILL: Commissioner Stidham, I think,  
21 thank you for your time today.

22 MEMBER STIDHAM: You're welcome. Thank you.

23 BZA CHAIR HILL: Bye-bye.

24 MEMBER STIDHAM: Bye-bye.

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

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1 record at 12:17 p.m. and resumed at 2:34 p.m.)

2 BZA CHAIR HILL: Okay, great. Ms. Mehlert, if you  
3 could, go ahead and call our first hearing case.

4 MS. MEHLERT: Is Vice Chair John participating,  
5 or is that

6 BZA CHAIR HILL: Oh, yeah, yeah. No, no. I think  
7 she's with I don't know I think she is. Just give her  
8 a minute, I guess.

9 Vice Chair John, can you hear us?

10 We can't hear you.

11 VICE CHAIR JOHN: Muted.

12 BZA CHAIR HILL: There we go. All right. Okay.  
13 We got everybody, Ms. Mehlert.

14 MS. MEHLERT: Okay. The Board has returned from  
15 its lunch recess and is coming back to its hearing session.

16 The next application is case number 21104 of  
17 Sharon Shoshana Akman, Judith Ehrlich Shoen, and Daniel Eli  
18 Ehrlich. This is an amended self-certified application,  
19 pursuant to Subtitle X Section 901.2, for special exceptions  
20 under Subtitle C Section 703.2, from the minimum vehicle  
21 parking requirements of Subtitle C 701.5; under Subtitle C  
22 Section 1506, from the penthouse setback requirements in  
23 Subtitle C Section 1504; under Subtitle G Section 5200.1,  
24 from the side yard requirements of Subtitle G Section 208.2;  
25 and from the lot occupancy requirements of Subtitle G Section

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1 210.1.

2 The project is to construct a new four-story  
3 building, including cellar and penthouse, containing 40  
4 dwelling units. It's located in the MU-4 zone at 1322 9th  
5 Street Northwest, Square 367, Lot 861.

6 BZA CHAIR HILL: Okay. Great. If the Applicant  
7 can hear me if they could please introduce themselves for the  
8 record?

9 MR. SULLIVAN: Thank you, Mr. Chair, and members  
10 of the Board. My name is Marty Sullivan with Sullivan &  
11 Barros, here on behalf of the Applicant. I believe, also,  
12 the project architect should be with us, Ms. Ferreira, and  
13 possibly, a principal from the contract purchaser entity,  
14 Michael Taylor, maybe with us as well.

15 BZA CHAIR HILL: Okay. Great. Let's see. I  
16 think we have the Commissioner with us.

17 Commissioner, can you hear me?

18 COMMISSIONER McCARTY: And yes, I can hear. Thank  
19 you for having me.

20 BZA CHAIR HILL: Great. Could you introduce  
21 yourself for the record, Commissioner?

22 COMMISSIONER McCARTY: Yes. Hi, everybody. My  
23 name is Commissioner Steven McCarty, and I represent Advisory  
24 Neighborhood Commission Single-Member District 2G-04 Blagden  
25 Alley, Naylor Court, and Sheperd Court.

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1           BZA CHAIR HILL: Great. Thank you. Welcome,  
2 Commissioner.

3           Just so my fellow Board Members know, this is my  
4 ANC. And so, I don't think that will as it didn't in the  
5 last case this morning, it didn't preclude me from being able  
6 to participate. I don't think it's going to have any issues  
7 with me participating, but I just wanted to state that for  
8 the record.

9           All right. Mr. Sullivan, if you want to go ahead  
10 and give us your presentation and why you believe your client  
11 is meeting the criteria for us to grant the relief requested.

12           And just so the Commissioner knows, at some point  
13 in time, you know, you'll be able to give us your testimony  
14 as well, and then ask any questions of the Applicant and,  
15 also, the Office of Planning, and be able to participate as  
16 a member of the hearing.

17           So go ahead, Mr. Sullivan. You can begin whenever  
18 you like.

19           MR. SULLIVAN: Thank you, Mr. Chair. If we could  
20 load the PowerPoint presentation, please? Next slide,  
21 please. So the properties of mostly unimproved. It has  
22 a historic carriage house at the rear, on Blagden  
23 Alley/Naylor Court. It's in the MU-4 zone.

24           The Applicant is proposing to keep the garage and  
25 construct, attaching to that, a new four-story, plus cellar

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1 and penthouse building with 40 residential units, including  
2 IZ units. And the relief required is a special exception for  
3 lot occupancy. Part of that is due to the existence of the  
4 carriage house just being at one story.

5 And then, the building was also has some  
6 shifting lot occupancies as it goes up because the we've  
7 made some consideration for the attached neighbor to the  
8 south. It has an at-risk window, and we kept that light in  
9 there and then also provided more light in there, to the  
10 building itself. And that also had some impact on the next  
11 area of relief: a special exception for penthouse setbacks.

12 Also asking for special exception for parking.  
13 The project has a requirement of six spaces, and the  
14 Applicant is providing one regular space and one car share  
15 space, which together counts as four total, so we're seeking  
16 relief for two parking spaces.

17 And special exception for side yard, this was  
18 added after the application was originally filed because  
19 there was a slight change in the lot boundaries from what the  
20 District had recorded from what was actually recorded, and  
21 that was corrected. And in doing so, it led to a five-foot  
22 area of the building, in the southeast corner, needing about  
23 a foot and a half of side yard relief. So we'll show that  
24 in the plans when we get to it.

25 Next slide, please. The Office of Planning

1 recommends full approval now. Initially, they were  
2 recommending denial for a portion of the penthouse setback  
3 relief. And we made some changes, and now, they support that  
4 as well.

5 ANC 2G effectively provided no opinion one way or  
6 the other. They voted down a resolution to support, and  
7 obviously, Commissioner McCarty can explain details behind  
8 that.

9 DDOT has no objection, and the Applicant has  
10 agreed to implement the suggested TDM plan. And then, the  
11 Blagden Alley Naylor Court Association supports the  
12 application and filed a letter in that regard.

13 Next slide, please. And is Ms. Ferreira on? If  
14 she is, I'll turn it over to her now, to take the Board  
15 through the plans.

16 MS. FERREIRA: Good morning. Good afternoon,  
17 everyone. I will keep it as brief as possible and focus on  
18 the areas of the building that are impacting the relief  
19 request

20 (Simultaneous speaking.)

21 BZA CHAIR HILL: I'm sorry. Could you just  
22 introduce yourself for the record?

23 MS. FERREIRA: Sure. My name is Catarina  
24 Ferreira, and I am the architect on the project.

25 BZA CHAIR HILL: Great. Thank you.

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1 MS. FERREIRA: Next slide, please. Next slide,  
2 please. Some photos of the existing context, here we see the  
3 empty lot between the white and red building that's the site  
4 in question. The small site plan here shows the existing  
5 carriage house at the rear.

6 Next slide, please. Here are some views of the  
7 alley side with the carriage house visible on the lower  
8 portion here.

9 Next slide, please. And the location of the  
10 project within the historic district of Blagden Alley Naylor  
11 Court.

12 Next slide, please. Proposed site plan, as you  
13 can see, is a little hard to understand because it's actually  
14 quite complex in terms of building massing. As Marty alluded  
15 to, we made some revisions to the building design compared  
16 to what was originally conceived in order to address some  
17 concerns presented by the neighbor to the south, specifically  
18 with respect to access to light and air from the enclosed  
19 courtyard at his property. As a result, a large swath of the  
20 building on the south side was carved out, and we introduced  
21 a side yard that varies as the building goes up in stories,  
22 basically from denser to less dense at the top.

23 On the rear here, you can see the existing  
24 carriage house. And as Marty had stated, the lot occupancy  
25 relief is being requested largely because of the existence

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1 of the carriage house. And then, there's an additional  
2 connection between it and the building that also contributes  
3 to that request for lot occupancy relief. The remainder of  
4 the building itself is well within the 75 percent lot  
5 occupancy limit, just for the record. So it's really at the  
6 first floor that we exceed it.

7           Next slide, please. Building plans here show how  
8 we move from much denser at the bottom of the building. We  
9 can see with just some small side yards technically to allow  
10 light and air from the sides.

11           Next slide, please. As we move up, on the second  
12 floor and third floor, the openness along the south side  
13 increases, and obviously, the mass of the carriage house  
14 above the first floor starts to drop off.

15           Next slide, please. At the third and fourth  
16 floor, we       the side yard is completely open on the south  
17 side, and the building edge is slightly over nine feet from  
18 the property line. This is also part of the reason behind  
19 the penthouse setback request, both on the south side of the  
20 building and on the north side, where the smaller side yard  
21 occurs.

22           With the introduction of this long side yard along  
23 the property line to the south, a portion of the building  
24 massing was shifted north, including the penthouse itself,  
25 which is why we are requesting a five-foot setback at the

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1 penthouse level from the actual roof edge on both the south  
2 side and the north side side yard. And it's really to  
3 provide a workable floor plan, given the constraints of  
4 having the building core also in that same area, particularly  
5 where the north side yard is located, which further  
6 compresses the available livable space in that area.

7           Next slide, please. Some views of the building  
8 exterior. You can see the carriage house being maintained.  
9 It will be turned to housing. That's also part of the reason  
10 why we are requesting the parking relief in order to maintain  
11 the carriage house and turn it into residential use, which  
12 was considered much more desirable from an alley livelihood  
13 standpoint, and for the building overall, given its location.  
14 The amount of space remaining for parking is limited to two  
15 spaces.

16           Next slide, please. Proposed materials, you can  
17 see here, from the front of the building, the much larger  
18 penthouse setback on the south side because of the side yard  
19 that cuts into that side of the building for the majority of  
20 its depth.

21           Next slide, please. Proposed building section.

22           Next slide, please. Some 3D massing views that  
23 illustrate how that carving along the south side is  
24 occurring, particularly from this side.

25           Next slide, please. And from the rear, you can

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1 see the existing carriage house being maintained and how the  
2 rest of the building flushes out along a single line, at 22  
3 feet from the rear yard from the rear property line,  
4 pardon.

5 Next slide, please. Just some 3D views of the  
6 building exterior. And we could just flip through these.  
7 They're just for information purposes.

8 Next slide, please. Next. Next slide. And here  
9 are some views of the rear, showing the carriage house being  
10 maintained and the building behind it.

11 And that concludes the presentation. I'll be  
12 happy to answer any questions.

13 MR. SULLIVAN: And we should have some more slides  
14 in there to go through the special exception criteria, so  
15 I'll go over that. So the lot occupancy and the side yard  
16 relief, under G5200, are reviewed under the general special  
17 exception requirements. There's no specific conditions tied  
18 to that relief in the MU-4 zone. So granting relief will be  
19 in harmony with the general purpose and intent of the zoning  
20 regulations and zoning maps and also will not tend to affect  
21 adversely the use of neighboring property.

22 With respect to lot occupancy, the use itself and  
23 the proposed building height in FAR is permitted as a  
24 matter-of-right in this zone, and the Applicant is  
25 maintaining an existing historic structure, which contributes

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1 to the overall lot occupancy. I believe we have yet to go  
2 before HPRB because of some delays we've had. They haven't  
3 had meetings for a couple months because of the quorum, I  
4 think, but we do have a positive staff report, I believe, and  
5 expect approval from HPRB.

6 With respect to the penthouse, the Applicant is  
7 providing setbacks from the side walls to mitigate any  
8 potential impacts on neighbors, as well as full setbacks from  
9 the front and rear walls. Also note that the north setback  
10 area where we're asking for relief, it's a 17-foot portion  
11 of the building that's really the base of a closed court.  
12 For any other zone, there is no side yard or no penthouse  
13 setback required adjacent to a closed court.

14 But because, in the MU-4 zone, the regulation  
15 specifically says that any portion of a building setback from  
16 a side lot line is a side yard and not a court, technically,  
17 it's not a court. But for all intents and purposes, it is.  
18 However, so we're still sitting back five feet from that, and  
19 that effectively ends up being 15 feet from the property  
20 line. And similar on the other side as well. Even though  
21 we're asking setback relief on the south side, it's more than  
22 one-to-one from the property line.

23 So, with respect to parking, the Applicant is  
24 proposing a car share space for the residents and community  
25 to mitigate any impacts from the request. Further, the

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1 Applicant anticipates future residents are unlikely to have  
2 cars due to the location of the property, available public  
3 transit, and nature of the units.

4           With respect to the side yard, the request is very  
5 minor in nature, and no side yard is actually required. Due  
6 to the location of this area relief, this request also  
7 complies with the applicable special exception criteria. And  
8 if you have any questions about it, it's at the southwest  
9 corner of the building proper, the new building, and it's for  
10 a five-foot space. We have about a six-and-a-half-foot side  
11 yard instead of an eight-foot side yard, just for that small  
12 portion.

13           Next slide, please. So for the parking relief,  
14 there are specific requirements for the condition for the  
15 special exception.

16           For parking relief, we need to comply with one of  
17 these, and we believe this the request complies with  
18 several paragraphs, including the use for structures  
19 particularly well-served by mass transit, shared vehicle, or  
20 bicycle facilities, also that the land use or transportation  
21 characteristics of the neighborhood minimize the need for  
22 required parking spaces, and the amount of traffic congestion  
23 existing or which the parking for the building structure  
24 would reasonably expect it to create in the neighborhood, and  
25 the nature of use of the structure, number of residents would

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1 be reasonably expected to use the building would generate the  
2 demand for less parking than the minimum parking standards,  
3 also the nature or location of a historic resource precludes  
4 the provision of the number of parking spaces. Although,  
5 because we have a requirement of four or more, there is still  
6 parking requirement, even though it's a historic resource.

7           Next slide, please. And any reduction in the  
8 required number of parking spaces shall be only for the  
9 amount that the Applicant is physically unable to provide.  
10 So because of the existing sections of the historic carriage  
11 house, there's less space back there to get parking spaces  
12 in. So the Applicant has used what space is available for  
13 the two parking spaces, and then, a trash area in that area  
14 back there as well.

15           So we have worked closely with DDOT as well to  
16 craft the TDM plan that has these criteria in it, I believe,  
17 which are also included in DDOT's report as well.

18           Next slide, please. So for the penthouse relief,  
19 we submitted a couple filings, one when we           with the  
20 prehearing statement, I believe. But last week, in response  
21 to some additional concerns from the Office of Planning and  
22 concerns about the north penthouse, we submitted additional  
23 testimony from Ms. Ferreira, and she can answer questions  
24 about that or provide           if you'd like to hear, she could  
25 talk about what we submitted in that letter. But it's all

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1 in the letter and on the record, the reasons why we believe  
2 that having the full ten-foot setback would be unduly  
3 restrictive or unreasonable, and we now have the Office of  
4 Planning's support for that argument as well.

5 Next slide, please. And I think that's it. Yeah.  
6 So happy to answer any questions for the Board. Thank you.

7 BZA CHAIR HILL: Thank you, Mr. Sullivan. Let's  
8 see. Do you first of all, my fellow Board Members, do you  
9 all have any questions of the Applicant?

10 MEMBER BLAKE: Mr. Chair, for the Applicant?

11 BZA CHAIR HILL: Go ahead, Mr. Blake.

12 MEMBER BLAKE: How much square footage did you  
13 lose in the penthouse by making the adjustment to the  
14 setback? I'm looking at it seems like they are a little  
15 bit smaller, the units on the top. Could you give me a sense  
16 of how much the reduction was square footage-wise?

17 MS. FERREIRA: Sure. I can answer that. I think  
18 it was just about 86 square feet, I think, if I recall  
19 correctly, 17 by 5, 85 square feet.

20 MEMBER BLAKE: Okay. And this came out of one  
21 apartment or just kind of in combination?

22 MS. FERREIRA: It came out of the two units on the  
23 north side, or the top level over those two units, in that  
24 central area.

25 MEMBER BLAKE: Okay. And last, what is the

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1 carriage house being used for?

2 MS. FERREIRA: It's a dwelling unit, and there's  
3 also another one at the cellar level underneath it.

4 MEMBER BLAKE: Thank you.

5 BZA CHAIR HILL: Board?

6 Okay, Commissioner. They let me know from the  
7 office, I guess, that you might be signed up as an  
8 individual, and you don't I don't have a letter of  
9 authorization for your for our ANC. So is that correct  
10 you're here as an individual?

11 COMMISSIONER McCARTY: I was planning to be here  
12 as a representing my single-member district.

13 BZA CHAIR HILL: Okay. That's fine. I guess, in  
14 the future, again, if you want to just get something from the  
15 ANC saying that you're here representing the ANC, but go  
16 ahead and give us your testimony, Commissioner.

17 COMMISSIONER McCARTY: Thank you, Chairman. Also,  
18 I'll just add, I did coordinate with our chair, and that  
19 letter was supposed to have been sent. So I apologize that  
20 that did not

21 (Simultaneous speaking.)

22 BZA CHAIR HILL: It's all good.

23 COMMISSIONER McCARTY: But hello, everybody. My  
24 name is Steven McCarty, and I am here to express my support  
25 for this project. Naylor Court, where the project is

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1 located, is both within a historic district and on the  
2 National Register of Historic Places. So these designations  
3 severely limit options for adding parking on-site. However,  
4 my constituents deeply desire revitalizing the blighted  
5 gravel lot that has marred our community for years.

6           The project stands out, in particular, to us  
7 because the developers have prioritized community input,  
8 modifying plans accordingly, but then making sure that they  
9 answer any constituent or resident's concerns. Residents  
10 have overwhelmingly expressed support for the development and  
11 the project and have also shared that they do not have any  
12 concerns about residential parking within Naylor Court.

13           While some commissioners you know, I'm kind of  
14 here to clear up clear this up a bit. So we had a motion  
15 of support for the project, and unfortunately, we have a  
16 couple of commissioners who have a zero-tolerance policy when  
17 it comes to granting parking relief. Unfortunately, those  
18 commissioners don't understand the unique nature of Naylor  
19 Court and Blagden Alley in the sense that there is an  
20 existing carriage house structure that we do want to  
21 maintain, and therefore, making space for additional parking  
22 is really not an option for this project.

23           So, again, I want to just express that the you  
24 know, our single-member district, 2G-04, the most directly  
25 affected residents in Naylor Court itself, have all expressed

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1 support for the project. Even on our ANC meeting where the  
2 support motion failed, commissioners are on the record saying  
3 we support all of the reliefs being requested, except for the  
4 parking.

5           And so, I chided my fellow commissioners for their  
6 misunderstanding of our community's needs and what they've  
7 requested because, again, our community has been clear that  
8 the parking relief being requested is not at issue at all.  
9 This is currently a gravel lot that, you know, graffiti,  
10 trash, drug paraphernalia, right? Folks want this in-filled.  
11 There have been multiple designs posed for this lot over the  
12 years, and they haven't been happy with those, but they're  
13 incredible happy and supportive with this one.

14           The very few comments that we did receive from  
15 constituents were about height and shade cast. However,  
16 again, the develop team even went so far as to produce shade  
17 drawings to show those constituents that the, you know,  
18 height of the building would not directly impact or minimally  
19 impact the shade cast onto their courtyards.

20           And so, I'm just here to, again, express our  
21 support for this project and explain the reason why the ANC,  
22 technically, did not take a position in support or opposition  
23 of the project.

24           BZA CHAIR HILL: Okay. Thank you, Commissioner.

25           Do my fellow Board Members have any questions for

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1 the Commissioner?

2 All right. Could I go ahead and hear from the  
3 Office of Planning?

4 MR. BARRON: Good afternoon, commissioners. For  
5 the record, my name is Ron Barron, Development and Review  
6 Specialist with the D.C. Office of Planning. The Office of  
7 Planning submitted a case report at Exhibit 22, in which we  
8 recommended approval of all requested special exceptions but  
9 did not support the requested setback on the north wall of  
10 the proposed building.

11 The Applicant has since submitted an amendment to  
12 those designs in response to the objections raised in OP's  
13 report. OP reviewed those materials and has amended our  
14 original recommendation and supplemental report at Exhibit  
15 28. OP, therefore, recommends approval of the requested  
16 special exceptions, including the penthouse setback  
17 requirements for both the north and south walls of the  
18 penthouse.

19 Thank you for your time, and I am available to  
20 answer any questions you may have.

21 BZA CHAIR HILL: Thank you, Mr. Barron.

22 Mr. Sullivan, 27A is the revised architectural  
23 plans and elevations, correct?

24 MR. SULLIVAN: Yes, that's what I have, yes.

25 BZA CHAIR HILL: Okay. Great. Thank you.

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1 All right. Do my fellow Board Members have any  
2 questions for the Office of Planning?

3 All right. Is there anyone here wishing to speak,  
4 Mr. Young?

5 MR. YOUNG: There is not.

6 BZA CHAIR HILL: Okay. All right. Do my fellow  
7 Board Members have any final questions?

8 All right. Okay. Mr. Sullivan, thank you so  
9 much.

10 Commissioner McCarty, nice to see you. You take  
11 care of yourself, all right?

12 COMMISSIONER McCARTY: Thank you. Always a  
13 pleasure.

14 BZA CHAIR HILL: Okay. Close the hearing and the  
15 record.

16 Since I've spent a lot of time talking today,  
17 would someone else like to go first?

18 BZA VICE-CHAIR JOHN: I thought that this was  
19 fairly straightforward in terms of how the application is  
20 meeting the standards for relief. And as the Applicant  
21 noted, except for the two areas requested, the Applicant  
22 meets all of the development standards.

23 I have reviewed the explanation for the need for  
24 the penthouse setback relief, and the Applicant explained  
25 this in terms of needing to comply with the needs of the

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1 building core. And so, I thought that explanation was really  
2 quite clear.

3           And then, with respect to the side yard relief,  
4 I agree with the Office of Planning's analysis for that as  
5 well. And so, I think that this is in the MU-4 zone, and I  
6 think the design and the scope of the relief requested is  
7 consistent with this zone. So I'm going to give great weight  
8 to the Office of Planning's support.

9           I appreciate the testimony of the ANC  
10 commissioner, although we cannot give it great weight. But  
11 with respect to the parking relief, I thought that the  
12 Applicant gave a good explanation for why that was needed,  
13 and right. I thought that that was reasonable.

14           And so, I'm in support. I would like to hear what  
15 other Board Members think. Oh, there's something from DDOT.  
16 Apparently, DDOT needs a TDM plan, but the scope of the  
17 reduction should not require a TDM plan. So I don't believe  
18 I saw any condition that DDOT required the Board to interfere  
19 with, but we can check that again as we hear from other Board  
20 Members.

21           BZA CHAIR HILL: Okay. Thank you, Vice-Chair  
22 John.

23           BZA VICE-CHAIR JOHN: Thank you.

24           BZA CHAIR HILL: Mr. Smith?

25           MEMBER SMITH: I don't have anything to add. I

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1 agree with the statements of the the statements provided  
2 by Ms. John thus far.

3 And thank you to the Applicant for redesigning  
4 this project and providing some additional setback in order  
5 to allow additional light and air for the potential  
6 residential units that would be located on that side of the  
7 building, and that change sufficiently moved the Office of  
8 Planning to change their recommendation to approval for that  
9 particular side of the building.

10 I do believe that with those changes and with the  
11 information within the record, that they meet the standard  
12 for us to approve all of the special exceptions, and we'll  
13 support the application as well, without the DDOT condition  
14 of a TDM plan.

15 BZA CHAIR HILL: Okay. I you cut off I got  
16 all of your statement, I believe, Mr. Smith, but I think you  
17 cut off there at the very end. I don't know. Can you speak  
18 and just to make sure I hear you?

19 MEMBER SMITH: Sure. Without a condition of DDOT  
20 TDM plan.

21 BZA CHAIR HILL: Great. Thank you.

22 Mr. Blake?

23 MEMBER BLAKE: I'm in support of the application.  
24 I do believe it meets the criteria for approval. And I  
25 appreciate the effort the Applicant made to adjust for the

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1 Office of Planning's concern.

2           Parking is a very difficult thing, and I  
3 understand the concern that the ANC chairs unfortunately,  
4 we will not be able to give great there's nothing to give  
5 great weight to, but we do understand the issues that they  
6 observed. Thank you. I'll be voting in favor.

7           BZA CHAIR HILL: Thank you.

8           Chairman Hood?

9           ZC CHAIR HOOD: Thank you, Mr. Chairman. I, too,  
10 will be voting in favor, but I do want to comment on the  
11 parking. As Board Member Blake has mentioned, it is a  
12 concern, but I think, for me, it's probably mitigated,  
13 especially with the ride-sharing. I know that's being done  
14 a lot in areas like this, so I think that should mitigate  
15 some of the issues but maybe not all. Thank you, Mr.  
16 Chairman.

17           BZA CHAIR HILL: Thank you, Chairman Hood.

18           All right. I will agree that I don't think the  
19 DDOT condition is necessary in this particular case. And I  
20 will also note that the Blagden Alley Naylor Court  
21 Association also filed a letter in support. I'm going to go  
22 ahead and also agree with my fellow commissioners I'm  
23 sorry Board Members and that of the Office of Planning and  
24 make a motion to approve application number 21104, as caption  
25 read by the Secretary, and ask for a second. Ms. John?

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1 BZA VICE-CHAIR JOHN: Second.

2 BZA CHAIR HILL: Motion made and seconded.

3 Ms. Mehlert, if you could, take a roll call.

4 MS. MEHLERT: Motion to approve the application.

5 Chairman Hill?

6 BZA CHAIR HILL: Yes.

7 MS. MEHLERT: Vice-Chair John?

8 BZA VICE-CHAIR JOHN: Yes.

9 MS. MEHLERT: Board Member Smith?

10 MEMBER SMITH: Yes.

11 MS. MEHLERT: Board Member Blake?

12 (No audible response.)

13 MS. MEHLERT: And Chairman Hood?

14 ZC CHAIR HOOD: Yes.

15 MS. MEHLERT: Staff will record the vote as five

16 to zero to zero to approve application 21104 on the motion

17 made by Chairman Hill and seconded by Vice-Chair John.

18 BZA CHAIR HILL: Great. Thank you, Ms. Mehlert.

19 And you can call our next one when you get an opportunity.

20 MS. MEHLERT: Next is application number 21106 of

21 5924 9th Northwest, LLC. This is a self-certified

22 application, pursuant to Subtitle X Section 901.2, for

23 special exceptions under Subtitle U Section 421 to allow a

24 new residential development, and under Subtitle C Section

25 703.2, from the minimum vehicle parking requirements of

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1 Subtitle C at Section 701.

2 This is to create five dwelling units in the  
3 basement cellar level of an existing three-story apartment  
4 house containing 27 dwelling units. It's located in the RA-1  
5 zone at 5924 9th Street Northwest, Square 2986, Lot 848.

6 BZA CHAIR HILL: Great. Thank you.

7 If the Applicant, can you hear me? If they can  
8 please introduce themselves for the record?

9 MR. SULLIVAN: Here, Marty Sullivan with Sullivan  
10 and Barros, on behalf of the Applicant.

11 BZA CHAIR HILL: Great. Thank you, Mr. Sullivan.  
12 Mr. Sullivan, if you want to, go ahead, and walk us through  
13 your client's application and why you believe they're meeting  
14 the criteria for us to grant the relief requested. I'm going  
15 to put 15 minutes on the clock, so I know where we are, and  
16 you can begin whenever you like.

17 MR. SULLIVAN: Thank you. If we could please have  
18 the PowerPoint presentation loaded? And I believe Mr.  
19 Gronning, Eric Gronning, the project architect, may be on the  
20 panel with us if you have any questions for him. I think I  
21 can go through these, maybe, without him. And then but  
22 he'll be available for questions. And somebody from the  
23 Applicant team may be on as well if you have questions for  
24 them.

25 Next slide, please. So this is an RA-1, U 421

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1 approval, but it's an existing four-story building. And  
2 there's no addition or expansion being proposed. It's just  
3 a provision of units in the basement level, which is  
4 currently mostly unoccupied. So the Applicant is proposing  
5 to add five units to the existing 27, for a total of 32  
6 units.

7 And so, this requires the following approvals:  
8 special exception for the new units under Section U 421, and  
9 then a special exception for parking because we believe that  
10 going from 27 to 32 results in a parking requirement of one  
11 space, but there's no way to get parking on this site, as  
12 you'll see from the plans and photos.

13 Next slide, please. The Office of Planning  
14 recommends approval, and ANC 4B is in support as well, as is  
15 DDOT.

16 Next slide, please. Next slide, please. These  
17 are the floor plans. And if Eric is here, Mr. Gronning is  
18 if he's on the panel, I'll turn it over to him, and he can  
19 go through the plans real quick.

20 MR. GRONNING: Yeah. Good afternoon. My name is  
21 Eric Gronning. I'm the architect for the project. Thank  
22 you, Board, for letting us present. On the screen are the  
23 existing and proposed basement layouts. There are four  
24 floors, as Mr. Sullivan stated. There are eight  
25 currently, eight existing units per floor, and there are

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1 three currently in the basement. Our proposal is adding  
2 another five units to the basement, for a total of 32 units.

3 Next slide, please. This is the site plan, and  
4 this property is landlocked and that speaks a little bit to  
5 what Mr. Sullivan said about parking not being accessible  
6 here. There's no alley to get access to the rear of the  
7 property.

8 Next slide. These are the existing drawings. I  
9 don't think we need to go through here. Next slide, please.  
10 Next slide. And these are just floorplans of the proposed  
11 way out. The bottom image is the basement, and you can see  
12 there that we are adding eight total units, but that's only  
13 an increase of five.

14 Next slide, please.

15 MEMBER BLAKE: Could you, Mr. Gronning, could you  
16 point out where the eight units are compared to what is there  
17 now? Because I'm looking at kind of like the after. I can't  
18 appreciate the existing.

19 MR. GRONNING: Sure. If we could go back, we'll  
20 go to the existing. One more. And one more. Okay. So the  
21 bottom plan is the existing basement, and you can see it's  
22 not clearly labeled, but there are three units currently on  
23 this floor. And if we advance two or three slides, I'll show  
24 you the proposed. Yes, right there. So the bottom plan here  
25 is the proposed basement plan. So we're adding a total of

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1 five units to that basement.

2 Next slide, please. These are the upper floors,  
3 and you know, we're not changing the numbers of units on the  
4 upper floors.

5 Next slide, please. In terms of exterior work,  
6 we will be enlarging some of the windows for the purposes of  
7 meeting the emergency rescue requirements for bedrooms, and  
8 some of these windows don't currently meet that requirement.  
9 We're also providing a few light wells at the basement to  
10 allow more light into the units that we're proposing.

11 Next slide, please. That's the site plan again.  
12 Next slide. And these are images of the existing building.  
13 And I think that's our last slide. I'll be happy to answer  
14 any questions if I can. Thank you.

15 MR. SULLIVAN: Thank you, Eric. So the general  
16 criteria that granting relief will be in harmony with the  
17 purpose and intent of the zoning regulations and maps. The  
18 RA-1 zone provides for areas predominantly developed with low  
19 to moderate density development, and the project is in  
20 harmony with the general purpose and intent as the proposal  
21 is for moderate density multi-family residential building to  
22 add five units.

23 And the Applicant is not proposing to alter or  
24 expand the existing building footprint. And the project adds  
25 five units in the existing basement space. The location near

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1 bus lines, restaurants, parks, and the existing multi-family  
2 nature of the area are conducive to continued multi-family  
3 use and preferable to adding units elsewhere in the District  
4 where access to transit and other resources is not as  
5 convenient.

6           Next slide, please. The specific criteria under  
7 U 421, the BZA shall refer the application to the relevant  
8 agencies for comment and recommendation as to adequacy of  
9 existing and planned area schools. It's expected that  
10 obviously would not have an issue with the increase in  
11 residents from five additional units.

12           And we provided the public school information  
13 there in the record, also public streets, recreation, and  
14 other services to accommodate the residents can be expected  
15 to reside in the project. Property is well-served by public  
16 transit, including four Priority Corridor Network metro bus  
17 routes, and it's also located within walking distance of  
18 Emery Heights Park and Peabody Community Garden.

19           And 421.3, we defer to the Office of Planning  
20 report as they have reviewed and addressed their favorable  
21 opinion regarding the issues under 421.3.

22           Next slide, please. Regarding the parking relief,  
23 due to the physical constraints of the property, the required  
24 parking spaces cannot be provided. There is several other  
25 apartment buildings around here too. None of them have

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1 parking. There is no access to the rear of the building.  
2 It's landlocked other than on the front street, and there's  
3 not enough room to get a driveway into the property.

4 Next slide, please. And if the Board has any  
5 questions for myself or Mr. Gronning or the Applicant. Thank  
6 you.

7 BZA CHAIR HILL: Thank you, Mr. Sullivan.

8 All right. Mr. Blake, you have a question?

9 MEMBER BLAKE: Just some quick questions fast.  
10 Is this building occupied currently fully occupied?

11 (No audible response.)

12 MEMBER BLAKE: Okay. The process then, you are  
13 taking away the boiler room and the laundry room. Is there  
14 a laundry room being repurposed someplace else, or is it just  
15 being eliminated?

16 MR. GRONNING: Laundry will be supplied in each  
17 unit, I believe. I'll have to get back to the plans and  
18 look, but yeah, each unit will have separate laundry and  
19 HVAC.

20 MEMBER BLAKE: Okay. All right.

21 MR. GRONNING: Yes. The idea is to eliminate the  
22 boiler and have it in each unit.

23 MEMBER BLAKE: Okay. And the just so, the  
24 tenants' notification, they all came back. I didn't see any  
25 letters from the tenants in support of this, but I assume

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1 that they all were noticed notified and so forth, correct?

2 MR. GRONNING: From memory, yes. And there are  
3 a few tenants that have elected not to do the full renovation  
4 in their units, and they will be accommodated in the project.

5 MEMBER BLAKE: Oh, okay. Thank you very much.

6 MR. GRONNING: Yes, sir.

7 BZA CHAIR HILL: Thank you, Mr. Blake. I am going  
8 to go ahead and turn to the Office of Planning.

9 Is the Office of Planning with us?

10 MR. LAWSON: Hi, Mr. Chair. I'm sorry. I didn't  
11 realize I'd been admitted to the meeting. My name is Joel  
12 Lawson. I'm with the D.C. Office of Planning. And we can  
13 stand on the record of being in support of this application.

14 BZA CHAIR HILL: Great. Thank you, Mr. Lawson.

15 Does anybody have any questions for the Office of  
16 Planning?

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

18 MR. YOUNG: We do not.

19 BZA CHAIR HILL: Okay. Mr. Sullivan, anything at  
20 the end?

21 MR. SULLIVAN: Mr. Chair and the Board Members.

22 BZA CHAIR HILL: Thank you. All right. I'm going  
23 to go ahead and close the hearing on the record.

24 Okay. I didn't have a lot to add about this. I  
25 mean, they're adding the five units. I think, you know,

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1 they're not trying to not changing the envelope of the  
2 building. I don't think that they are able to supply the  
3 parking space. I do think, again, that they are landlocked.  
4 They don't have, as they've mentioned, any access to alley  
5 or any way that they could get the parking on the property.

6 I don't have any concerns about adverse impact.  
7 Again, I would I do appreciate that the Office of Planning  
8 is in support, and I appreciate their analysis as well as  
9 that of their ANC in order to give them great weight. And  
10 I will be voting in favor.

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

12 MEMBER SMITH: I have nothing to add. I will be  
13 voting in support of the application.

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

15 MEMBER BLAKE: Application nothing else to add.  
16 Thank you.

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

18 BZA VICE-CHAIR JOHN: I'm in support of the  
19 application as well, and I have nothing to add.

20 BZA CHAIR HILL: Thank you. Chairman Hood?

21 ZC CHAIR HOOD: Nothing to add. Thank you.

22 BZA CHAIR HILL: Thank you. I make a motion to  
23 approve application number 21106, as captioned and read by  
24 the Secretary, and ask for a second. Ms. John?

25 BZA VICE-CHAIR JOHN: Second.

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1           BZA CHAIR HILL:     The motion we've made and  
2 seconded, Ms. Mehlert.  If you can, please take a roll call.

3           MS. MEHLERT:  Motion to approve the application.  
4 Chairman Hill?

5           BZA CHAIR HILL:  Yes.

6           MS. MEHLERT:  Vice-Chair John?

7           BZA VICE-CHAIR JOHN:  Yes.

8           MS. MEHLERT:  Board Member Smith?

9           MEMBER SMITH:  Yes.

10          MS. MEHLERT:  Board Member Blake?

11          (No audible response.)

12          MS. MEHLERT:  And Chairman Hood?

13          ZC CHAIR HOOD:  Yes.

14          MS. MEHLERT:  Staff will record the vote as five  
15 to zero to zero to approve application 21106 on the motion  
16 made by Chairman Hill and seconded by Vice-Chair John.

17          BZA CHAIR HILL:  Okay.  Great.  Ms. Mehlert, if  
18 you want to call our last case, please.

19          MS. MEHLERT:  Last case is application number  
20 21108 of John Borazzo and Carol Piwowarski.  This is a  
21 self-certified application, pursuant to Subtitle X Section  
22 901.2, for special exceptions under Subtitle D Section 207.5  
23 to allow the rear wall of a semi-detached building to extend  
24 farther than ten feet beyond the farthest rear wall of an  
25 adjoining principal residential building, and under Subtitle

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1 D Section 5201 from the lot occupancy requirements of  
2 Subtitle D 210.1.

3 This is to construct a second or rear addition and  
4 enlarged screen porch extending beyond the adjacent building,  
5 and new accessory structure in the rear yard of an existing  
6 two-story, semi-detached principal dwelling. The project is  
7 located in the R2 zone at 4526 43rd Place Northwest, Square  
8 1647, Lot 813.

9 BZA CHAIR HILL: Great. Thank you. If the  
10 Applicant can hear me if they can please introduce themselves  
11 for the record?

12 MS. ROGERS: Chairman Hill and Members of the  
13 Board, my name is Elizabeth Rogers with the law firm of  
14 Lerch, Early & Brewer, pleasure to be here today representing  
15 the Applicant.

16 BZA CHAIR HILL: Thank you, Ms. Rogers. If you  
17 want to go ahead and walk us through your client's  
18 application and why you believe they're meeting the criteria  
19 for us to grant the relief requested. I'm going to put 15  
20 minutes on the clock just so I know where we are, and you can  
21 begin whenever you like.

22 MS. ROGERS: Great. Thank you. We put together  
23 a PowerPoint presentation. Mr. Young, if you could, pull  
24 that up, please. Thank you.

25 With me here today, in case you have questions,

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1 are the Applicant John Borazzo and Carol Piwowarski, as well  
2 as their architect, Grant Saller with Four Brothers. We are  
3 here today to request special exception relief to allow for  
4 the construction of a second-story rear addition, an enlarged  
5 screened-in porch that will both extend more than ten feet  
6 beyond the adjacent rear facade and the construction of an  
7 accessory garage with storage above, which will exceed the  
8 base lot occupancy standards at the ground plane.

9           Next slide, please. Just to orient you to the  
10 property, the property is located on 43rd Place Northwest,  
11 just north of its intersection with Murdock Mill Road, in the  
12 R2 zoning district. It's highlighted on the screen in red.

13           Next slide, please. This is a photo taken from  
14 the alleyway behind the property, showing the existing  
15 conditions. As you can see, the property is currently  
16 improved with a two-story semi-detached home. As was  
17 customary for construction of this era and this neighborhood,  
18 the rear of the house has an enclosed sleeping porch, which  
19 approximately 108 square feet on the second floor, which will  
20 be replaced in connection with the second-floor rear  
21 addition.

22           Another thing I wanted to point out from this  
23 photo that you can see is the existing screened-in porch is  
24 fully enclosed on the shared party wall with the adjoining  
25 neighbor. We believe the proposal before you today will

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1 improve that condition.

2           The Applicants have lived in this home for over  
3 30 years and desire to remain for many years to come. As  
4 such, the modifications we're here to discuss with you today  
5 are intended to accomplish exactly that by allowing them to  
6 remain in this home and age in place. We will go through  
7 each of the three modifications in turn.

8           Next slide, please. The first modification to  
9 discuss is the second-floor addition shown approximately  
10 highlighted in yellow on the image on the right confirming  
11 existing conditions to proposed.

12           The second floor of this house remains largely  
13 unchanged from when it was initially constructed in 1926.  
14 As a result of that, the bedrooms on the second floor are  
15 exceptionally small compared to today's standard. So the  
16 Applicants are proposing to construct this second-story rear  
17 addition, which would replace that existing sleeper porch and  
18 allow for the creation of a more functional primary bedroom  
19 with en suite bathroom, and the framing for a future elevator  
20 addition in the future.

21           Notably, the rear facade of the second story will  
22 remain setback from the ground floor rear facade. As such,  
23 it will not change the existing building footprint. However,  
24 because it will extend more than ten feet beyond the adjacent  
25 neighbor's rear facade, it requires special exception relief.

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1           Next slide, please. The next modification which  
2 I mentioned earlier was the Applicant's desire to modify the  
3 existing screened-in porch to create a more comfortable and  
4 accessible outdoor space on the first floor. Although the  
5 porch will extend more than ten feet beyond the adjacent rear  
6 facade and slightly farther into the rear yard than the  
7 existing porch does today, as you can see from this  
8 comparison on the screen, it will have less perceived bulk  
9 and mass as viewed from the adjacent neighbor's rear yard by  
10 removing that solid enclosure that exists out there today.  
11 We believe this results in an improvement to the existing  
12 conditions.

13           Next slide, please. And lastly, the Applicants  
14 are proposing to replace an existing shed that exists in the  
15 rear yard with an accessory garage to allow off-street,  
16 protected parking at this address where none currently  
17 exists, loft storage space above as well as to accommodate  
18 the installation of electric car charging station. With the  
19 addition of the garage, the property will slightly exceed the  
20 lot occupancy requirements. 41.6 percent lot occupancy is  
21 proposed as compared to the 40 percent that's allowed by  
22 right in this zone.

23           Next slide, please. We detailed the findings for  
24 approval in our burden of proof statement and the prehearing  
25 statements that are submitted in the record, so I'll be brief

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1 in my review of these criteria and happy to provide  
2 additional detail if the Board would like.

3 I would note that the special exception is in  
4 harmony with general purpose and intent of the zoning  
5 regulations and the zoning map. The R zones seek to provide  
6 for stable, low to moderate-density residential areas that  
7 are suitable for family life. And they specifically  
8 recognize the importance of neighborhood character and also  
9 aging in place. This application accomplishes exactly that.  
10 It allows for better interior space that can accommodate the  
11 needs of the Applicants who have lived in this home for over  
12 30 years and wish to remain.

13 The proposed construction is also in keeping with  
14 the character of the surrounding neighborhood as many homes  
15 in the surrounding neighborhood have rear additions and  
16 accessory garages. And the architecture of the proposed  
17 additions have been designed so that they will blend  
18 seamlessly in with the existing home and the character of the  
19 surrounding homes.

20 The addition will not adversely affect the use of  
21 neighboring property. The use of this property will remain  
22 unchanged. It will continue to be used for a single-family  
23 dwelling, and the light and air that's available to those  
24 neighboring properties won't be unduly affected by the  
25 proposed construction.

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1           Next slide, please. As noted in my previous  
2 remarks, the proposed second-floor addition will not expand  
3 the existing building footprint. As such, the second floor,  
4 because it's going to continue to be set back from the rear  
5 of the ground floor, will have only a modest impact in terms  
6 of light and air on the adjacent dwelling. As you can see  
7 from the shadow studies which are in the Exhibit record  
8 at Exhibit 10 and one which is on the screen before you  
9 today. The proposed additions cast a comparable shadow on  
10 the adjacent rear yard and the adjacent facade as compared  
11 to the existing conditions. It's only a very minor  
12 incremental increase.

13           Next slide, please. The existing porch, as I  
14 mentioned, has a solid expression on the property boundary.  
15 And while the proposed porch looks in just slightly farther  
16 into the rear yard, the Applicants are proposing to replace  
17 that opaque siding that currently encloses the porch with a  
18 screen enclosure, which we believe will result in a more  
19 visually porous porch that will result in the perception of  
20 more light and air in the adjoining backyard as compared to  
21 existing conditions.

22           The proposed addition has also been designed to  
23 preserve the privacy for the adjacent neighbor. No windows  
24 are proposed on the northern facade for that reason.

25           And I would note that the proposed rear addition

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1 will not be readily visible from 43rd Place, and the garage,  
2 which will replace the existing shed in the rear yard, will  
3 not visually intrude on character, scale, or pattern of  
4 houses along the alley frontage. Accessory garages are very  
5 common characteristic in the surrounding neighborhood.

6 We are pleased that the ANC voted unanimously to  
7 support the proposed special exception application. Their  
8 support is in the record at Exhibit 34. Additionally,  
9 several letters of support have been submitted by surrounding  
10 property owners, including the immediately adjacent neighbor.  
11 Those are in the record at Exhibit 18 through 28 and 10  
12 through 31.

13 And for all those reasons, we believe the Board  
14 may make the necessary findings to approve this special  
15 exception and are here to answer any questions that you may  
16 have.

17 BZA CHAIR HILL: Thank you, Ms. Rogers.

18 Does the Board have any questions of the  
19 Applicant?

20 All right. I'm going to turn to the Office of  
21 Planning.

22 MR. BEAMON: Good afternoon, Shepard Beamon with  
23 the Office of Planning. We've reviewed the application for  
24 the requested relief from lot occupancy and the rear  
25 extension requirements to allow rear addition and accessory

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1 building. We found the request meets the criteria for  
2 Subtitles D and X, as the request is in harmony with the  
3 zoning regulations and should not adversely impact  
4 neighboring properties. Therefore, we're recommending  
5 approval, and we sit on the recommendation as shown in the  
6 report on the record, and I'm available for any questions.

7 BZA CHAIR HILL: Great. Thank you, Mr. Beamon.

8 Does the Board have any questions for the Office  
9 of Planning?

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

11 MR. YOUNG: We do not.

12 BZA CHAIR HILL: Okay. Ms. Rogers, do you have  
13 anything else you'd like to add?

14 MS. ROGERS: No further comments. Thank you very  
15 much.

16 BZA CHAIR HILL: Okay. Great. Thank you so much.  
17 I'm going to close the hearing and the record. You'll please  
18 excuse everyone, Mr. Young.

19 Okay. Even though we tend this Board tends to  
20 look quite a bit above these the ten feet beyond their  
21 farthest rear wall of the adjoining principal residential  
22 building, I didn't see a lot of issues with this. I thought  
23 that it's a minor increase from what they actually already  
24 kind of have.

25 In addition to that, I appreciate the presentation

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1 that the Applicant had put forward, as well as their  
2 presentation, I guess, of the ANC, and also the ANC's  
3 recommendation of approval that we can give great weight to.  
4 Also, I would cite the Office of Planning's report and also  
5 would give great weight to that. I do also appreciate that  
6 the adjacent neighbors are the ones that are also in support  
7 of this project. They don't seem to have any concerns about  
8 it. It gives me good gives me confidence to vote in favor  
9 of this application. So I believe they're meeting the  
10 criteria for us to grant it.

11 Is there anything else you'd like to add, Mr.  
12 Smith? Shaking his head no.

13 Okay, Mr. Blake.

14 MEMBER BLAKE: I will show support of the  
15 application.

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

17 BZA CHAIR HILL: Thank you. Chairman Hood?

18 ZC CHAIR HOOD: I would agree with your comments  
19 and everyone else, and I think it's very de minimis, and I  
20 will be supporting as well.

21 BZA CHAIR HILL: Thank you. I am going to make  
22 a motion to approve application number 21108 as captioned and  
23 read by the Secretary and ask for a second. Ms. John?

24 BZA VICE-CHAIR JOHN: Second.

25 BZA CHAIR HILL: Motion made and seconded. Ms.

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1 Mehlert, if you could, please take a roll call.

2 MS. MEHLERT: Please respond to the Chair's motion  
3 to approve the application. Chairman Hill?

4 BZA CHAIR HILL: Yes.

5 MS. MEHLERT: Vice-Chair John?

6 BZA VICE-CHAIR JOHN: Yes.

7 MS. MEHLERT: Board Member Smith?

8 MEMBER SMITH: Yes.

9 MS. MEHLERT: Board Member Blake?

10 (No audible response.)

11 MS. MEHLERT: And Chairman Hood?

12 ZC CHAIR HOOD: Yes.

13 MS. MEHLERT: Staff will record the vote as five  
14 to zero to zero to approve application 21108 on the motion  
15 made by Chairman Hill and seconded by Vice-Chair John.

16 BZA CHAIR HILL: Ms. Mehlert, is there anything  
17 else before the Board today?

18 MS. MEHLERT: Nothing else.

19 BZA CHAIR HILL: Okay. All right, everybody.  
20 Nice to see you all. Hope you all have rest of your a  
21 good day and see you next time.

22 BZA VICE-CHAIR JOHN: Thank you.

23 BZA CHAIR HILL: Bye.

24 (Whereupon, the above-entitled matter went off the  
25 record at 2:34 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 05-01-24

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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