

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY  
MAY 22, 2024

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video-Teleconference, pursuant to notice at 9:35 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
CARL BLAKE, Member  
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBER[S] PRESENT:

ANTHONY J. HOOD, Chairperson  
JOSEPH S. IMAMURA, PhD, AOC Designee  
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:

RON BARRON  
SHEPARD BEAMON  
MAXINE BROWN-ROBERTS  
CRYSTAL MYERS  
KAREN THOMAS

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OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

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

The transcript constitutes the minutes from  
the Regular Public Hearing held on May 22, 2024.

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9:35 a.m.

BZA CHAIR HILL: Good morning. Do I have more or less who I need? Okay. Dr. Imamura, you're with us for the day, correct?

COMMISSIONER IMAMURA: Yes, I am.

BZA CHAIR HILL: Okay. Great. Then you can help with our first item that might be a preliminary matter. Okay. I got Mr. Smith. I got Mr. Blake. I got Commissioner Stidham. And I got Mr. Blake. Okay. Great. All right. I think the first one is probably going to be Dr. Imamura, but Commissioner Stidham and or Chairman Hood, we will reach out to you as we go, but you're welcome to obviously sit in. Mr. Young, can you start the recording, please? Thank you.

Good morning, ladies and gentlemen. The Board of Zoning Adjustment, today is May 22nd. Public hearing, please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Today joining me are Board Members Carl Blake, Chrishaun Smith, Zoning Commissioners Dr. Joe Imamura, Tammy Stidham, and Chairman Anthony Hood. Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a Court reporter and is also webcast live via Webex and YouTube Live.

The video of the webcast will be available on the

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1 Office of Zoning's website after today's hearing.  
2 Accordingly, everyone who is listening on Webex or by  
3 telephone will be muted during the hearing. Also, please be  
4 advised we do not take any public testimony at our decision  
5 meeting session. If you're experiencing difficulty accessing  
6 Webex or with your telephone call-in, then please call our OZ  
7 Hotline number at 202-727-5471 to receive Webex login or  
8 call-in instructions.

9 At the conclusion of the decision meeting session,  
10 I shall have a consultation with the Office of Zoning to  
11 determine whether a full or summary order may be issued. A  
12 full order is required when the decision it contains is  
13 adverse to a party, including an affected ANC. A full order  
14 may also be needed if the board's decision differs from the  
15 Office of Planning's recommendation. Although the board  
16 favors the use of summary orders on a possible applicant, it  
17 may not request the board to issue such an order.

18 In today's hearing session, everyone who is  
19 listening on Webex or by telephone will be muted during the  
20 hearing, and only persons who have signed up to participate  
21 or testify will be unmuted at the appropriate time. Please  
22 state your name and home address before providing oral  
23 testimony or your presentation. Oral presentation should be  
24 limited to a summary of your most important points. When  
25 you're finished speaking, please mute your audio so that your

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1 microphone is no longer picking up sound or background noise.

2           Once again, if you're experiencing difficulty with  
3 Webex, please call our OZ Hotline number at 202-727-5471.  
4 All persons planning to testify either in favor or in  
5 opposition should have signed up in advance. They'll be  
6 called by name to testify. If this is an appeal, only  
7 parties are allowed to testify. By signing it to testify,  
8 all participants complete the oath or affirmation as required  
9 in Y408.

10           Requests to enter evidence at the time of an online  
11 virtual hearing, such as written testimony or additional  
12 supporting documents, other than live video, which may not be  
13 presented as part of the testimony, may be allowed pursuant  
14 to Y103.13, provided that the person making the request to  
15 enter in evidence explain, A, how the proposed exhibit is  
16 relevant, B, the good cause it justifies allowing the exhibit  
17 or the record, including an explanation of why the requester  
18 did not file the exhibit prior to the hearing pursuant to  
19 Y206, and how the proposed exhibit would not unreasonably  
20 prejudice any parties.

21           The order of procedures for special exception and  
22 variances are pursuant to Y409. At the conclusion of each  
23 case, an individual who is unable to testify because of  
24 technical issues may file a request for leave to file a  
25 written version of the planned testimony to the record within

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1 24 hours following the conclusion of public testimony in the  
2 hearing. If initial written testimony is accepted, then  
3 parties will be allowed a reasonable time to respond as  
4 determined by the board. The board will then make its  
5 decision at its next meeting session, but no earlier than 48  
6 hours after the hearing.

7 Moreover, the board may request additional specific  
8 information to complete the record. The board and the staff  
9 will specify at the end of the hearing exactly what is  
10 expected and the date when the person must submit the  
11 evidence to the Office of Zoning. No other information shall  
12 be accepted by the board.

13 Finally, the District of Columbia Administrative  
14 Procedures Act requires that the public hearing on each case  
15 be held in the open for the public. However, pursuant to  
16 405B and 406 of that Act, the board may, consistent with its  
17 rules and procedures and the Act, enter into closed meeting  
18 on a case for purposes of seeking leave counsel on a case  
19 pursuant to D.C. Official Code Section 2-575B4 and or  
20 deliberate on a case pursuant to D.C. Official Code Section  
21 2-575B13, but only after providing the necessary public  
22 notice in the case of emergency closed meeting after taking  
23 roll call vote. Madam Secretary, do we have any preliminary  
24 matters?

25 MS. MEHLERT: Mr. Chairman, members of the board,

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1 for late filings, the chairman has reviewed and granted  
2 waivers to allow late filings into the applicable case  
3 records pursuant to Subtitle Y, Section 206.7 and Section  
4 103.13. Any other late filings during the course of today's  
5 live hearing should be presented before the board by the  
6 applicant, parties, or the witnesses after the case is  
7 called. Any other preliminary matters will be noted when the  
8 case is called.

9 BZA CHAIR HILL: Thank you. Madam Secretary, I  
10 just sent you a question, when you get a chance. All right.  
11 Give me a minute here. Okay. I do think we have a  
12 preliminary-ish matter, Madam Secretary, and I'll let you  
13 respond in a minute. Okay. Give me one more second then. I  
14 just sent you another question, Madam Secretary. Okay. All  
15 right. Madam Secretary, do you want to call our first  
16 matter?

17 MS. MEHLERT: Sure. So first is a party status  
18 request. This is an Application No. 21119 of Vikramaditya  
19 Railan and Veena Railan. This is a self-certified  
20 application pursuant to Subtitle X, Section 901.2, for  
21 special exceptions under Subtitle U, Section 421, to allow a  
22 new residential development, and Subtitle C, Section 714.3,  
23 from the screening requirements of surface parking of  
24 Subtitle C, Section 714.2.

25 The project is to create two additional dwelling

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1 units and an existing 4-unit apartment house, the third-story  
2 and three-story rear additions to the existing two-story  
3 semi-detached building. This is located in the RA-1 zone at  
4 2232 40th Street NW, Square 1317, Lot 15. And as mentioned  
5 earlier, this is a request for party status in opposition  
6 from Marla Leftwich. The party status request also includes  
7 a request to waive the filing deadline for the party status  
8 request. And then I'll also add there is a further request  
9 to postpone the hearing from Marla Leftwich.

10 BZA CHAIR HILL: Okay. Mr. Young, if you could let  
11 the parties in, or whatever, the party status person as well  
12 as the applicant into the room. Okay. Great. Could the  
13 applicant introduce themselves for the record, please?

14 MR. SULLIVAN: This is Martin Sullivan with  
15 Sullivan & Barros on behalf of the applicant.

16 BZA CHAIR HILL: Great. Thank you. Ms. Leftwich,  
17 can you hear me? Ms. Leftwich, can you hear me? Okay. I  
18 don't necessarily think we need Ms. Leftwich for this part.  
19 I'm going to look at my fellow board members. I mean,  
20 there's information in the record about the party status, as  
21 well as the request for postponement, and also the reasons  
22 why to be allowed party status.

23 Just so my fellow board members are aware, I'm not  
24 interested or would agree with the postponement. I think  
25 that, you know, we as the board and the applicant have a

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1 timeline to keep, and I don't think that in this particular  
2 case a postponement would be warranted. So I would not be in  
3 favor of a postponement.

4 However, in terms of the party status, it is  
5 untimely and it's untimely by about, depending upon how you  
6 look at it, five to ten days. However, the applicant -- I'm  
7 sorry, the party status individual is the adjacent neighbor,  
8 and it is something that I believe the board in general  
9 always approves because they fall within the regulations as  
10 to why someone should receive party status. My only  
11 hesitation is with the delay in the filing.

12 MS. LEFTWICH: Hello.

13 BZA CHAIR HILL: Oh, hello. Ms. Leftwich, can you  
14 hear me?

15 MS. LEFTWICH: I'm so sorry. I apologize to the  
16 board. I've never used this. Mr. Reed helped me.  
17 Evidently, now it's working.

18 BZA CHAIR HILL: Okay. Great. Ms. Leftwich, could  
19 you introduce yourself for the record?

20 MS. LEFTWICH: Yes, I'd like to. Marla Leftwich,  
21 and my email address is whitehavenwoods@yahoo.com.

22 BZA CHAIR HILL: Okay. That's fine. So, Ms.  
23 Leftwich --

24 MS. LEFTWICH: Hello.

25 BZA CHAIR HILL: Yeah, can you hear me?

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1 MS. LEFTWICH: Yeah, I'm so sorry. Things are  
2 happening on my screen. I've never used it. It says I've  
3 been removed from the meeting. Can you hear me?

4 BZA CHAIR HILL: We can hear you. Can you hear me?

5 MS. LEFTWICH: Okay. I'm going to ignore that.  
6 Thank you. I apologize.

7 BZA CHAIR HILL: That's all right. Can you hear  
8 me?

9 MS. LEFTWICH: I can hear you, yes, sir.

10 BZA CHAIR HILL: Okay. Great. Can you just put --  
11 why don't you put yourself on mute for a minute, Ms.  
12 Leftwich?

13 MS. LEFTWICH: Okay.

14 BZA CHAIR HILL: Okay. Great. So, what I was --  
15 Ms. Leftwich, I'm sorry, can you hear me again?

16 MS. LEFTWICH: Yes, sir, I can.

17 BZA CHAIR HILL: Did you hear what I had said  
18 earlier, or did you not hear anything?

19 MS. LEFTWICH: No, sir, I did not hear anything  
20 yet.

21 BZA CHAIR HILL: Okay. So go ahead and just put me  
22 on -- please put yourself on mute just because I'm getting  
23 some feedback from your line. So we're basically now  
24 deliberating, or I'm deliberating with my board members in  
25 discussion about your request for party status. And what I

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1 had said was that I was not in favor of a postponement  
2 because I don't think that it is warranted at this particular  
3 time, given how long the applicant has been waiting for this  
4 particular hearing, and then also the schedule of the board.

5 I do think that what I was really struggling with,  
6 and I'm talking again to my fellow board members, was the  
7 untimeliness in terms of the filing. And it being a next-  
8 door neighbor or, you know, an adjacent property, you know, I  
9 always thought that those people fell within the regulations  
10 for us to grant the party status. The days, you know, it  
11 being five to, I don't know, ten days late, depending upon  
12 how you look at it, I mean, I think that it being, again, you  
13 know, a non-person in this industry, you know, just a  
14 neighbor adjacent, I think that I would be fine with allowing  
15 this person to have party status.

16 And then what I would do is I would put this case  
17 at the end of the day so that the person who has now maybe  
18 getting party status would be able to get themselves kind of  
19 organized, and I'll explain what that really means by the  
20 time we get to their case. But before I vote one way or the  
21 other, I just want to see where my fellow board members were.

22 And, Mr. Smith, if I could ask you for your opinion.

23 MEMBER SMITH: Well, I do agree with your position  
24 on this given the approximate location of Ms. Leftwich to the  
25 applicant's property. So I would be inclined to give them

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1 party status.

2 BZA CHAIR HILL: Okay. Dr. Imamura?

3 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.  
4 I'm in agreement with your position as well. I'm not  
5 inclined to offer a postponement. I regret that Ms. Leftwich  
6 had a family emergency and, you know, submitted her  
7 application for party status a bit late. But because of her  
8 location as an adjacent property, she did say a but in her  
9 property that's abutting, it is adjacent. I am inclined to  
10 grant her party status.

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

12 MEMBER BLAKE: Agree.

13 BZA CHAIR HILL: Okay. All right. Ms. Leftwich,  
14 can you hear me?

15 MS. LEFTWICH: Yes, sir. I can hear you.

16 BZA CHAIR HILL: Okay. So what I think is starting  
17 to happen is you're going to be granted party status, and  
18 we're going to put this case at the end of the day. So what  
19 that means is that you will have an opportunity to give your  
20 testimony and have the same amount of time as the applicant.

21 So the applicant's going to give their argument as to why  
22 they're meeting the zoning criteria. That's the important  
23 part. The zoning criteria to grant the relief that's being  
24 requested. Do you know how to get into the filing system?

25 MS. LEFTWICH: Are you referring to going through

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1 the website and locating this address and finding documents  
2 and things of that nature?

3 BZA CHAIR HILL: Yes.

4 MS. LEFTWICH: Yes.

5 BZA CHAIR HILL: Okay. Great.

6 MS. LEFTWICH: I do know how to do that.

7 BZA CHAIR HILL: Okay. Because what I wanted to  
8 point you to is that the applicant has already put their  
9 PowerPoint presentation in the record. Okay? And so they're  
10 going to be speaking again to the zoning requirements as to  
11 why we should or shouldn't grant the relief. Okay? And so  
12 that might be a place for you to take a look at while our day  
13 is playing out. Okay?

14 MS. LEFTWICH: Can I say something about that?

15 BZA CHAIR HILL: About what?

16 MS. LEFTWICH: What you just said.

17 BZA CHAIR HILL: Sure, go ahead.

18 MS. LEFTWICH: So I might have used the wrong word  
19 with postponement, but I would want a continuance of the  
20 matter. I did not get a 40 days' notice of this hearing. I  
21 did not hear of this hearing until May the 3rd. And I would  
22 want an opportunity to communicate with the applicant about  
23 this. There're some issues that are very important.

24 BZA CHAIR HILL: Ms. Leftwich?

25 MS. LEFTWICH: Yes, sir.

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1           BZA CHAIR HILL: I just want to let you know, okay,  
2 we've read everything that's in the record, including your  
3 argument as to why you should postpone this. You're already  
4 late for your filing. And so, you know, we're granting your  
5 late filing in order for you to get party status. So I don't  
6 think -- I mean, I know that the board is not going to be  
7 able to have a continuance or a postponement of this  
8 particular case. So I think during the day, while this is  
9 going on, if you want to -- I don't know, do you have the  
10 applicant -- I guess Mr. Reed might be able to help you. Do  
11 you have the applicant's attorney's email address or contact  
12 information?

13           MS. LEFTWICH: I do have it. I've copied him, yes.

14           BZA CHAIR HILL: Okay. Great. So I don't know if  
15 the applicant, Mr. Sullivan, would you be open to having a  
16 discussion during the day?

17           MR. SULLIVAN: Sure. I have a couple of other  
18 hearings, but I'm sure we'll have an opening in there  
19 somewhere.

20           BZA CHAIR HILL: Okay. So, Ms. Leftwich, if you  
21 want to email the applicant's attorney, which is Mr.  
22 Sullivan, you can try to find a time maybe to chat. And that  
23 might help. We'll just have to see. So what's going to  
24 happen is we're going to have our hearing the day -- we're  
25 going to have our day. And I don't know how long it's going

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1 to go, but it's definitely probably going to go past lunch.  
2 And then the staff will make sure, Ms. Leftwich, that you are  
3 notified with enough advance time to get back on the  
4 computer. Okay?

5 MS. LEFTWICH: Okay.

6 BZA CHAIR HILL: Okay. So, all right. I'm going  
7 to make a motion then to approve the party status request of  
8 Ms. Marla Leftwich and deny the postponement request and ask  
9 for a second. Mr. Blake?

10 MEMBER BLAKE: Second.

11 BZA CHAIR HILL: The motion has been made and  
12 seconded. Madam Secretary, will you take a roll call?

13 MS. MEHLERT: Onto the chair's motion to grant  
14 party status to Marla Leftwich and deny her request for  
15 postponement. Chairman Hill?

16 BZA CHAIR HILL: Yes.

17 MS. MEHLERT: Board Member Smith?

18 MEMBER SMITH: Yes.

19 MS. MEHLERT: Board Member Blake?

20 (No audible response.)

21 MS. MEHLERT: Dr. Imamura?

22 COMMISSIONER IMAMURA: Yes.

23 MS. MEHLERT: Staff will record the vote as 4-0-1  
24 to approve party status and deny the postponement request on  
25 the motion made by Chairman Hill and seconded by Mr. Blake

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1 with one board member not participating.

2 BZA CHAIR HILL: Okay. Ms. Leftwich, if you want  
3 to reach out to Mr. Reed if you have any questions also  
4 during the day, that might be helpful. Okay?

5 MS. LEFTWICH: Thank you to the board.

6 BZA CHAIR HILL: Okay. We'll see you later today.  
7 All right. Mr. Sullivan, we're going to let you go as well.  
8 Okay?

9 MR. SULLIVAN: Okay. Thank you, Mr. Chair.

10 BZA CHAIR HILL: Okay. All right. We're going to  
11 close this portion of the hearing and the record. And, Madam  
12 Secretary, if you could put it on the end of the day. Dr.  
13 Imamura, we'll see you a little bit later. And if you could  
14 bring up our next commissioner, which is, I believe,  
15 Commissioner Stidham and her case. And we're going to try to  
16 knock out as many commissioners as we can.

17 MS. MEHLERT: Are you waiting for me to call the  
18 case?

19 BZA CHAIR HILL: Yeah, whenever you like.

20 MS. MEHLERT: Okay. This is in the board's hearing  
21 agenda, Application No. 21067 of 2001 RIA Owner, LLC. As  
22 amended, this is a self-certified application pursuant to  
23 Subtitle X, Section 901.2 for special exception under  
24 Subtitle C, Section 703.2 from the minimum parking  
25 requirements of Subtitle C, Section 701.5, and under Subtitle

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1 G, Section 207.14 from the rear yard requirements of Subtitle  
2 G, Section 207.6.

3 This is to construct a new four-story mixed-use  
4 building with penthouse and cellar, including 50 dwelling  
5 units and ground for retail. The project is located in the  
6 MU-4 zone at 2001 Rhode Island Avenue NE, Square 4217N, Lot  
7 7. The hearing for this case began on May 8th and was  
8 scheduled for a continued hearing to allow the applicant to  
9 meet with the adjacent neighbors, and participating are  
10 Chairman Hill, Ms. John, Mr. Blake, Mr. Smith, and  
11 Commissioner Stidham.

12 BZA CHAIR HILL: Okay. Great. If the applicant  
13 can hear us, they can please introduce themselves for the  
14 record.

15 MR. SULLIVAN: Morning, Mr. Chair. Martin Sullivan  
16 with Sullivan & Barros on behalf of the applicant.

17 BZA CHAIR HILL: Good morning, Mr. Sullivan. All  
18 right. Okay. Let me see. So, Mr. Sullivan, can you tell us  
19 what happened since the last time you were here?

20 MR. SULLIVAN: Yes. So the board asked for a  
21 limited-scope continued hearing to allow the applicant and  
22 Father Sanderfoot to have a discussion and then to reach out  
23 again to 3013 20th Street. And the applicant did that. The  
24 applicant had a site visit meeting with the -- it was the  
25 owner and the architect met with Father Brian, and they had a

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1 good discussion, and we filed a letter to that effect.

2 And Father Sanderfoot filed a letter as well about  
3 that to talk about trees and construction issues, and he  
4 didn't have any problem with the zoning issues. But the  
5 applicant, of course, is going to keep in touch with Father  
6 Brian because there's a few things to work on together  
7 regarding construction issues. And then the single member  
8 district commissioner to the house at 3013 20th Street left a  
9 note, and he filed a letter in that regard as well.

10 BZA CHAIR HILL: Okay. Thank you. Okay. Does the  
11 board have any questions of the applicant? Okay. Since I  
12 have the Office of Planning here, does the board have any  
13 questions for the Office of Planning? Okay. All right. Mr.  
14 Sullivan, thank you very much for your continued outreach.  
15 And I'm going to close this portion of the hearing, unless  
16 you have anything to add, Mr. Sullivan.

17 MR. SULLIVAN: No, I do not. Thank you.

18 BZA CHAIR HILL: Okay. Thank you. I can close the  
19 hearing on the record. Mr. Young, if you could please excuse  
20 everyone. Okay. I thought that the parking requirement  
21 relief that they're asking for seems justified. And I don't  
22 have a lot of questions about it. I mean, I did have. And  
23 then also the rear yard requirements, I would agree with  
24 their argument as to why they're not able to meet that  
25 requirement.

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1 I would also agree with the analysis that was  
2 provided by the Office of Planning. And that also of the  
3 ANC. I'm glad and appreciative that the applicant has  
4 reached out to some of the neighbors to try to understand, or  
5 communicate, I should say, better with each other. And as I  
6 look over some of these things, I'm going to listen to my  
7 fellow board members as to what they have to think. Mr.  
8 Smith, you wouldn't mind sharing your thoughts?

9 MEMBER SMITH: Sure. I agree with your assessment  
10 of this particular case. So I'm happy that the applicant was  
11 able to reach out to the father on -- Reverend Greenfoot. Is  
12 it Reverend Sanderfoot?

13 BZA CHAIR HILL: I think so.

14 MEMBER SMITH: Yeah, Reverend Sanderfoot on this  
15 particular case seemed to have some concerns and I'm happy  
16 that the applicant reached out to him and he seemed to be  
17 more meaningful to this particular application. The biggest  
18 question to be regarded, parking scale of the parking  
19 reduction requests before us. And we've seen the number of  
20 developments that have occurred along the road. Avenue  
21 quarter closer, relatively. Proximate to the Metro station.  
22 And in those particular other cases, the ANCs were what I  
23 remember opposed, because of parking.

24 And it seems that the ANC is -- well, we can't give  
25 them great weight. They seem to voice some level of more

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1 support than they previously had with some of these  
2 particular cases. Nonetheless, I do believe that the  
3 applicant has met the burden of proof as to grant special  
4 exception to reduce their parking, given its proximity to the  
5 Metro station, given that this is a long Rhode Island Avenue  
6 where there are a multitude of other bus lines that run along  
7 Rhode Island Avenue. And also given the topographic concerns  
8 of this particular site, and it's a fairly tight site.

9 It would be difficult to incorporate surface level  
10 parking as well as fairly costly to construct a sizable  
11 amount of underground or structure parking to say the least.

12 So I believe they've met the burden of proof for us to grant  
13 the special exception to reduce the -- I'm not parking down  
14 from 17 down to 2, I believe with one space. One space, one  
15 dedicated space and one partial space. So that was my  
16 primary concern.

17 Other than that, I believe they've met the burden  
18 of proof for us to also grant them the special exception from  
19 the rear yard requirement, given the tight constraints of  
20 this particular property. And also, I do not believe it  
21 would be out of character with the surrounding development  
22 that currently exists and what is occurring there. So I will  
23 give OP staff report great weight, and I support the  
24 application.

25 BZA CHAIR HILL: Thank you. Commissioner Stidham?

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1 COMMISSIONER STIDHAM: Thank you. I don't have too  
2 much to add to Board Member Smith. I do agree that they have  
3 met the burden of proof related to the parking access. And I  
4 will note that ANC, and I think it was 5C, was urging us to  
5 grant the flexibility to allow for more pedestrian  
6 environment and public space, which I think is really  
7 important in any of these really confined spaces that we're  
8 thinking about, the public space and not so much the car  
9 space. So I wanted to make note of that. The site is really  
10 constrained, so I do support this application.

11 BZA CHAIR HILL: Thank you, Commissioner Stidham.  
12 Mr. Blake?

13 MEMBER BLAKE: I'm in favor of the application. I  
14 think the applicant has met the criteria for relief for  
15 parking and rear yard relief. I would also suggest that we  
16 mind that we include the TDM plan in the order. And I do not  
17 think that the ANC, we have the ability really to provide the  
18 flexibility for that as it is in public space. And also,  
19 it's not necessarily completely related to the relief that we  
20 are granting. So I would not want to include that in.  
21 Otherwise, I'm going to support the application.

22 BZA CHAIR HILL: Okay. And all that. So thank you  
23 all very much. I got to organize my thoughts a little bit  
24 better. Right. Because of the grade elevation, it really, I  
25 guess, is a very difficult thing to provide the parking. And

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1 also that the mass transit, close mass transit to the  
2 property makes me feel better about the parking. The rear  
3 yard relief, you know, the fact that there aren't really any  
4 windows in the back also make me feel comfortable with that  
5 portion of the relief.

6 I think that Commissioner Stidham, what we can do  
7 is, I guess, like, you know, we don't really have the  
8 flexibility -- I'm sorry. We don't deal with public space.  
9 However, I think that if we do mention to the applicant that  
10 they should continue to work with the public space committee.

11 And as long as there isn't any changes to their particular  
12 plans with us or changing the relief that's being requested,  
13 we would encourage that dialogue. Commissioner Stidham, does  
14 that sound appropriate?

15 COMMISSIONER STIDHAM: Yes, very much.

16 BZA CHAIR HILL: Thank you. All right. And thank  
17 you for the TDM reminder, Mr. Blake. I'm going to go ahead  
18 and make a motion to approve Application No. 21067 as  
19 captioned and read by the secretary, including the condition  
20 to include the TDM plan that was put forward in the record  
21 and ask for a second, Mr. Blake.

22 MEMBER BLAKE: Second.

23 BZA CHAIR HILL: Motion made and seconded. Madam  
24 Secretary, can you take roll call?

25 MS. MEHLERT: Yes, and just to clarify with the TDM

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1 plan, are you including the version that was submitted by the  
2 applicant in Exhibit 50A? There are some slight differences  
3 from that from the one in the TDOT report. It was changing  
4 just the calculation of the bike parking.

5 BZA CHAIR HILL: Thanks. I'm just trying to see.  
6 I appreciate that. Okay. I'd go ahead and put the one that  
7 the applicant put forward.

8 MS. MEHLERT: Okay.

9 BZA CHAIR HILL: Unless during the order as it's  
10 being written, OCLD has concerns about that and can let us  
11 know. And asked for a second. Madam Secretary, can you take  
12 a roll call?

13 MS. MEHLERT: Please respond to the chair's motion  
14 to approve the application with the TDM plan condition.  
15 Chairman Hill?

16 BZA CHAIR HILL: Yes.

17 MS. MEHLERT: Mr. Smith?

18 (No audible response.)

19 MS. MEHLERT: Mr. Blake?

20 MEMBER BLAKE: Yes.

21 MS. MEHLERT: And Commissioner Stidham?

22 COMMISSIONER STIDHAM: Yes.

23 MS. MEHLERT: Staff will record the vote is 4-0-1  
24 to approve application 21067 on the motion made -- with  
25 conditions on the motion made by Chairman Hill and seconded

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1 by Mr. Blake, with one board member not participating.

2 BZA CHAIR HILL: Thank you, Commissioner Stidham.  
3 Thank you for taking the time.

4 COMMISSIONER STIDHAM: See you guys.

5 BZA CHAIR HILL: Bye bye. Madam Secretary, I know  
6 I was -- it might have been Exhibit 50A is what someone is  
7 letting me know. Okay. All right. You may call our next  
8 one when you have an opportunity, please.

9 MS. MEHLERT: I want to confirm that Chairman Hood  
10 is back with us and that's our next case. Next application  
11 in the board's hearing session is Application No. 21037 of  
12 Nathaniel and Patricia Robb. This application is pursuant to  
13 Subtitle X, Section 901.2 for special exceptions under  
14 Subtitle E, Section 5201. The lot occupancy requirements of  
15 Subtitle E, Section 210.1 and the rear yard requirements of  
16 Subtitle E, Section 207.1.

17 This is to construct a rear deck addition to an  
18 existing three-story attached building used as a two-unit  
19 flat. It's located in the RF-1 zone at 1361 Oak Street NW,  
20 Square 2835, Lot 73. The public hearing began on March 20th  
21 and was continued on April 10th. The May 1st public meeting,  
22 the board reopened the record to receive submissions from the  
23 ANC and requested additional information from the applicant  
24 and scheduled for a continued hearing. Participating are  
25 Chairman Hill, Mr. Blake, Mr. Smith, and Chairman Hood.

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1 BZA CHAIR HILL: Okay. Thank you. If the  
2 applicant could hear me, if they could please introduce  
3 themselves for the record.

4 MS. ROBB: Okay. Can you hear us now?

5 BZA CHAIR HILL: Yes.

6 MS. ROBB: Okay.

7 BZA CHAIR HILL: Could you introduce yourself for  
8 the record, please?

9 MR. ROBB: Nathaniel Robb.

10 MS. ROBB: And Patricia Robb.

11 BZA CHAIR HILL: Okay. Great. All right. Mr. and  
12 Ms. Robb, was your general contractor coming to this meeting,  
13 or no?

14 MS. ROBB: I don't know. So if they did not  
15 register, that means that they had a competing job to do.

16 BZA CHAIR HILL: Okay.

17 MS. ROBB: Okay. So, yes. Is Mr. Barron there?

18 BZA CHAIR HILL: Yes, the Office of Planning is  
19 here.

20 MS. ROBB: Okay. Good.

21 BZA CHAIR HILL: Okay. Ms. Robb, do you want to  
22 tell us what happened since the last time you were with us?

23 MS. ROBB: Well, we have had a couple of meetings  
24 with Mr. Barron via telephone, so he can attest to our  
25 interactions. And I did follow up with Mr. Reed with an

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1 email correspondence trying to ensure that we were in  
2 compliance with what you wanted to make your decision today.

3 I think in the last meeting, we did talk about our  
4 connections with our community and our next-door neighbor  
5 that we have a very good relationship with. So that's where  
6 we are. I mean, unless you have some questions about some  
7 other things. So, communications with the neighbors,  
8 meetings with Mr. Barron, discussions with our contractor.  
9 So I think that's it.

10 BZA CHAIR HILL: Okay. Great. All right. Okay.  
11 Before I turn to my fellow board members, could the Office of  
12 Planning introduce themselves, please?

13 MR. BARRON: This is Rob Barron with the D.C.  
14 Office of Planning.

15 BZA CHAIR HILL: Okay. Great. Mr. Barron, just to  
16 be clear -- Mr. and Ms. Robb, could you mute yourself? Thank  
17 you, Mr. and Ms. Robb. That there's 64 percent proposed lot  
18 occupancy and the rear yard is seven feet proposed. Is that  
19 correct, Mr. Barron?

20 MR. BARRON: Yes, those are the measurements that  
21 are provided in the updated form from the Department of  
22 Buildings.

23 BZA CHAIR HILL: Okay. And the plans, do they  
24 match those measurements?

25 MR. BARRON: From what we could tell from the

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1 measurements provided in those, yes, they do.

2 BZA CHAIR HILL: Okay. All right. Okay. So does  
3 the board have any questions of the Office of Planning?  
4 Okay. I have a question, Mr. Barros. I'm sorry, Barron.  
5 You all had mentioned -- I mean, I have a little bit of  
6 concern with the decks, I got to say, right? Like they just  
7 seem really big to me. And so that third floor, you know, or  
8 the third deck, you all had thought that maybe you thought it  
9 was larger. It could be changed in some capacity and or, and  
10 this was just kind of like a brainstorming thing that  
11 happened.

12 If there was any kind of like screening that could  
13 be done in some capacity, like for privacy issues, really.  
14 It just seems like a big deck to me. And I'm waiting to hear  
15 OP's thoughts on, because you all did mention the third-floor  
16 deck. What were your thoughts on the deck?

17 MR. BARRON: So we didn't have anything very  
18 specific. We wanted to raise the issue though, because based  
19 on the transcripts from the previous hearing, it wasn't clear  
20 if the board's questions about whether or not the deck needed  
21 to be the full ten feet were adequately addressed by any of  
22 the materials that were there.

23 I know that the applicant had stated on the record  
24 that there was a movement issue that facilitating movement  
25 around the elevator bump out is why they extended the deck to

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1 ten feet rather than maintaining it at eight feet, but it  
2 wasn't clear if that had been adequately addressed or not.  
3 But beyond that, we didn't have a specific change in mind as  
4 to what could be done to mitigate the privacy concerns that  
5 had been raised in the earlier hearings.

6 BZA CHAIR HILL: Okay. Mr. and Ms. Robb, can you  
7 hear me?

8 MS. ROBB: Yes, I can, and the contractor is on as  
9 well. Mr. Alvarenga as well as Mr. Marshall. And these are  
10 the two people who have been on for each of our discussions.

11 BZA CHAIR HILL: Okay. Mr. Young, can you find  
12 those people? And then, Mr. Blake, you had a question?

13 MEMBER BLAKE: A question for the Office of  
14 Planning. From those potential balconies, you have a line of  
15 sight that potentially goes into the rear yards of the  
16 properties against the alley to -- can you give us a sense?  
17 I know you did a site visit. Can you give us a sense of what  
18 you believe that the visibility is to the property, to the  
19 rear yard, to the actual dwelling space? What do you think  
20 that visibility is, the distance between that and the  
21 properties across the alley?

22 MR. BARRON: So from what I was able to see, having  
23 seen the site is that the biggest impact would probably not  
24 be the properties across the alley, because those properties  
25 already have a pretty substantial or the subject property has

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1 pretty substantial sight lines from the Juliet balconies into  
2 those already. And I don't think it would be dramatically  
3 increased by the size of the deck.

4 The larger potential impact would be to the  
5 properties on either side since the deck would allow for new  
6 views to the properties along the alleyway that previously  
7 weren't there, and there would be some increase further down  
8 the alleyway to properties across it. But I don't believe  
9 that it would be an undue impact compared to what already  
10 exists.

11 MEMBER BLAKE: In the event that you try to shield  
12 that impact, it sounds like screening on the sides about  
13 three feet high would potentially address those on either  
14 side, but it wouldn't necessarily be required from the rear.  
15 Is that the way you would see screening? It would just be  
16 the three-foot-high type screening?

17 MR. BARRON: That seems like it would be adequate,  
18 yes.

19 MEMBER BLAKE: Thank you.

20 BZA CHAIR HILL: And then Mr. Barron, just so I'm  
21 trying to understand. Like, I don't want to get into design,  
22 but like the reason why those balconies couldn't just come  
23 out to where the elevator is, and then one stairwell would go  
24 from one side all the way down. The Office of Planning  
25 didn't have any opinion one way or the other with that

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1 regard.

2 MR. BARRON: No, we didn't. The only -- yeah, we  
3 didn't have a strong opinion about what the design could be.  
4 There was, I know, a question that the board had raised  
5 about whether either doing it as you just described it or  
6 maintaining it as eight feet rather than ten, but we didn't  
7 have a particular opinion on which of those design solutions  
8 would be more applicable or more suitable.

9 BZA CHAIR HILL: But eight feet would come out past  
10 the elevator shaft?

11 MR. BARRON: It would, and I would imagine that  
12 there would have to be some amount of space between the  
13 elevator shaft and the staircase to allow access from either  
14 side. But again, that's just my -- I may, you know, I'm just  
15 imagining that's how it would have to be.

16 BZA CHAIR HILL: Okay. All right. Does my fellow  
17 board members have any other questions for the Office of  
18 Planning? Okay. Mr. Young, is there anyone here wishing to  
19 speak? Okay. Could you introduce the witnesses?

20 MR. YOUNG: Yeah, Tim Hampton. And that is it for  
21 right now. We had a couple more signed up, but I don't see  
22 them on.

23 BZA CHAIR HILL: Okay. Great, thank you. Okay.  
24 Mr. Hampton, if you could please introduce yourself for the  
25 record.

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1 MR. HAMPTON: I'm Tim Hampton. I live at 1360 Otis  
2 Place directly across from the alley. I've lived here for 14  
3 years.

4 BZA CHAIR HILL: Okay. Thank you, Mr. Hampton.  
5 One second, I'm sorry. So, Mr. Hampton, just you've been  
6 here before. Nice to see you again. And if you want to go  
7 ahead and give us your testimony, you'll have three minutes  
8 as a member of the public and you can begin whenever you  
9 like.

10 MR. HAMPTON: Okay. Thank you. The board asked  
11 the applicant to provide new updated plans, and the applicant  
12 has not provided updated plans and they're still inaccurate.

13 If you look at the plans, I can't go through all of them in  
14 my limited time, but for instance, on page 9, they've once  
15 again submitted the plans that have all the wrong exterior  
16 windows, no French doors on the top level, empty interior on  
17 the top level, no elevator shaft. It's just wrong. They're  
18 resubmitting the same warmed-over stuff that they submitted  
19 already that hasn't been accurate.

20 And, you know, we still can't follow the egress out  
21 on accurate plans because on page 7, the windows are  
22 accurate, but they've blacked out the first-floor interior.  
23 So we can't follow somebody trying to do an egress if the  
24 basis is fire safety all right. They mentioned earlier they  
25 have a good relationship with their next-door neighbor. That

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1        may be, but both their immediate next-door neighbor and the  
2        one two doors down, Pastor Mark have both gotten on the  
3        record opposing it. So it's not about the relationship.  
4        There's going to be an adverse impact.

5                I'm very shocked that the Office of Planning says  
6        that they don't think that this is going to have an adverse  
7        impact. It's a 24-foot wide 10-foot-long flat surface that  
8        you can walk on. It's going to cast a significant shadow.  
9        It's just, I feel like it's 30 feet high. It's just a fact  
10       it's going to cast a shadow, including across the alley. I  
11       feel sure of that. Also, the ANC has requested a shadow  
12       study after a meeting recently. So I hope that is addressed.

13               I felt like the recent burden of proof that was  
14       supposed to be updated doesn't really provide any proof. It  
15       mainly just asserts that there won't be any adverse impacts,  
16       but proves nothing. The key problem is just that it's built  
17       too close to the alley. It's not about is there any other  
18       structure like this in the neighborhood? It's that there are  
19       absolutely zero other structures like this built in those  
20       last 20 feet. And I hope that we don't just make it a little  
21       smaller or add a little screening, but that we shut this down  
22       and don't build something in the last 20 feet, just like  
23       every other single property in the area. Thank you very  
24       much.

25               BZA CHAIR HILL: Thank you, Mr. Hampton. All

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1 right. Does the board have any questions for the witness?

2 Okay. All right, Mr. Hampton, thank you for your time. Mr.  
3 Young, if you can excuse the witness. Okay. I don't know if  
4 you guys -- I don't know what you got. I mean, the plan, I  
5 get confused when even the plans sometimes when people are  
6 speaking about the plans. And I got to say that even like --  
7 Mr. Barron, can you hear me? You all reviewed the plans and  
8 you went out to the site. Are the plans not the way the  
9 building is?

10 MR. BARRON: So the issue that we found was that  
11 the plans that were submitted were reflective of -- they  
12 showed measurements of the side of the building that came up  
13 to a different lot occupancy measurement than what was  
14 originally requested in the Department of Buildings memo.  
15 So, but all of the plans have more or less consistent  
16 measurements. So what is the -- that's where the issue was  
17 raised. It wasn't that there were wild inconsistencies in  
18 the plans that were submitted. It was that the plans that  
19 were submitted didn't match what the Department of Building  
20 had said existed on the site.

21 So that's what we had asked clarification from.  
22 And then when they resubmitted their updated measurements, we  
23 reviewed those and those did seem to match what was in the  
24 plans.

25 So there are the plan showing the elevator, which I

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1 think is Exhibit 68 and then there was one other set of floor  
2 plans which showed the building was roughly 45 by 24, I  
3 believe, which that measurement was when you did the  
4 calculation for what the lot occupancy would be. That ended  
5 up being inconsistent with what the Department of Buildings  
6 had originally said. I don't -- did that answer your  
7 question or was that too much information?

8 BZA CHAIR HILL: Yeah, that's all right. I think  
9 it kind of answers my question right. And I appreciate the  
10 information. All right. Does the board have a -- I don't  
11 know where I am. So y'all are going to have to help me and I  
12 might have to take a week to think about it also. But do  
13 y'all have any questions of anybody, are y'all ready? Go  
14 ahead Chairman Hood.

15 ZC CHAIR HOOD: I'm definitely not ready, Mr.  
16 Chairman. I didn't recall seeing the new ANC letter as well,  
17 but let me just ask this Mr. Barron. The first set of  
18 measurements that DOB analyzed, which one was greater, the  
19 second or the first?

20 MR. BARRON: The second was greater. The original  
21 request estimated that they would need -- it would go up to  
22 60.4 percent. When they reviewed the new floor plans, the  
23 Department of Buildings concurred that it would actually be  
24 higher and that the lot occupancy would be 64, not 60.4  
25 percent.

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1                   ZC CHAIR HOOD:   And Mr. Chairman -- thank you Mr.  
2                   Barron.   Mr. Chairman, I don't recall, remember it may have  
3                   been there, but I don't recall when we heard this scene, the  
4                   ANC letter, because I think now the ANC is saying they're not  
5                   sure.   Maybe they should take a position.   So I'm probably --  
6                   I'm where you are, but maybe for different reasons.

7                   BZA CHAIR HILL:   Okay.   They, and this is where  
8                   even I got a little confused, the ANC, it seemed to be -- the  
9                   SMD had requested a shadow study, and then from the shadow  
10                  study, they were going to determine whether or not they were  
11                  going to take a look and weigh in on this, right?   And so  
12                  really, if we, the board, think that we should ask the  
13                  applicant for a shadow study, we can go ahead and do that and  
14                  then come back and see where we are.   But I'll let my other  
15                  fellow board members kind of go through this, and Mr. and Ms.  
16                  Robb, I'll come back to you at the end.   I just can't see  
17                  your face.   So, Mr. Smith, did you have any thoughts?   You're  
18                  on mute, Mr. Smith.

19                  MEMBER SMITH:   My concerns are regarding the  
20                  position of the ANC regarding the shadow study and, you know,  
21                  I understand some of their concern here, but I'm concerned  
22                  about the precedent of asking for a shadow study for a day  
23                  and an open-air deck at that.   We haven't typically asked for  
24                  those particular types of shadow studies.   The purpose of the  
25                  shadow study, for what I understand, is to infer whether

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1       there would be a substantial negative impact on light and air  
2       due to additions or enclosed condition spaces that would be  
3       expanding of the rear of the property.

4               This is an open-air deck that's not being proposed  
5       to be enclosed. It would take a substantial infrastructure  
6       here to enclose these decks. I think we can get to the same  
7       -- I think we can sufficiently condition this particular  
8       space to not be enclosed in the future if we have serious  
9       concerns about light and air. But I'm not inclined to  
10      request the applicant to conduct a shadow study. Especially,  
11      we've seen double height decks before, and we haven't  
12      requested that type of shadow study. So I'm not inclined to  
13      grant it now. So that's my thoughts from there. I'm not  
14      inclined to send this back to the ANC for a shadow study.

15              BZA CHAIR HILL: Okay. Mr. Blake, do you have any  
16      comments about anything?

17              MEMBER BLAKE: Sure. A quick comment on the ANC  
18      report. I mean, the ANC did submit a report in which they  
19      declined to take a position. And, of course, it did not  
20      actually state any issues or concerns. But they made it  
21      clear that there were some issues and concerns. And we  
22      certainly have had several additional filings from the ANC  
23      elaborating on some of those issues that they've come up with  
24      from the community members. And also, we've got multiple  
25      filings in opposition by area residents. And we've also

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1 heard testimony from a lot of the neighbors expressing their  
2 views.

3 With regard to the need for a shadow study, I mean,  
4 I think there's substantial evidence in the record that  
5 supports the shadowing issue absent a shadow study. For  
6 example, the building is, if you think about the topography,  
7 is at the top of a hill and it's facing south. So the shadow  
8 will be cast to the north. So the majority of shadows that  
9 are cast are actually going to be from the building itself.  
10 And the deck would be substantially less of a factor in the  
11 shadow study itself, and actually the shadow casted.

12 So it wouldn't be so much that the issue really  
13 comes down if you just look at the issues. And this is --  
14 I'm not going to get into deliberations here. But when you  
15 get down to issues, the privacy issue is the one that comes  
16 up and visual intrusion are the two areas where you have, I  
17 think, some meaningful discussion. I think as far as the  
18 shadowing issue, it's just the topography, the height of the  
19 building, the location. The shadowing is not a factor here.

20 So that's where my position is. Thanks.

21 BZA CHAIR HILL: Okay. Mr. and Ms. Robb, can you  
22 hear me?

23 MS. ROBB: We can hear you.

24 BZA CHAIR HILL: Thank you. So two questions for  
25 you.

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1 MS. ROBB: Okay.

2 BZA CHAIR HILL: So the first, I guess, is like  
3 would you have any issues with us requesting privacy  
4 screening of three foot high for either sides of your decks?

5 MS. ROBB: Okay. Since our contractors are on, I  
6 will defer that question to them to see how that could  
7 possibly work before we give a response. We're not technical  
8 people in that regard. All we are interested in is having an  
9 environment for our children to continue to want to live on  
10 Oak Street based on the 70-year legacy we have.

11 We also want to ensure that our great-grandchildren  
12 have the opportunity to be a part of that community based on  
13 the fact that my husband and I have been a part of that  
14 environment. My husband's 87 years old now. My grandson is  
15 living in the house and he is planning to get married and to  
16 have his family there. But I have to ensure that it will be  
17 a safe environment.

18 BZA CHAIR HILL: Got you.

19 MS. ROBB: And right now, we are concerned.

20 BZA CHAIR HILL: Ms. Robb, let me just get these.  
21 I got to get these two questions answered --

22 MS. ROBB: Okay. All right. So that's the first  
23 question. So you can go to the contractors and they can  
24 discuss that.

25 BZA CHAIR HILL: Where's the contractor? Mr.

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1 Young, did you find the contractors?

2 MR. YOUNG: Can you tell me the names again?

3 MS. ROBB: Ronald Alvarenga and Mr. Marshall. That  
4 was the phone call when I was speaking previously.

5 BZA CHAIR HILL: Got it. We got him there. Okay.  
6 Mr. Marshall, can you hear me?

7 MR. MARSHALL: Yes, sir.

8 BZA CHAIR HILL: Can you introduce yourself for the  
9 record?

10 MR. MARSHALL: Yes, I'm Chris Marshall, Project  
11 Manager for ABMD Construction.

12 BZA CHAIR HILL: Okay. So, Mr. Marshall, I'll be -  
13 - again, my concern really is kind of the privacy issues on  
14 that third-floor deck. And so, you know, I'm trying to  
15 understand if you all did eight feet rather than ten feet,  
16 what would that do to that project up there on the third  
17 floor?

18 MR. MARSHALL: To that, I'm going to let Ronald  
19 Alvarenga speak to that one.

20 BZA CHAIR HILL: Okay. Go ahead.

21 MR. ALVARENGA: Yes, good morning. My name is  
22 Ronald Alvarenga. So what happened, we have an eight-foot  
23 deck. We are going to have a -- not too much space from the  
24 elevator to the deck. So we have a small space there. We  
25 don't have 42 inches clear.

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1           BZA CHAIR HILL: 42 inches clear. In front of the  
2 elevator, you mean?

3           MR. ALVARENGA: Yes. In front of the elevator.

4           BZA CHAIR HILL: Okay. So why can't you just have  
5 two small decks on either side of the elevator?

6           MR. ALVARENGA: If we had to start going to the  
7 side to the side, we lost two parking spaces. So cars cannot  
8 park in there. In the back of there.

9           BZA CHAIR HILL: Because you'd have to have a  
10 different layout on the bottom floor?

11          MR. ALVARENGA: Yes.

12          BZA CHAIR HILL: You couldn't make the first deck  
13 the ten feet, the second deck the ten feet, and then the  
14 third deck, they could come back behind the elevator shaft?

15          MS. ROBB: There's only two decks.

16          BZA CHAIR HILL: I got you, Ms. Rob. But I'm  
17 saying like, I'm just trying to figure out where he's talking  
18 about the parking spaces.

19          MR. ALVARENGA: Yes. You see, what we're trying to  
20 do is if we have the spiral stairs into the center, so we  
21 have more space so cars can park into the side.

22          BZA CHAIR HILL: On either side. Okay, that's what  
23 it is. Okay. All right, I don't know. Okay. Go ahead, Mr.  
24 Blake.

25          MEMBER BLAKE: I can see good reason for the

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1 current design. But I mean, frankly, you have dual ten-foot  
2 decks on either side, providing egress to one space. You  
3 could make it with one balcony on one side to provide egress.

4 So there is an element of design in here that's kind of  
5 different than the actual necessity. But I can understand  
6 the logic behind it. The issue that we have, as I see just  
7 so you know from a privacy perspective, is the size of the  
8 deck creates a lingering potential. If it were just in and  
9 out or exit or egress, that's a passive event. It would  
10 cause literally no problem.

11 The fact that you have a deck that's big enough  
12 that you can put lounge chairs on it, barbecue deck, and hang  
13 out is what creates the potential privacy intrusion. But I  
14 think from a design perspective, you could accomplish it with  
15 one deck as opposed to one side of deck versus two. But  
16 again, from a practical standpoint, I think the privacy  
17 screening would probably be more effective.

18 BZA CHAIR HILL: Okay. So that takes me back, Mr.  
19 Marshall. You understand what the board is talking about is  
20 just privacy screening of three foot high on either side.  
21 You understand what that is, correct?

22 MR. MARSHALL: Yes, sir. That wouldn't be an issue  
23 to install at all.

24 BZA CHAIR HILL: Right. Okay. All right. I don't  
25 know, does anybody have any questions of anybody? From the

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1 board? Okay. Does anybody -- Mr. Robb, Ms. Robb, do you  
2 have anything to add at the end?

3 MS. ROBB: I do have one thing to add at the end,  
4 and this is that we talked to the ANC and we invited the ANC  
5 to walk with us because almost every house from the Otis  
6 Street side all the way down have decks already. And so they  
7 did not. They refused to walk with us. And so our issue  
8 right now is in talking with the neighbors, there is a black  
9 and white divide. The individuals who have fought against  
10 this are --

11 BZA CHAIR HILL: Hey, Ms. Robb.

12 MS. ROBB: Yeah.

13 BZA CHAIR HILL: I appreciate it. I mean, you just  
14 can't bring up those kind of things because I don't know  
15 exactly who you're going to now accuse of being one way or  
16 the other.

17 MS. ROBB: No, I'm not accusing. I'm just telling  
18 you when you sent us out in the community that we made our  
19 due diligence to talk to everyone and to understand every  
20 side of the issue.

21 BZA CHAIR HILL: Okay.

22 MS. ROBB: So I just wanted to be very clear as to  
23 what our findings were.

24 BZA CHAIR HILL: Okay.

25 MS. ROBB: And right now, you're right. All we

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1 want to do is to live a peaceful Christian life

2 BZA CHAIR HILL: Okay.

3 MS. ROBB: And have our children and grandchildren  
4 be able to enjoy that life after we are gone.

5 MR. ROBB: I'd just like to add, my only concern  
6 was that I didn't hear any valid issues, any valid issues  
7 said. So that was my comment on the situation.

8 BZA CHAIR HILL: Okay. All right. Thank you, Mr.  
9 and Ms. Robb. All right. Does my board members need  
10 anything else? Okay. I'm going to close this portion of the  
11 hearing in the record. Thank you all very much. We'll see  
12 what happens next.

13 MS. ROBB: Okay.

14 BZA CHAIR HILL: Okay. So I love it. I don't know  
15 where I am. Okay. I really don't know. I'm going to have  
16 to take a minute to go back and read through everything.  
17 Again, what we're tasked with doing here, and I know Mr. and  
18 Ms. Robb are listening, we're here for zoning requirements,  
19 right? Like what the community, you know, that's kind of the  
20 ANC's kind of thing more or less. Like privacy issues, light  
21 and air. I mean, they're asking for, you know, 20 feet was  
22 required for the rear yard. Instead they want seven feet.  
23 And we do approve decks all the time.

24 And my whole thing right now that I'm getting hung  
25 up on again is that, I guess, really that third floor deck.

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1 And there are three decks. Maybe I'm getting it wrong, but  
2 there are three decks, right? There's one on the first and  
3 second and third floor. And so it just seems big to me, but  
4 I don't know whether -- I know Mr. Smith is very helpful, I  
5 think, in a lot of ways. So I would be darn curious, but  
6 maybe not. Maybe we can just wait and put this on the burner  
7 for next week and talk about it some more and see where we  
8 get.

9 I mean, definitely the private -- like we don't  
10 need to get, what's it called, anybody's approval to do  
11 things like privacy screening is not a very difficult thing  
12 to ask for. But I don't know if that's even going to make me  
13 feel a whole lot better. So I don't know where you all are  
14 or not. I can't vote necessarily today. Chairman Hood, I  
15 think, was a no for voting today. But Chairman Hood, do you  
16 have anything you'd like to add before I go around?

17 ZC CHAIR HOOD: No, but after the discussion that  
18 Ms. Robb and as well as the contractor and discussion that  
19 Board Member Blake, and I would also agree about the shadow  
20 studies with Board Member Smith. I'm ready to move, but I  
21 will wait to see what others have. I'm ready to go ahead and  
22 move forward. Thank you.

23 BZA CHAIR HILL: That's great. If you all can do  
24 it without me, then I'm fine also. Mr. Smith?

25 MEMBER SMITH: I think I appreciate the comments

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1 that were raised by the Office of Planning and also the  
2 question that was raised by Mr. Blake regarding privacy. And  
3 again, I'll state that I am not as concerned about light and  
4 air. This is not an enclosed deck. So there will not be a  
5 restriction of light and air to the adjacent properties. So  
6 I don't think and I don't want to set a precedent of  
7 requiring sun studies, shadow studies for open air decks.

8 We're opening a can of worms. We see these decks  
9 all the time in even more tighter urban settings such as  
10 Capitol Hill. And I don't want to set that particular  
11 precedent for those types of studies nor do I think that we  
12 should be gracing them in the first place. They're not  
13 enclosed.

14 I think the primary concern that was raised by the  
15 neighborhood has to do with privacy. This is a fairly large  
16 deck. If they were to shrink it, they would lose -- as I  
17 think I noticed the last time we heard this, when it was the  
18 last time we heard this particular case, that to shrink that  
19 deck, given the elevator overrun that's on the rear of this  
20 house, from a building code standpoint, you wouldn't have the  
21 clearance. So he clarified how much clearance you need, 42  
22 inches. To shrink it two feet, it would be less than -- it  
23 would be close to three feet, a three-foot walkway across  
24 that upper deck.

25 Could they redesign it to probably put the circular

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1 stair closer to the elevator overrun? Potentially. But  
2 again, I think the primary concern here is privacy. And I  
3 think the way that we can effectively condition this to  
4 affect privacy and also to reduce the likelihood of closing  
5 of the owners or any future owner. They're saying that  
6 they're doing this for the future generations, the future  
7 generations of the Robbs enclosing this particular deck. We  
8 can condition that it shall remain an open deck and shall run  
9 with a special exception.

10 I do believe that we can condition it whereby there  
11 can be some type of screening or enclosure, three feet. If  
12 there is some concern about appearing to other neighbors'  
13 properties, maybe along the sides, we can have a discussion  
14 about a higher, slightly higher privacy railing on the upper  
15 deck. But again, that will affect light and air. So I think  
16 it will be -- I think we're getting at affecting privacy or  
17 reducing issues related to privacy by conditioning at a  
18 three-foot enclosure.

19 This is a fairly large deck. If they're seating up  
20 there, if you're seated, they wouldn't be able to see across  
21 into the neighbors' property. So I'm fairly comfortable with  
22 moving forward with this application with two conditions that  
23 it has to remain an open deck and also a three-foot enclosure  
24 on the upper deck, a screening on the upper deck. So that's  
25 where I'm at for right now. And with that, with those

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1 conditions, I believe I could support the application.

2 BZA CHAIR HILL: When you say screening on the  
3 upper deck, what do you mean? Do you mean -- are you talking  
4 about screening also in the back?

5 MEMBER SMITH: When you say the back.

6 BZA CHAIR HILL: Like the railing itself.

7 MEMBER SMITH: The railing. So the railing would  
8 be a solid three-foot railing.

9 BZA CHAIR HILL: Screened.

10 MEMBER SMITH: Screened, yes.

11 BZA CHAIR HILL: Okay. I understand. Okay. And  
12 would you need to see plans for that?

13 MEMBER SMITH: Yes. To give the ANC so they can  
14 see what is being proposed because there were some concerns,  
15 I believe, raised by a neighbor in opposition that spoke  
16 regarding their plans that they submitted. I think it would  
17 be helpful for them to see. So let's have them resubmit some  
18 plans that show that screening.

19 BZA CHAIR HILL: And is that screening on the --  
20 for a screening for me, that would be like on the second and  
21 third floor.

22 MEMBER SMITH: The upper floor deck. I believe  
23 it's just two decks. So the ground floor is parking. And  
24 then there's a deck above that. So that's the first floor.  
25 And then what they're here for is the upper floor deck.

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1           BZA CHAIR HILL: But when I look at the pictures --  
2 oh, maybe there's -- oh, I'm sorry. There's not a deck where  
3 I think there's a deck, right? It'd just be --

4           MEMBER SMITH: Right. That's parking where you  
5 think there's a deck.

6           BZA CHAIR HILL: No. I think there's a deck where  
7 the windows are. And that's what always kind of confused me.

8           MEMBER SMITH: Oh, the lines, those are the  
9 subfloor lines for the building. So that may be part.

10          BZA CHAIR HILL: They have Juliet balconies. And  
11 this would always kind of confuse me. Anyway, it's okay. I  
12 understand.

13          MEMBER SMITH: The upper floor right now is Juliet  
14 balconies. There are no Juliet balconies on the third floor,  
15 I guess, if you're looking from the rear. Juliet balconies  
16 are on the fourth floor and they're proposing to add a deck  
17 there.

18          BZA CHAIR HILL: Right. I got you.

19          MEMBER SMITH: So they would screen that one.

20          BZA CHAIR HILL: I understand. Right. They'd  
21 screen the third floor. They'd screen the third floor three  
22 feet high around the railings. Right. Okay. Got it.

23          MEMBER SMITH: Correct.

24          BZA CHAIR HILL: Right. So then when you sat down,  
25 you couldn't look down into people's. Right. Got you.

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1 Okay.

2 MEMBER SMITH: Right.

3 BZA CHAIR HILL: Mr. Blake?

4 MEMBER BLAKE: In large part with what we're saying  
5 about that, the only thing is I would be uncomfortable  
6 stating that conditioning -- so putting a condition that says  
7 we can't make it but anything but an open-air deck because we  
8 are approving an open-air deck with the diagrams of an open-  
9 air deck. If they wanted to enclose the deck in the future,  
10 they would still have to come in to get approval for that.  
11 So that would, that condition, that would not be necessary in  
12 this case because we're approving an open-air deck. So  
13 otherwise, I agree to that.

14 I think the other thing, too, in terms of really  
15 addressing this issue, our goal is to mitigate the adverse  
16 impact. Now, we have a modest -- it's arguable if it's an  
17 adverse impact to what degree it is, but you could also think  
18 about how significant a step you want to take to mitigate  
19 that risk. If we reduce the size of the balcony, that's a  
20 significant change in the plans, the proposal, everything  
21 they have in front of them.

22 To the extent that we put in screening, it's a  
23 fairly inexpensive way to address the issues and concerns  
24 that have been raised. Rather, it's all the way around or  
25 just on the sides. That, on the second level, is the least

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1 intrusive way to mitigate the identified adverse impact. The  
2 only thing I don't necessarily like about doing that  
3 screening is it creates an appearance of being more mass  
4 because you're not seeing through it. But I do think if  
5 privacy is our issue, that's the least intrusive way to  
6 address the issue.

7 BZA CHAIR HILL: Okay. All right. So then what I  
8 would ask the applicant then is to provide a plan with just  
9 the rear of the house with that third-floor deck being  
10 screened all the way around three foot high. And so that's  
11 something I can get from the applicant. If the applicant  
12 could -- let me see. Mr. Young, could you bring in the  
13 applicant and the contractor again, please? Mr. and Ms.  
14 Robb, can you hear me?

15 MS. ROBB: Yes, we can.

16 BZA CHAIR HILL: Okay. Great. Mr. Marshall, can  
17 you hear me?

18 MR. MARSHALL: Sure.

19 BZA CHAIR HILL: So what the board is asking for is  
20 a drawing that shows screening around the railings of that  
21 third-floor deck. Do you understand how you might be able to  
22 show us that?

23 MR. MARSHALL: Yes, sir.

24 BZA CHAIR HILL: Okay. Mr. and Ms. Robb, do you  
25 understand what the board is speaking about?

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1 MS. ROBB: Okay. So it would be on the right side  
2 and the left side of the deck. That's what you're asking for  
3 plans to show a three-foot screening on the right side and  
4 the left side of the deck. Is that what you're asking?

5 BZA CHAIR HILL: It would be all around the deck.

6 MS. ROBB: You mean to the alley as well?

7 BZA CHAIR HILL: Yes.

8 MEMBER BLAKE: It'd be to the north.

9 BZA CHAIR HILL: Mr. Blake?

10 MEMBER BLAKE: Right and left side and to the  
11 north.

12 MEMBER SMITH: It would be around the entire the  
13 upper-floor deck, three-foot.

14 BZA CHAIR HILL: It's basically like a screening so  
15 that when people sit down, they can't see from that view. If  
16 they stand up, they can see. But if they sit down, it'll be  
17 screened.

18 MS. ROBB: Okay.

19 MEMBER BLAKE: Do you understand?

20 MS. ROBB: And what type of screen are you talking  
21 about?

22 BZA CHAIR HILL: Mr. Marshall?

23 MR. MARSHALL: Yes, sir.

24 BZA CHAIR HILL: You guys know the screening we're  
25 talking about, right?

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1 MR. MARSHALL: Yeah, just like a standard privacy  
2 screen?

3 BZA CHAIR HILL: Yes.

4 MR. MARSHALL: Yes.

5 BZA CHAIR HILL: Okay. So Mr. Marshall knows Mr.  
6 and Ms. Robb. Okay?

7 MS. ROBB: Okay. All right. So we will meet with  
8 them and see what it will look like. Okay?

9 BZA CHAIR HILL: Right. Yeah.

10 MS. ROBB: So you are now agreeing that we can  
11 build a deck based on the plans?

12 BZA CHAIR HILL: We haven't agreed yet. We have to  
13 see the plans. And so, we're going to go ahead and let --  
14 and Mr. Marshall, when do you think you might be able to give  
15 those plans to us?

16 MR. MARSHALL: A few days, a week or so. Not long.

17 MR. ALVARENGA: One week.

18 BZA CHAIR HILL: Okay. Chairman Hood, would you be  
19 willing to come back in a couple of weeks?

20 ZC CHAIR HOOD: It's next week. Well, it sounds  
21 like it's going to be a week after next. But yeah, I'll come  
22 back.

23 BZA CHAIR HILL: Okay. So if you give us the plans  
24 on -- if you give us the plans by the 28th, Mr. Marshall?

25 MR. MARSHALL: Yes, sir. That'll be enough.

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1           BZA CHAIR HILL:   Okay.   Then that'll give enough  
2 time for anybody who wants to make any comment.   The ANC that  
3 is, any parties.   The ANC will be able to comment by the 4th  
4 and we can come back for a decision on the 5th.   Okay?   So,  
5 Mr. Marshall, just make it an easy drawing for us to  
6 understand, meaning the board.

7           MR. MARSHALL:   Okay.

8           BZA CHAIR HILL:   And if you can please also include  
9 that first deck in your drawing so I can -- I want to see the  
10 way it's going to look.

11          MR. MARSHALL:   Okay.   So just to clarify briefly,  
12 but we'll include drawings.   So you have the alley and  
13 parking right here.   There's nothing on the very first floor.  
14 You go up one level, we have a deck.   Nothing on the second  
15 floor.   The third floor is the other deck.

16          BZA CHAIR HILL:   Right.   I apologize, I got  
17 confused.   For some reason, I thought there was a deck in  
18 that middle level too.

19          MR. MARSHALL:   No, sir.

20          MS. ROBB:   No.

21          BZA CHAIR HILL:   Right.   Okay.   All right.   So, Mr.  
22 Marshall, go ahead and give us a good drawing.   And then  
23 please create the drawing in a way that we understand the  
24 privacy screening that you're going to install, because then  
25 if we do approve this, that's the way the plans need to be

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1 done. Okay?

2 MR. MARSHALL: No problem.

3 BZA CHAIR HILL: Okay. All right. Thank you very  
4 much. Thank you, Mr. and Ms. Robb.

5 MS. ROBB: Okay. Thank you. And thank you to the  
6 other people on the panel.

7 BZA CHAIR HILL: Thank you. All right. We're  
8 going to close the hearing on the record. Okay. Chairman  
9 Hood, we'll see you in a couple of weeks for a decision on  
10 this.

11 ZC CHAIR HOOD: Sounds good. Y'all have a great  
12 day.

13 BZA CHAIR HILL: Thank you as well. Okay. Let's  
14 take a break before we bring in Dr. Imamura. So decision,  
15 Madam Secretary, is -- let me look at my calendar. What did  
16 I say? Oh, 6/5.

17 MS. MEHLERT: With filings due by May 28th.

18 BZA CHAIR HILL: Yes.

19 MS. MEHLERT: And any responses by the 4th.

20 BZA CHAIR HILL: Yes.

21 MS. MEHLERT: Okay.

22 BZA CHAIR HILL: Okay. And the response, again,  
23 would be from those that have party status, or I should say  
24 just status. Okay. Let's see. All right. Well, the next  
25 one, I guess -- okay. Actually, we have a postponement

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1 request. Can we do that first real quick, fellow board  
2 members? If you wouldn't mind, Madam Secretary, calling the  
3 postponement request.

4 MS. MEHLERT: Sure. Next is Application No. 21123  
5 of Rick Anderson. As amended, this is a self-certified  
6 application pursuant to Subtitle X, Section 901.2, for a  
7 special exception under Subtitle U, Section 301.1e, to allow  
8 residential use of a new accessory building. This is to  
9 construct a two-story accessory structure, including a garage  
10 and accessory apartment in the rear yard of an existing  
11 three-story semi-detached principal dwelling. It is located  
12 in the RF-1 zone at 1311 S Street NW, Square 238, Lot 852.  
13 And as you mentioned, there is a request to postpone from the  
14 applicant.

15 BZA CHAIR HILL: Okay. If the applicant could hear  
16 me, if they could introduce themselves for the record.

17 MR. HUNT: My name is Julian Hunt. Can you hear  
18 me?

19 BZA CHAIR HILL: Yes.

20 MR. HUNT: Okay. I'll speak up. Let's see, this  
21 was --

22 BZA CHAIR HILL: If you could just introduce  
23 yourself first, Mr. Hunt.

24 MR. HUNT: Okay. The name is Julian Hunt. I am  
25 the architect and representative for the client.

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1 BZA CHAIR HILL: Okay. Great. How much time do  
2 you need, Mr. Hunt?

3 MR. HUNT: Five minutes.

4 BZA CHAIR HILL: No, no, no. You were asking for a  
5 postponement.

6 MR. HUNT: I'm thinking the next public review is  
7 not too much of a change. So that would be, I think, June  
8 5th. I think June 5th.

9 BZA CHAIR HILL: Okay. But so you still need to  
10 meet with the Office of Planning about the changes, right? I  
11 don't have a report yet from the Office of Planning.

12 MR. HUNT: Well, I can update you.

13 BZA CHAIR HILL: That's okay, Mr. Hunt. I'm trying  
14 to just figure out what day I can bring you back.

15 MR. HUNT: Right. Okay.

16 BZA CHAIR HILL: Because we just are scheduled like  
17 crazy, right?

18 MR. HUNT: Yeah. Well, there's plenty of change.  
19 We can be ready as soon as possible.

20 BZA CHAIR HILL: Right. Okay. Ms. Mehlert, what  
21 is our 5th and 12th hearing dates looking like in June?

22 MS. MEHLERT: The 5th is more open. You have three  
23 decision cases and then three hearing cases, plus an appeal.

24 BZA CHAIR HILL: Okay. So let's put them on the  
25 5th then. Okay? And then, Mr. Hunt, if you can just get

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1 with the Office of Planning and make sure we can get a report  
2 from the Office of Planning. And then this is kind of  
3 something for the Office of Planning and then also Dr.  
4 Imamura, I guess, that the dwelling can't be used for five  
5 years is something maybe that, or that part of the regulation  
6 is something that maybe the Zoning Commission can kind of  
7 take a look at because under U301.1, I guess that's something  
8 that OZLD has mentioned. Maybe the Zoning Commission will  
9 want to take a look at.

10 MR. HUNT: Yes. And we simplified the request from  
11 what's going to use variance and special exception. We  
12 simplified it to just one special exception and we got a 9-0  
13 vote from the ANC. And so I think it's all good.

14 BZA CHAIR HILL: All right, Mr. Hunt. We'll see if  
15 it's all good, but I hope so. Let me see. So you'll have to  
16 change then your request for relief. Whatever it is, make  
17 sure it's all matched up, and we'll see you back here on 6/5.  
18 Okay?

19 MR. HUNT: Okay. Thank you very much.

20 BZA CHAIR HILL: Ms. Mehlert, do we need to let  
21 anybody know about any dates or anything, or we're good?  
22 Like when we might get something from the Office of Planning?

23 MS. MEHLERT: I mean, it's up to you if you want to  
24 give the Office of Planning until maybe like Friday, the  
25 31st.

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1 BZA CHAIR HILL: Sure.

2 MS. MEHLERT: Okay.

3 BZA CHAIR HILL: No, no. Actually, can you see if  
4 maybe Thursday, the 30th. If you could ask Office of  
5 Planning, because then I can get something from our staff.  
6 Okay?

7 MS. MEHLERT: Mm-hmm.

8 BZA CHAIR HILL: All right. Mr. Hunt, we'll see  
9 you. Have a nice day. Okay. All right. Now, let's take a  
10 break. So 11:15. Thank you all.

11 (Whereupon, the above-entitled matter went off the  
12 record at 10:59 a.m. and resumed at 11:30 a.m.)

13 MS. MEHLERT: Returning to the Board's public  
14 hearing session, next is Application No. 21061 of Brunor  
15 Properties, LLC.

16 As amended, this is a self-certified application  
17 pursuant to Subtitle X, section 901.2, for Special Exceptions  
18 under Subtitle C, 703.2 from the minimum parking requirements  
19 of Subtitle C 701.5, and under Subtitle G, 5200.1 from the  
20 closed court requirements.

21 This is to construct a 10-unit apartment house in  
22 a 4-story building with a cellar and penthouse. It is  
23 located at the MU-4 Zone at 1725 Montello Avenue, N.E.,  
24 square 4052, Lot 173.

25 The hearing for this case was originally scheduled

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1 for March 6<sup>th</sup> and was postponed twice at the Applicant's  
2 request. The merits have not been heard.

3 BZA CHAIR HILL: Thank you.

4 If the Applicant can hear me, if they could please  
5 introduce themselves for the record.

6 MR. SULLIVAN: Thank you, Mr. Chair and members of  
7 the Board. Marty Sullivan with Sullivan and Barros on behalf  
8 of the Applicant.

9 BZA CHAIR HILL: All right, Mr. Sullivan. Great.

10 Let's see, if you could please walk us through  
11 your client's application and why you believe they are  
12 meeting the criteria for us to grant the relief requested.

13 I'm going to put 15 minutes on the clock so I know  
14 where we are. And you can begin whenever you like.

15 MR. SULLIVAN: Thank you, Mr. Chair.

16 If we could load the PowerPoint presentation,  
17 please.

18 And the principal is here with us, too, Mr.  
19 Peovski. Maybe here if the Board has any questions for him,  
20 the Applicant.

21 Next slide, please.

22 So, the property is in the MU-4 Zone. It's  
23 currently improved with a 2-story commercial building. The  
24 Applicant's proposing to modify the building and construct an  
25 addition resulting in a 4-story plus cellar building with 10

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1 residential units. It will be all residential.

2 The project itself is permitted as a matter of  
3 right. Of course the use is permitted as a matter of right.

4 And the two areas of relief are for a closed court and for  
5 vehicle parking.

6 The court is shy of the minimum width and area  
7 requirements. It's an interior court in the middle of the  
8 building. And the Applicants cannot provide the two required  
9 parking spaces. There's no alley access and no ability to  
10 provide vehicle access through the front of the property.

11 Accordingly, the project requires special  
12 exception relief pursuant to 703.2 from the parking  
13 requirement and from the closed court dimensions as well.

14 Next slide, please.

15 We have the support of the Office of Planning.  
16 ANC 5D voted to support. I don't believe their letter made  
17 it into the file, but I think Commissioner Arbuckle may be  
18 here to testify about that.

19 And DDOT has no objections.

20 Regarding the ANC, that was the reason we  
21 postponed a couple times. We continued to work with the ANC.

22 We continued to work with the ANC. They had a lot of  
23 requests for changes and a lot of changes were made.

24 The building became smaller, fewer units, and  
25 there were several designing changes as well.

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1 Next slide, please.

2 That's the building there, the Montello Deli  
3 building.

4 Next slide.

5 You can see there's a similar apartment building  
6 to the left of it.

7 These are the renderings showing the building.  
8 It's 60 percent lot occupancy building. You can see the yard  
9 in the rear. And the Applicant has, we, you'll notice we  
10 filed a plat late. The reason why that was is the rear yard  
11 area between the plat and the site plan did not match. And  
12 so we wanted to make sure there was no confusion about that.

13 So, now they match and they show a patio, and greenspace,  
14 and bike parking spaces in the back.

15 Next slide, please.

16 These are the floor plans, if you have any  
17 questions about those.

18 Next slide, please.

19 Next slide, please.

20 This is a roof plan. This is where you can best  
21 see the court.

22 So, one of the questions from the ANC was the open  
23 court that we originally had planned, which was facing the  
24 property to the north. And they asked what would happen when  
25 that open court gets closed over at some point, and there was

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1 some concern about whether that would have an impact on that  
2 neighboring property.

3 So, it was redesigned to essentially build a wall  
4 around it. Now it's a closed court.

5 Another thing that the ANC asked for was that  
6 there be access, which makes sense, to that court for  
7 maintenance purposes. So, they added an access door as well  
8 on the first floor so that you could get into that court.

9 The minimum court area, though, is 350 square  
10 feet, which is pretty large. And I think is about 14 by 15.

11 Next slide, please.

12 There's a building section.

13 Next slide, please.

14 The project will be in harmony with the purpose  
15 and intent of the zoning regulations and zoning maps and will  
16 not tend to affect adversely the use of neighboring property.

17 The closed court is reviewed just under the  
18 general special exception requirements. Because it's MU-4  
19 there's no specific special exception requirements. The  
20 court is internal to the building and cannot be viewed from  
21 any public way or by the neighbors, so the use itself and the  
22 proposed building bulk and density is permitted by right.

23 The property has a walk score of 83 and is located  
24 close to amenities such as grocery stores, restaurants,  
25 shops, day cares, medical offices, and bus stops.

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1 Next slide, please.

2 The specific requirements for the parking relief.  
3 We need to comply with one of these. The main one is that  
4 due to the physical constraints of the property, the required  
5 parking spaces cannot be provided on the lot or within 600  
6 feet.

7 And the property lacks alley access. There is a  
8 property back there that the Applicant doesn't have access  
9 to. There's no alley. And it's a relatively narrow  
10 property, can't get a curb cut to go onto the property. And  
11 so, we meet that first condition.

12 There's also the land use or transportation  
13 characteristics of the neighborhood minimize the need for  
14 required parking spaces because of the bus stops, several  
15 bikeshare stations. And there are also two convenience  
16 stores and a park located within one to two blocks of the  
17 property. There's also two day cares in the immediate  
18 neighborhood.

19 Next slide, please.

20 And any reduction in the required number shall be  
21 only for the amount that the Applicant is physically unable  
22 to provide. And the Applicant can't provide any. We have a  
23 requirement of two, so we're asking for relief from two  
24 space.

25 Thank you.

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1 Next slide, please. That may be it. Yes.

2 Thank you.

3 So, if you have any questions for myself or for  
4 Mr. Peovski, if he's here.

5 Thank you.

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

7 Let's see. Before I turn to Mr. Peovski, I don't  
8 know who -- Okay.

9 Could I have the Office of Planning please  
10 introduce themselves.

11 MR. BEAMON: Good morning. Shepard Beamon with the  
12 Office of Planning.

13 BZA CHAIR HILL: Okay, Mr. Beamon, do you want to  
14 give us your report?

15 MR. BEAMON: Sure.

16 So, we reviewed the revised application for the  
17 requested relief for the parking requirements and the minimum  
18 closed court dimensions. And we recommend approval. And we  
19 sit on the record.

20 Any questions?

21 BZA CHAIR HILL: Okay. Thank you, Mr. Beamon.

22 All right. Do my fellow board members have any  
23 questions for the Applicant or Mr. Beamon?

24 (No audible response.)

25 BZA CHAIR HILL: All right, Mr. Young, is there

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1 anyone here wishing to speak?

2 MR. YOUNG: Only the commissioner, who is on.

3 BZA CHAIR HILL: I'm sorry. Commissioner Arbuckle,  
4 can you hear me?

5 MR. ARBUCKLE: I was going to a place that was a  
6 bit more slack. Can you hear me okay?

7 BZA CHAIR HILL: I can hear you. We can hear you  
8 fine.

9 Sorry, Commissioner, I didn't see you there.

10 Would you like to give us your testimony?

11 MR. ARBUCKLE: Yes.

12 So, the ANC voted in support of this project. We  
13 worked with the Applicant for quite sev -- for several  
14 months, having many meetings. And the Applicant made quite  
15 major changes to their plan based off of our feedback.

16 And so, we voted in support of the project at our  
17 most recent ANC meeting. But we haven't yet uploaded the  
18 letter into the zoning file, but that is forthcoming.

19 Do you have any questions about that?

20 BZA CHAIR HILL: I'm going to see if my board  
21 members have any questions.

22 Could you introduce yourself also for the record,  
23 please?

24 MR. ARBUCKLE: Yes. I am Commissioner Hector  
25 Arbuckle. I am representing 5D-01. And I am the chair of

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1 the Zoning Committee of our ANC. And I'm speaking on behalf  
2 of the ANC.

3 BZA CHAIR HILL: Okay, great, Commissioner. Thanks  
4 for joining us. Thanks for all your help for the city.

5 Let's see, does anyone have any questions for the  
6 Commissioner and/or the Applicant or the Office of Planning?

7 (No audible response.)

8 BZA CHAIR HILL: All right, Commissioner, thanks  
9 for taking the time.

10 Let's see, Mr. Sullivan, do you have anything to  
11 add at the end?

12 MR. SULLIVAN: No, thank you.

13 BZA CHAIR HILL: Thank you.

14 All right. I'm going to go ahead and close the  
15 hearing for the record.

16 Okay. I would agree with the Applicant and their  
17 argument concerning the parking requirements and how they're  
18 unable to meet those.

19 Also, I'm not concerned about their being two less  
20 spaces, given where the proximity to transportation this is.

21 And then, also, I did have an issue with the  
22 closed court requirements. I do appreciate the Office of  
23 Planning's recommendation and their analysis. And then,  
24 also, that the ANC has taken a vote.

25 Although we can't give anything great weight

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1 because we don't have the report, I do believe the testimony  
2 that the commissioner has put forward that there was a vote  
3 and they spent a lot of time working with the Applicant on  
4 this particular project.

5 Mr. Smith, do you have anything you would like to  
6 add?

7 MEMBER SMITH: Not sure with this particular case.  
8 I am comfortable with our granting the special exception on  
9 the minimal vehicle parking requirement because they simply  
10 they can't provide it based on the size of the particular  
11 property, not accessible to an alley. And there are a  
12 multitude of different bus lines that run along there all day  
13 and Montello.

14 So, I would be fairly comfortable with granting a  
15 special exception as well as the closed court requirement.  
16 So, I give OP's report a great weight and support the  
17 application.

18 BZA CHAIR HILL: Thank you.

19 Dr. Imamura?

20 COMMISSIONER IMAMURA: I'm in agreement with both  
21 Board Member Smith and yourself, Mr. Chairman.

22 I have nothing more to add other than to just  
23 thank the Applicant for working with the ANC to get this  
24 project to where it is now with a better outcome and a better  
25 design.

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1 BZA CHAIR HILL: Thank you.

2 Mr. Blake?

3 MEMBER BLAKE: For the application. I have nothing  
4 to add.

5 BZA CHAIR HILL: Thank you.

6 All right, I'm going to make a motion to approve  
7 Application No. 21061 as captioned and read by the Secretary,  
8 and as, for a second.

9 Mr. Blake?

10 MEMBER BLAKE: Second.

11 BZA CHAIR HILL: Motion made and seconded.

12 Ms. Mehlert, would you make the roll call?

13 MS. MEHLERT: Motion to approve the application.  
14 Chairman Hill?

15 BZA CHAIR HILL: Yes.

16 MS. MEHLERT: Mr. Smith?

17 MEMBER SMITH: Yes.

18 MS. MEHLERT: Mr. Blake?

19 MEMBER BLAKE: Yes.

20 MS. MEHLERT: And Dr. Imamura?

21 COMMISSIONER IMAMURA: Yes.

22 MS. MEHLERT: The vote is 4 to 0 to 1 to approve  
23 Application 21061 on a motion made by Chairman Hill, seconded  
24 by Mr. Blake, with one board member not participating.

25 BZA CHAIR HILL: Thank you.

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1 Ms. Mehlert, you can call the next one when you  
2 get a chance.

3 MS. MEHLERT: This is Application No. 20823-A of  
4 5433 Georgia Avenue, LLC.

5 This is a self-certified application pursuant to  
6 Subtitle X, section 901.2 for a Special Exception under  
7 Subtitle C, section 1506.1 from the penthouse setback  
8 requirements of Subtitle C 1504.1, and a request pursuant to  
9 Subtitle Y, section 704, for a modification of significance  
10 of Order in Application No. 20823, issued on December 21<sup>st</sup>,  
11 2022, to change the uses of the first floor from partial  
12 residential to entirely commercial, and decrease the number  
13 of dwelling units in the building to 21.

14 The project is located in the MU-4 Zone at 5427  
15 Georgia Avenue, N.W., Square 2996, Lot 63.

16 BZA CHAIR HILL: Okay, great.

17 Could the Applicant, if the Applicant is here  
18 could they please introduce themselves for the record.

19 MR. SULLIVAN: Thank you, Mr. Chair.

20 Marty Sullivan with Sullivan and Barros on behalf  
21 of the Applicant.

22 BZA CHAIR HILL: Okay. Mr. Sullivan, I appreciate  
23 your slide deck, and your argument, and we'll see where we  
24 get. I still don't know whether I got a report yet from the  
25 Office of Planning or, really, their recommendations or

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1 conclusions.

2 What I want to do real quick, and, all right,  
3 maybe, maybe you, Mr. Sullivan, can tell me what you know  
4 about the Office of Planning . I'm going to -- also, I see  
5 Ms. Thomas is with us, so she'll tell me what they think as  
6 well.

7 But can you update me first, Mr. Sullivan, on that  
8 aspect?

9 MR. SULLIVAN: Yeah. My understanding is that  
10 there's, there's I guess confusion is not the right word. We  
11 don't know for sure what DOB will rule on a portion of the  
12 relief that we're asking for. And I think the Office of  
13 Planning was hoping to get that determination before  
14 undertaking a full analysis on that part of it.

15 BZA CHAIR HILL: What part are you, what part are  
16 you waiting for DOB?

17 MR. SULLIVAN: So, maybe it would be, if we could  
18 load the presentation it would be helpful.

19 BZA CHAIR HILL: Okay. Before you -- I got you.  
20 Give me one second.

21 Could I hear what the Office of Planning will say?

22 MS. THOMAS: Yes. Good morning, Mr. Chair, members  
23 of the board. Karen Thomas with the Office of Planning.

24 The Office of Planning remains unclear as to the -  
25 - we are in support of the, let me start by saying we are in

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1 support of the request to include retail on the ground floor,  
2 commercial use on the ground floor in lieu of the residential  
3 that was initially proposed.

4 But there is some concerns we're having with  
5 respect to the setback relief. We requested particularly for  
6 the portion that faces Kennedy Street, the side walls, that  
7 side walls. We would support the relief, setback relief from  
8 the north and south facing mechanical walls, but the side  
9 walls of the building that faces the interior we would need  
10 the Office of Buildings, Department of Buildings and the  
11 zoning recommendation, zoning administrator recommendations  
12 to determine what those walls in fact are and if in fact they  
13 would need relief or not, as the case might be.

14 So, those are the areas of concern are those  
15 interior walls. We would like to have the zoning  
16 administrator's determination.

17 BZA CHAIR HILL: Okay. Okay.

18 Okay, I'll tell you what, let's do this: Mr.  
19 Sullivan, can you hear me?

20 MR. SULLIVAN: Yes.

21 BZA CHAIR HILL: Okay, great. Why don't you go  
22 ahead and give us your presentation and we'll see where we  
23 land. Okay?

24 MR. SULLIVAN: Thank you, Mr. Chair.

25 And Ms. Thomas and I have talked about possibly

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1 postponing to wait for that determination, but it was going  
2 to be more than a month. And so I thought it might be  
3 helpful if the Board saw this and we at least see where we're  
4 at. And I'll explain what the, what the issue is.

5 Next slide, please.

6 So, the property's in the MU-4 Zone. This was BZA  
7 Case 20823.

8 The regional application granted special exception  
9 relief for parking and lot occupancy.

10 And the changes now which sent us here.  
11 Originally it was a change because of a small change in the  
12 use on the first floor. A residential unit on the first  
13 floor was changed to commercial, which is permitted by right.

14 And we didn't agree that we needed to get a modification.  
15 But since it was sent for a modification, we decided to take  
16 a look at some of the penthouse questions that they are  
17 concerned about.

18 And so, the Applicant is also now seeking  
19 penthouse setback relief.

20 Next slide, please.

21 So, we had unanimous vote from ANC 4D. It sounds  
22 like that letter also is not in the file. We've been trying  
23 to get that, but as far as I know it's not yet in the file.

24 Next slide, please.

25 This is the originally approved roof plan. And,

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1 I'm sorry, the architect Anthony Pizzo is with me as well. I  
2 think we're going, I'm going to start and then I'll turn it  
3 over to him to talk about the ways that we meet the setback  
4 relief, and some of the difficulties with providing a full  
5 setback.

6 So, you'll see there's one to one or more setback  
7 on all three street fronts. And, and that's true with the  
8 modification as well.

9 In this case they had a very narrow mechanical  
10 penthouse through the middle of the building, and they needed  
11 a setback at that point to the north and to the south,  
12 except for the fact that they put a trellis on the south  
13 property line.

14 And I spoke to the lawyer from the original case,  
15 and he said they did that because Mr. LeGrant had given them  
16 a determination that putting a trellis on that south property  
17 line eliminated the need for a penthouse setback for that  
18 south facing wall for the mechanical penthouse because it was  
19 no longer a side building wall because the trellis  
20 effectively closed -- enclosed that area and made it a closed  
21 court.

22 So, maybe we'll go, let's go to the -- I kept the  
23 old design. There were some design changes but they're not  
24 part of the modification request. They're, but they are  
25 changes if the Board wanted to see those.

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1 So, the next few slides, if you can go next slide.

2 Next slide.

3 These are the previously approved designs.

4 Next slide.

5 Next slide, please.

6 Next slide, please.

7 I'm sorry. Go, if you could go back one, please.

8 You see the trellis there on the south elevation.

9 Mr. Pizzo will tell you about the difficulty in  
10 providing a 40-foot-long trellis hanging 50 feet in the air.

11 Next slide, please.

12 BZA CHAIR HILL: Mr. Sullivan, I just want to be  
13 clear. What -- there's a wall, though, there; is that  
14 correct?

15 MR. SULLIVAN: No. These are open. So these are  
16 effectively courts. The --

17 BZA CHAIR HILL: What's on the south? What's on  
18 the south property line?

19 MR. SULLIVAN: The south there's not -- well,  
20 there's walls on the left and right where you see the yellow-  
21 shaded penthouse and the private patio. That's building  
22 walls. But it's a court between --

23 BZA CHAIR HILL: I got it. I got it.

24 So, there's nothing, there's not another -- and  
25 this is where I got a little confused -- there's not another

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1 building to the south; correct?

2 MR. SULLIVAN: Well, there's a one-story building  
3 to the south.

4 BZA CHAIR HILL: Okay. Okay, I got you.

5 MR. SULLIVAN: Facing Georgia Avenue.

6 BZA CHAIR HILL: Okay. Please continue.

7 MR. SULLIVAN: So, so in removing the trellis we  
8 now need setback relief to the south because every side  
9 building wall requires one to one setback. And everybody  
10 seems to agree, DOB, the Applicant, and the Office of  
11 Planning that the green-identified walls facing north and  
12 facing south, they're facing courts but they are side  
13 building walls, as understood in the penthouse setback  
14 regulations.

15 So, we need a one to one setback for the  
16 mechanical penthouse, north wall and south wall.

17 So, the court that then are facing to Kennedy  
18 Street and then facing south to the adjacent property, those  
19 are, those are technically not courts because there's this  
20 odd provision in the MU-4 Zone that says any portion of a  
21 building that's set back from a property line is a side yard  
22 and not a court. It's only for the MU-4 Zone.

23 If it was a closed court, we think we wouldn't  
24 need a setback for any of these six walls. The other four  
25 walls, we're asking for relief for the orange walls.

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1           But it's technically not a closed court now  
2 because of that language. And so, these are side building  
3 walls.

4           The thing that we don't know for sure about, the  
5 east/west facing walls that are facing each other we don't  
6 think they are side building walls, just by definition.  
7 They're interior walls. They would be court walls except for  
8 the fact that in the MU-4 Zone there is no, there are no  
9 courts essentially, except for closed courts. So, because  
10 they're facing the property line they are -- and they're a  
11 portion of the building set back from the side wall, they're  
12 a side yard. That's a side yard, not a court.

13           So, we think the north and south are side building  
14 walls. We think the interior are not.

15           So, for the interior our argument, and Mr. Pizzo  
16 will go into this some more, is that we, we really can't have  
17 a habitable penthouse if we have to do a one to one setback  
18 from the front and the back because we have all our setbacks  
19 around all the streets. You see the penthouse is not very  
20 wide to begin with. That would leave us with a 6-foot wide  
21 habitable penthouse on one side and no penthouse on the  
22 other.

23           For the mechanical there's other reasons. And  
24 I'll turn it over to Mr. Pizzo now.

25           Anthony, if you can talk about the difficulty in

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1 providing setbacks on the mechanical and on the penthouse.

2 Unless the Board has any questions about, you  
3 know, we have four orange walls which we're waiting for DOB  
4 to tell us whether or not they need relief. And then we have  
5 the two green walls.

6 And my thought was that if the Board saw fit,  
7 thought that we met the argument for relief they could grant  
8 it, assuming that DOB would require that relief. Or when  
9 they see how relatively simple the case is, maybe the board  
10 could postpone it not a full month but just a couple weeks  
11 and we could come back and we could continue to work with  
12 DOB, the Zoning Administrator's Office to get an answer on  
13 that.

14 BZA CHAIR HILL: Okay. Go ahead, Mr. Sullivan.

15 Sorry. Go ahead, Mr. Blake.

16 MR. PIZZO: That was me, Chairman.

17 BZA CHAIR HILL: Oh.

18 MR. PIZZO: I was just going to -- I mean, Marty,  
19 you clicked on most of it. But I just wanted to --

20 BZA CHAIR HILL: Mr. Pizzo, could you introduce  
21 yourself for the record?

22 MR. PIZZO: Sure. My name is Anthony Pizzo with  
23 Access Architects.

24 BZA CHAIR HILL: Okay. Go ahead, Mr. Pizzo.

25 MR. PIZZO: You know, just given the nature of this

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1 sort of building part here which is kind of this H-shaped  
2 footprint which was part of the original proposal as well,  
3 you know, setting back from the street and from sort of these  
4 interior walls there would just be no space left.

5 The challenge was once we -- we weren't the  
6 original architects, so once we inherited this project and  
7 really dove into sort of developing, like, the architecture  
8 and the functionality of the building, a lot of what was  
9 shown originally just really didn't work. I mean, like, a 4-  
10 foot mechanical penthouse that they were calling out, just  
11 really wasn't enough space to house all the, you know, the  
12 rooftop equipment that you would need for the building to  
13 properly function.

14 So, we had to enlarge what we're calling  
15 mechanical open to above there, highlighted in green, to 15  
16 feet instead of 4 feet to house all the proper mechanical  
17 equipment.

18 And then what they weren't showing originally was  
19 the elevator overrun, which would also need to pop up from  
20 the roof and be part of that setback requirement. So, what  
21 we have in green here also encapsulates our elevator overrun  
22 there.

23 And so, we meet the setback requirements along  
24 Georgia, Kennedy, and Illinois. It's just that these sort of  
25 interior walls are the walls that are basically in question.

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1 But if they have to meet the setback requirement there would  
2 just be basically no penthouse up here.

3 BZA CHAIR HILL: Okay. All right.

4 MR. PIZZO: Yeah, do you have another -- I'm sorry.  
5 Go ahead.

6 MR. SULLIVAN: Sorry, did you have something to  
7 add, Anthony?

8 MR. PIZZO: Well, we had the, we have the facades  
9 the next couple sheets. I don't know if you want to just  
10 quickly walk through those to wrap up the --

11 MR. SULLIVAN: Oh, yeah, good thought.

12 Next slide, please.

13 So, these are our proposed facade elevations. You  
14 know, we tried to basically incorporate a lot of what was  
15 part of the original design. So, we had this sort of brick  
16 base.

17 This is Georgia Avenue, so all of that sort of  
18 lower level would be retail space. And then we have three  
19 stories of residential above that. And then that area that's  
20 kind of ghosted in is the, is the penthouse facing Georgia  
21 Avenue that's set back one to one.

22 Next slide.

23 Facing Kennedy, again that brick face continues  
24 around. Facing this street would both be retail on the  
25 right, and then a portion of it would be office space to the

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1 left. And that residential reading continues up.

2 And, again, that ghosted area beyond is that wall  
3 that we have highlighted in green in the plan that continues  
4 up. And that top floor is, is sort of the part of the  
5 mechanical penthouse that we're asking for relief on.

6 Next slide.

7 And then facing Illinois this is the lobby, the  
8 residential lobby entrance to the left, and the office entry  
9 to the right. And, again, similar reading off on Georgia.  
10 And you can see the penthouse setback one to one.

11 And I think next slide.

12 MR. SULLIVAN: Next, yeah, so I'll go quickly for  
13 our justification for the modification is, is we've talked  
14 about most of this.

15 Next slide, please.

16 Next slide, please.

17 So, with the design of the building and the large  
18 openings in the interior of the property from the previously-  
19 approved design has limited the amount of available rooftop  
20 space and made the provision of habitable penthouse space  
21 difficult as a result of the setback requirements. So, in  
22 order to avoid that relief the Applicant proposed installing,  
23 originally proposed installing that trellis which we are  
24 removing because we think it's difficult to manufacture, for  
25 one thing, or to, to install, and unsightly as well.

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1                   And so, regarding the habitable penthouse -- I'm  
2 not sure if I have this one -- because the penthouse walls  
3 they face interior portions of the property and they're a  
4 significant distance away from any of the three bordering  
5 streets, the removal of the trellis and the setback together  
6 provide a better design for the penthouse and rooftop  
7 structure, and is visually less intrusive.

8                   In addition, the location of the elevator override  
9 makes setback relief for mechanical penthouse unduly  
10 restrictive.

11                   So, under the requirements that we think it's  
12 unduly restrictive and unreasonable, especially in light of  
13 the fact that the interior facing walls, the east/west walls,  
14 are not facing the public at all, they're just facing each  
15 other. And they're also meeting all the setbacks on all the  
16 streets.

17                   The north setback relief is 31 feet away from the  
18 street. The south is 15 feet away from the south property  
19 line.

20                   Next slide, please.

21                   And if the Applicant were to provide the required  
22 setbacks there would be no habitable penthouse, no IZ  
23 contribution there.

24                   And I think the other stuff, this Mr. Pizzo has  
25 talked about.

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1 So, next slide, please.

2 That's it. Thank you.

3 BZA CHAIR HILL: Okay. Just a couple of questions.  
4 I love our architecture. Fantastic.

5 The plans that you all have there, the actual  
6 plans now, the new plans, they're in Exhibit 3?

7 MR. PIZZO: Marty, are you able to answer that?

8 MR. SULLIVAN: Yes. Yes, that's correct. Yeah,  
9 Exhibit 3.

10 BZA CHAIR HILL: I just want to make sure of those.  
11 Okay.

12 So, right, okay, so that's number one.

13 And then number two, and I'm going to turn it over  
14 to my board in one second. Mr. Sullivan, you're working with  
15 DOB. And when do you think you'll get an answer from DOB?

16 MR. SULLIVAN: I don't have a read on that.

17 We had a response from Mr. Goldstein, but he just  
18 said that he couldn't answer the question. And I, I haven't  
19 heard back from anybody else yet on who will.

20 So, we'll continue to, to keep trying to get an  
21 answer on that.

22 We think we've had, we've seen other projects  
23 where they haven't required that relief. But I'm just not  
24 certain about it, so.

25 BZA CHAIR HILL: Okay. Okay.

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1 All right. Before I turn to my board, real quick,  
2 Mr. Young, is there anyone her wishing to speak?

3 MR. YOUNG: No signed up.

4 BZA CHAIR HILL: Okay. Let's go ahead and hear  
5 from the witness.

6 Mr. and Ms. Carson, can you hear me?

7 MR. LUCARELLI: Yes, I believe so. Hi, Fred.

8 BZA CHAIR HILL: Oh, great.

9 Could you go ahead and introduce yourself for the  
10 record?

11 MR. LUCARELLI: Yes.

12 Let me see, can you all see me?

13 BZA CHAIR HILL: No.

14 MR. LUCARELLI: How about now?

15 BZA CHAIR HILL: Yeah. Go ahead and introduce  
16 yourself for the record.

17 MR. LUCARELLI: All right, yeah. Thank you.

18 My name is Carson Lucarelli. I'm the ANC  
19 commissioner representing the single member district where  
20 the subject site is located.

21 BZA CHAIR HILL: Oh, great.

22 Okay, Commissioner, do you want to give your  
23 testimony.

24 MR. LUCARELLI: Yeah, sure.

25 You know, I'm just going to give reasons why I

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1 think the BZA should approve this application.

2 First of all, this is Kennedy and Georgia. This  
3 is a prominent location. The redev -- you know, this  
4 redevelopment had been a long time coming. A lot of people,  
5 a lot of the folks that I represent that talk about this  
6 intersection, you know, are very excited to see this coming.

7 You know, because of that history and legacy here, you know,  
8 we need, you know, we need interesting architecture.

9 And, you know, if strict application of these  
10 rules are applied, you know, we are going to result in a  
11 building that has no penthouse, that has no IZ contribution  
12 which we also desperately need. And, you know, a design that  
13 really doesn't engage a very prominent corner. You know,  
14 there seems to be something that draws your eye up to that  
15 corner.

16 And, you know, the penthouse, you know, does just  
17 that. I mean, by looking at the presentation it looks like  
18 they're using high quality materials. And, you know, the  
19 design and form are striking.

20 You know, this is a small site. And so, sometimes  
21 these one-size-fits-all rules don't necessarily work. And  
22 when you have to house mechanical equipment of a certain  
23 size, you know, sometimes there's nowhere for it to go.

24 And so, I think they balanced a lot of  
25 challenging, you know, design constraints give, given the

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1 tight nature of this site and, you know, have put forth a  
2 tremendous amount of effort.

3 So, I would encourage everyone to vote in approval  
4 of this.

5 Thank you.

6 BZA CHAIR HILL: Thank you. And, Commissioner,  
7 just to be clear, are you the commissioner with this SMD?

8 MR. LUCARELLI: Uh-huh, 40-03.

9 BZA CHAIR HILL: Okay. And are you authorized to  
10 testify for your ANC?

11 MR. LUCARELLI: Yeah.

12 BZA CHAIR HILL: Okay, great.

13 All right. Does anybody have --

14 MR. LUCARELLI: We voted to -- sorry to interrupt -  
15 - yeah, we voted as a commission unanimously to approve it  
16 last week.

17 BZA CHAIR HILL: Okay, great.

18 And do my fellow board members have any questions  
19 for the commissioner?

20 (No audible response.)

21 BZA CHAIR HILL: Okay. All right. All right,  
22 thanks, Commissioner.

23 MR. LUCARELLI: You're welcome.

24 BZA CHAIR HILL: Okay. Ms. Thomas, can you hear  
25 me? So, what is it that the Office of Planning thinks they

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1 would like the Board to do?

2 MS. THOMAS: Well, I mean, we're not instructing  
3 the Board to -- we are not here to really instruct the Board.

4 It would be --

5 BZA CHAIR HILL: What I'm just trying -- I  
6 apologize. I didn't frame that question correctly.

7 What is it that the Office of Planning is waiting  
8 for again from the Department of Buildings? I'm a little  
9 confused.

10 MS. THOMAS: We would like the Office of --  
11 Department of Buildings to state whether the walls, as  
12 highlighted in the orange, would be -- what type of walls  
13 they are. And just what Marty Sullivan said, Mr. Sullivan  
14 said, what would those walls in fact need relief.

15 BZA CHAIR HILL: Okay. All right.

16 MS. THOMAS: And to serve that requirement.

17 BZA CHAIR HILL: And then, Mr. Sullivan, you're  
18 asking for relief from those walls currently; correct? Mr.  
19 Sullivan?

20 Can you hear me, Mr. Sullivan?

21 Oh well, Mr. Sullivan can't hear me.

22 Can you all hear me?

23 COMMISSIONER IMAMURA: I can. I think he was very  
24 focused.

25 BZA CHAIR HILL: Okay, great. I think something

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1 was wrong with his connection.

2 COMMISSIONER IMAMURA: Maybe so.

3 MR. SULLIVAN: -- sound there for a second. I  
4 didn't know if you were talking to me.

5 BZA CHAIR HILL: That's all right.

6 Are you asking for relief from those walls also?

7 MR. SULLIVAN: We are asking for relief from those  
8 walls also out of an abund -- out of an abundance of caution  
9 because we're not certain that DOB won't say that we need  
10 relief for that.

11 BZA CHAIR HILL: Okay. Okay, all right.

12 All right. I'm going to my fellow board members  
13 now.

14 What is it that you guys need? Like, I'm kind of  
15 convinced that it's going, you know, if they need relief  
16 they're going to meet the criteria for us to grant the  
17 relief. And so, I don't know that I want to tie this up to  
18 wait for DOB. But I can go either way.

19 Let me look to my fellow board members.

20 What do you all want or what do you all think  
21 about stuff? And I'll start with -- well, I'll start with  
22 Dr. Imamura because I have the architecture here with me  
23 today.

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

25 I don't think we need to hold this up. This is

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1 pretty clear and straightforward.

2 It is nuanced, but the way the Applicant described  
3 it, I think it's very clear to me. I understand why the  
4 former zoning administrator suggested a trellis, which would  
5 then resolve the issue or need for additional setback. But  
6 it is impractical to apply that to some 40-foot-wide span.

7 So, it's just really sort of a band-aid to resolve  
8 that issue.

9 The interior walls, it's pretty straightforward to  
10 me that, again, if there were a trellis, right, then they  
11 would no longer be considered a volumetric space. There  
12 wouldn't be side walls.

13 So, I think this can move forward. It's pretty  
14 cut and dry to me. I don't think I have any issues granting  
15 the relief that they're requesting.

16 BZA CHAIR HILL: Okay. Thanks, Dr. Imamura.

17 And I appreciate that the architect is here to  
18 help me a little bit on some of this stuff today. And so I'm  
19 just trying to figure out, Mr. Smith and Mr. Blake, if you  
20 all need anything else to move forward.

21 COMMISSIONER IMAMURA: Mr. Chairman.

22 BZA CHAIR HILL: Oh, go ahead Mr. Dr. Imamura.

23 COMMISSIONER IMAMURA: Sorry, Mr. Chairman. I did  
24 have one more comment.

25 This is for the Applicant and specifically for the

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1 architect.

2 In the future an axon would be very helpful. So,  
3 when you come across these issues again, elevations are flat,  
4 right? They're two-dimensional if you will. But if you give  
5 the axon, remember your audience, while the board members  
6 have seen these situations regularly, the general public has  
7 not. And so three-dimensional images, right, and axonometric  
8 views would be very helpful to understand what the issues are  
9 and would probably expedite the explanation.

10 So, thank you, Mr. Chairman. Appreciate your  
11 indulgence.

12 BZA CHAIR HILL: Thank you. No, and I appreciate  
13 that because oftentimes it's hard for us to understand.

14 All right. Mr. Smith, what are your thoughts?

15 MEMBER SMITH: I think I'm more or less fairly  
16 comfortable with what is presented today. And in support of  
17 what Dr. Imamura was saying, they should probably provide  
18 some additional context for what they're asking for,  
19 specifically for the penthouse.

20 As far as moving forward today, I would prefer to  
21 get that additional information and to give the Office of  
22 Planning -- that will give the Office of Planning some time  
23 to provide a thorough evaluation to complete the record.

24 BZA CHAIR HILL: Okay. Mr. Blake?

25 MEMBER BLAKE: I'm comfortable with that as well.

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1 BZA CHAIR HILL: Okay. All right. Then, let's  
2 see, then we're going to go ahead and I guess postpone a  
3 decision on this until we hear from the Department of  
4 Buildings as well as that of the Office of Planning.

5 And I guess I'm trying to think, Mr. Sullivan, I  
6 don't know how to schedule this. Do you have any idea when  
7 DOB might get to you? You said no already.

8 MR. SULLIVAN: I don't. And it's holding up. It's  
9 holding up the permitting. So, we were, we were hoping to  
10 get resolved.

11 But, no, I can't. I can't predict their response  
12 time. Sometimes it's quick, sometimes it's not.

13 BZA CHAIR HILL: Sure. All right, I'll tell you  
14 what, let's -- so, my fellow board members, how about this.

15 COMMISSIONER IMAMURA: Mr. Chairman.

16 BZA CHAIR HILL: Yes?

17 COMMISSIONER IMAMURA: I, just to be clear, I was  
18 not suggesting or asking for additional information. But  
19 just for future applications that the Applicant may be on.

20 I think the actual, I think the record stands on  
21 its own to explain what the issues are. So, --

22 BZA CHAIR HILL: And I appreciate it.

23 What I was going to do, Dr. Imamura, is I  
24 appreciate my fellow board members. Normally I go the way  
25 that my board members are going in terms of getting, you

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1 know, everything clear, everything tidy so that we don't also  
2 start to set a precedent and move forward in a way where we  
3 don't necessarily have all of the department's information in  
4 a way that is clear and understandable.

5 But what I was going to say is if we come back --  
6 I mean, Mr. Sullivan, do you even think that it could  
7 possibly happen in a couple of weeks?

8 MR. SULLIVAN: I'm sure. I mean, it could possibly  
9 happen this afternoon or it could be a month, so.

10 BZA CHAIR HILL: No, that's great. No, I'm  
11 curious. So, so Mr. Smith and Mr. Blake, I was going to  
12 suggest maybe we come back on the 5<sup>th</sup> of June because that  
13 apparently seems to be where there's a window. And then see  
14 if we've heard anything.

15 Because I also don't want to tie this up forever.

16 Okay, I'm getting a thumbs up. Okay.

17 So, let's do this, Dr. Imamura, are you available  
18 the 5<sup>th</sup> of June?

19 COMMISSIONER IMAMURA: I am not. But happy to --

20 BZA CHAIR HILL: That's okay. We have your vote,  
21 we have your vote already pretty much.

22 COMMISSIONER IMAMURA: Yes, indeed.

23 BZA CHAIR HILL: So, I'll go ahead and let's  
24 schedule this for decision on June 5<sup>th</sup>, Madam Secretary. And  
25 then, hopefully, we get something from DOB. And then DOB

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1 will have an opportunity to respond. And then OP would give  
2 us something as well.

3 MS. MEHLERT: Okay.

4 BZA CHAIR HILL: Okay.

5 All right, Mr. Sullivan, anything at the end?

6 MR. SULLIVAN: No, thank you.

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

8 I'm going to close the hearing and the record.

9 And I'm sorry, going to close the hearing and  
10 leave the record open for the items that we were looking for  
11 from DOB as well as that of the Office of Planning.

12 One second, please.

13 (Pause.)

14 BZA CHAIR HILL: Okay. All right, I think that --  
15 excuse me -- I think that let's go ahead and have one more  
16 hearing and see how long this goes, and then possibly take  
17 lunch. Or we can try to get through one more and then take  
18 lunch.

19 I think the last case, since we have, we approved  
20 party status is going to take a little bit longer. And so,  
21 I'm just cognizant of -- and I forgot to snack this morning.

22 So, I'm just trying to understand; right?

23 So, let's do another case and then see where we  
24 get. Okay?

25 MS. MEHLERT: So, I received a note from staff from

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1 the party in opposition in that last case. And it sounds  
2 like she's not, she's not available between 1:00 and 2:00, if  
3 that affects your timeline.

4 I don't know how long these next couple cases will  
5 take.

6 BZA CHAIR HILL: No, no, I'm just thinking.

7 She's not available between 1:00 and 2:00. She's  
8 not available between 1:00 and 2:00.

9 Okay. Then I'm trying to think if she's available  
10 now.

11 MS. MEHLERT: We can check.

12 BZA CHAIR HILL: Okay. You want to see if she's  
13 available now?

14 MS. MEHLERT: Just a second.

15 (Pause.)

16 MS. MEHLERT: She's not. She's not available now.  
17 I think it sounds like she's en route to an appointment.

18 BZA CHAIR HILL: Okay. All right. Well, then, all  
19 right. Mr. Smith, are you there, Dr. Imamura? Well, in the  
20 effort to try and time this well, let's go ahead and take  
21 lunch now then. Okay?

22 And we'll take lunch. I don't really have a, I  
23 don't need a lot of time for lunch today. But want to say  
24 we'll come back at 1:00? Okay? Or 12:50, you want to try  
25 12:50.

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1                   Okay, 12:50 I'm getting a thumbs up. So, we'll  
2 try to come back at 12:50. Thank you.

3                   (Whereupon, the above-entitled matter went off the  
4 record at 12:18 p.m. and resumed at 1:01 p.m.)

5                   BZA CHAIR HILL: Let's see then. All right,  
6 Madam Secretary, if you want to call our next case.

7                   MS. MEHLERT: Yes.

8                   The Board has returned from its recess and is  
9 back to its public hearing session.

10                  Next is Application No. 21118 of Carren Wang.  
11 This is a self-certified application pursuant to Subtitle  
12 X, section 1002, for an area variance from the floor area  
13 ration requirements of Subtitle F, section 201.1.

14                  This is to construct first, second, and third  
15 story additions to an existing three-story semi-detached  
16 building currently used as a 12-unit rooming house for use  
17 as a principal dwelling.

18                  The project is located in the RA-2 Zone at 2850  
19 27<sup>th</sup> Street, N.W., Square 2109, Lot 72.

20                  BZA CHAIR HILL: Great. Thank you.

21                  If the Applicant can hear me, if they can  
22 please introduce themselves for the record.

23                  MS. JONES: Hi. Yes.

24                  I am Jobi Jones. I am the architect for the  
25 owner Carren Wang.

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1 BZA CHAIR HILL: Okay, great.

2 All right, Ms. Jones, if you want to go ahead  
3 and walk us through your client's application and why you  
4 believe they're meeting the criteria for us to grant the  
5 relief requested.

6 I don't know, you know, I understand from the  
7 Office of Planning's report, as well as reading the files  
8 that, you know, the third floor is not something that they  
9 are currently thinking that you meet the criteria for us  
10 to grant that relief. So, you have a little bit of sounds  
11 like discussion there with us.

12 And you can begin whenever you like.

13 MS. JONES: All right, great. Thank you so  
14 much.

15 Yeah. So, I did send over a PowerPoint slide  
16 deck on Monday.

17 BZA CHAIR HILL: Okay. Okay, oh, great.

18 MS. JONES: There we go.

19 So, yeah, so this is currently a 12-bedroom,  
20 12-bath rooming house that has been sitting vacant for  
21 quite some time.

22 And you can go down one slide.

23 And so it was purchased recently by Drs. Tracy  
24 Wang and Dr. Carren Wang. They would like to turn it into  
25 a home for them and their parents. And so in looking at

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1 this house, so it is RA-2. And so we're bumping into FAR,  
2 so the house as it stands currently is not conforming.

3 So, if you go down as slide, this is just for  
4 context.

5 We are on the corner of Cathedral and 27<sup>th</sup>.  
6 And, you know, so it's a really prominent corner.

7 Down one more.

8 This is the best view of the property to, you  
9 know, to sort of explain what's causing the issue. So,  
10 it's our belief that, and understanding that this was once  
11 a semi-detached house with a fully detached garage. And  
12 at some point along the way somebody came in and put an  
13 addition in between the two, which is that bayed, you  
14 know, section with the really sloped roofline.

15 There is another portion of the addition behind  
16 that that you cannot see because it jogs back. And then,  
17 additionally, the screen porch on the second floor.

18 Go down a slide.

19 This is just, you know, more neighborhood  
20 context. This is the front of the house.

21 Down a slide.

22 This is the neighboring property on Cathedral,  
23 the front and the back.

24 Next slide.

25 This is the -- we are also on an alley. So,

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1 this is our neighbor across the alley on 27<sup>th</sup> Street.

2 Next slide.

3 This is another view of that.

4 Next slide.

5 This is across the street. There is a large  
6 apartment building across the street from us.

7 Next slide.

8 Just another view of that large apartment  
9 building from the Cathedral Street view.

10 Next slide.

11 And the Cathedral Mansions that is on the other  
12 side of Cathedral.

13 So, just for context, there's quite a, you  
14 know, there's diverse housing types around us.

15 Next slide.

16 This is the site plan.

17 So, you can see existing footprints and then  
18 you'll see the small, you know, footprint of the addition  
19 on the right side.

20 So, in the grand scheme of the house this is  
21 pretty, pretty small, yet significant given that it is  
22 needing a variance.

23 Next slide.

24 So, this slide is an attempt to make clear  
25 where the issue is happening.

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1           So, on the floorplan in a light yellow, that is  
2 where the in-fill addition, so it not only went between  
3 but it went behind the garage as well.

4           I don't know why, but when constructing this,  
5 and I put a red bar on the image of the house to show that  
6 is concrete. So, they not only did a concrete floor, they  
7 did a, like, floor, they did a concrete ceiling which is  
8 also the floor deck to the first floor.

9           And so, between doing the concrete deck and the  
10 additions on that first floor, it's, it's creating a  
11 number of issues.

12           One, getting utilities around that, you can  
13 even see in those pictures below, there's a lot running,  
14 again, because is 12-bed, 12-bath, without central air, we  
15 will need to put, you know, all of these utilities in  
16 there for a properly functioning single-family home.

17           So, going around that concrete deck is proving  
18 difficult.

19           And then if you could go down one slide.

20           And so, this is showing what's happening above.

21           So, that concrete deck being the floor.

22           On the floorplan you can see where it jogs in,  
23 where one of the arrows is pointing. So, due to the  
24 concrete there is quite a bit of flooding that is  
25 happening in that area because they not only have change

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1 in ceiling planes, and wall planes, and construction  
2 material, it's just really porous.

3 So, water comes into that addition, that first  
4 floor addition. Water goes, you know, they have water  
5 damage into the basement.

6 It's and there are portion -- the connections  
7 are not great. Again, I don't quite know why they chose  
8 the, the materials they chose. Some portions you can pull  
9 away the dry wall and, like, see daylight through the  
10 brick veneer they used in part of it.

11 We're looking to remove that concrete deck. We  
12 want to do wood-framing. We want to unify, you know, make  
13 one continuous garage roof area. We want to make one  
14 continuous first-floor decking. We want to make one  
15 continuous exterior wall. So that's where that small  
16 addition is coming on the first floor.

17 Next slide. And then this is the second floor, so  
18 I'm referring to them as ground floor, first floor, second  
19 floor, and third floor. So this is the second floor where  
20 there was a porch added on, and, again, we're just having --  
21 you know, for a number of reasons, there's water issues  
22 happening. So, again, we would like to take that off, and,  
23 when we add back on, we would like to align it with the walls  
24 below from the addition we would like to create on the main  
25 floor.

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1           If you could go -- so these are the issues that I  
2 have spoken with OP about, and this is where OP is in  
3 agreement, you know, that this mix of materials, mix of  
4 construction types, you know, is creating some issues that we  
5 would like to solve.

6           The next slide. Oh, sorry. So this is the  
7 existing basement plan. And if you can go down a few until  
8 you reach the elevations, this is just showing the floor  
9 plans proposed and existing.

10 BZA CHAIR HILL: Can I interrupt you one second --

11 MS. JONES: Absolutely.

12           BZA CHAIR HILL: -- Ms. Jones? Madam Secretary,  
13 do you guys have this slide deck?

14           MS. MEHLERT: I thought we did. Let me check.  
15 No, we don't have it actually.

16           BZA CHAIR HILL: Do you not have it, or you just  
17 don't have it loaded? You don't have it?

18           MS. MEHLERT: Probably, we must not have gotten  
19 it, so if they could send it to --

20           BZA CHAIR HILL: Got it. Who would Mr. Young send  
21 it to?

22           MS. MEHLERT: They can send it to  
23 BZAsubmissions@dc.gov.

24           BZA CHAIR HILL: Okay. Mr. Young, do you have a  
25 second to do that?

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1 MR. YOUNG: To Keara or Mr. Reed or --

2 BZA CHAIR HILL: Yes.

3 MR. YOUNG: Okay. I'll do that. I'll do that  
4 now.

5 BZA CHAIR HILL: Okay. Ms. Jones, the reason why,  
6 it's just more convenient for the board to be able to, like,  
7 flip through them on their screen, and so if you give me one  
8 second until we get loaded up because it's somewhat complex.

9 MS. JONES: Yes, of course. I can touch on the  
10 ANC and HPRB while you guys are waiting if that's helpful.

11 BZA CHAIR HILL: Sure.

12 MS. JONES: Okay. We do have support from both of  
13 those entities for all three floors. When I initially  
14 scheduled ANC and HPRB, they were after each other. But then  
15 my ANC meeting got moved, and so I had historic firsts. And  
16 then the ANC said the historic meeting, they were going to  
17 follow through and approve, but then they said they wanted to  
18 wait to see what ANC said because we hadn't had that meeting.

19 I believe ANC filed their resolution with you guys today,  
20 and they are in full support.

21 So that's where we are with -- it was like an  
22 order of operations to get sort of a little wonky. And so  
23 HPRB, now that ANC has filed, they will follow behind them.

24 BZA CHAIR HILL: Okay. Ms. Jones, how did your  
25 clients find the house?

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1 MS. JONES: That I'm not sure. I know they were  
2 looking for something unique because they wanted something  
3 that could support four grown individuals enough space to  
4 sort of have their own space, and that had been sitting there  
5 for quite -- again, it had been vacant for a while. I don't  
6 know if it was on the market, but they saw it had the  
7 potential to, you know, fit their needs.

8 BZA CHAIR HILL: Got it. Okay.

9 MS. JONES: Yes. And --

10 BZA CHAIR HILL: Okay. I see it's in there. I'm  
11 sorry, Ms. Jones.

12 MS. JONES: It's okay.

13 BZA CHAIR HILL: Okay. We got the PowerPoint, and  
14 which slide were you on; do you recall?

15 MS. JONES: I was going to go to the elevations.

16 BZA CHAIR HILL: Got it. You were on --

17 MS. JONES: Right, yes.

18 BZA CHAIR HILL: One moment, one moment.

19 MS. JONES: Yes. And you can actually go to the  
20 existing elevation first, the slide just before, yes.

21 BZA CHAIR HILL: Mr. Young, is that slide 25?

22 MR. YOUNG: Twenty-six.

23 BZA CHAIR HILL: Twenty-six. Okay. All right.  
24 Great. Ms. Jones, please continue.

25 MS. JONES: Okay. So this front elevation, again,

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1 shows the existing, the property as it stands now. You can  
2 see the porch beyond on the second floor, a shot of the, you  
3 know, middle addition in between.

4 Next slide. And this was our proposed revised  
5 front elevation. So a couple of things that will change  
6 regardless due to conversations with the HPO is we won't have  
7 those railings. We're going to do brick parapets for the  
8 roof decks.

9 So this, you know, this shows the effort that  
10 we're trying to make. The owners are being very  
11 conscientious and, knowing that this is a, you know, historic  
12 property and, you know, has been here a very long time, we're  
13 going to be, you know, using brick. If we do the third  
14 floor, we're going to be using the slate shingles to mimic  
15 the mansard roof and, you know, just trying to take care and  
16 making this a more unified-looking structure.

17 Down a slide. So these are the existing side  
18 elevations. So the one on the left shows what it looks like  
19 from across the alley now. So, again, you know, we have the  
20 two additions on the first floor and then, again, the porch  
21 above. There's nothing changing on the facade that faces  
22 Cathedral.

23 Next slide. And here was our proposal for the  
24 revised elevation facing the alley.

25 So for the third floor, even though we had support

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1 from ANC and from HPRB, I know, you know, working with OP for  
2 this, it didn't, you know, that high bar for variance was  
3 kind of hard to, you know -- it wasn't considered to be  
4 reached for this. But we still want to make the argument  
5 that, for this house typology, you know, mansard roofs are  
6 historically continuous. You know, it's not something that  
7 those structures, you know, bump up and down in in terms of  
8 lower portions, so we would like to keep that architectural  
9 significance. I mean, I know it's not a historical  
10 significance, but, architecturally speaking, I feel like, you  
11 know, the fact that this is such a prominent property and  
12 structure. We would like to, you know, try to maintain that  
13 integrity, if possible. And I also believe that was touched  
14 upon in one of the letters of support, as well.

15 And if there are any questions.

16 BZA CHAIR HILL: Okay. I'm sure there will be  
17 questions. Before I get to them, however, can I just hear  
18 from the Office of Planning?

19 MS. MYERS: Good afternoon. Crystal Myers with  
20 the Office of Planning. I will just summarize our  
21 recommendation rather than go through the whole thing, unless  
22 you all would like me to do so. But I figure a summary might  
23 be more appropriate. We are recommending approval of the  
24 floor area ratio increase for the first two floors, but we  
25 are not in support of it on the third floor. Our

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1 recommendation is because we feel the applicant has provided  
2 sufficient justification based on the need to address  
3 structural weaknesses causing water drainage issues and  
4 utility installation challenges for the first two floors, but  
5 for the third floor we felt that there was not sufficient  
6 justification related to the lot or the building, so it  
7 didn't have enough of a practical difficulty that we had  
8 heard in this middle of the justification for this case.

9 So OP can only be in support for the first two  
10 floors. And with that, I will stay on record with the staff  
11 report but, of course, here for questions.

12 BZA CHAIR HILL: Thank you. Before I turn to the  
13 questions real quick, Mr. Young, is there anyone here wishing  
14 to speak?

15 MR. YOUNG: Yes, we have one witness.

16 BZA CHAIR HILL: Okay. Can we go ahead and hear  
17 from the witness real quick? Can the witness hear me? Can  
18 you hear me? Yes, I can kind of hear you.

19 MS. WANG: Okay. My name is Tracy Wang, and I'm  
20 here with my sister Carren Wang --

21 (Audio interference.)

22 MS. WANG: -- but we just wanted to make the case  
23 that, you know --

24 (Audio interference.)

25 MS. WANG: -- property because we live in the

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1 neighborhood and we've seen this house for a very long time  
2 and felt sorry that it was lying empty for so long. But we  
3 are in a situation where we are trying to blend our two  
4 households to be able to take care of our parents, and so for  
5 grading second and third floor, basically, primary --

6 (Audio interference.)

7 MS. WANG: -- to make spaces for my sister and  
8 myself and allowing the first floor to be for --

9 BZA CHAIR HILL: Okay. Ms. Wang, can you hear me?  
10 Ms. Wang?

11 MS. WANG: Yes, we can hear you.

12 BZA CHAIR HILL: You're the applicant, correct?

13 MS. WANG: I am, yes.

14 BZA CHAIR HILL: Yes. Hang on a second. I  
15 thought there was a witness. Mr. Young, is there a witness?

16 MR. YOUNG: Yes, there is. It's Aniko Szigetvari.  
17 Sorry if I butchered that.

18 BZA CHAIR HILL: Okay. Ms. Wang, that's okay.  
19 We'll just come back to you. Your architect is doing a  
20 lovely job at this point.

21 Ms. or Mr. Szigetvari, can you hear me?

22 MS. SZIGETVARI: Yes, yes. Can you hear me?

23 BZA CHAIR HILL: Yes. Could you introduce  
24 yourself for the record?

25 MS. SZIGETVARI: Yes. Thank you. Very nice to

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1 meet you. My name is Aniko Szigetvari. I live next door at  
2 2702 Cathedral Avenue. We have a common wall with what used  
3 to be a guest house.

4 BZA CHAIR HILL: Can I just interrupt you one  
5 second? As a member of the public, you'll have three minutes  
6 to give your testimony, and you can begin whenever you'd  
7 like.

8 MS. SZIGETVARI: Okay. Perfect. Thank you. So  
9 I'll be brief. So the expansion actually proposes  
10 significant impacts on our living condition and quality of  
11 life. What has not been shown on the drawings is what the  
12 building does on my side. It significantly increases the  
13 wall area, not only expands over the kitchen to the balcony  
14 and up but also out, so it is a huge additional wall that's  
15 being put in that's completely going to block the sun for me  
16 in the morning. It also creates like a cage effect for me  
17 where it's just wall all the way to what is garage, utility  
18 room, and even then it's going to be semi-wall created  
19 because they're putting up a patio that will have a privacy  
20 fence. So on one side right now, I have sun and some views,  
21 I'm just going to have wall, basically, almost running to  
22 the alley.

23 It's a huge impact. I don't know if Ms. Jones has  
24 those drawings or not. I have it on the computer. I can  
25 send it over later.

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1           So we're really worried. We've been communicating  
2 that to, I think, Tracy Wang, one of the owners. That is a  
3 huge consideration and really concern for us. I've been  
4 living in this house for 17 years, since 2007, and this will  
5 have a huge impact for us. There are windows. All we'll be  
6 able to see is just wall, wall, wall. And the sun is not  
7 going to hit our backyard for basically the morning, entire  
8 morning.

9           They're not just going up, they're going out for  
10 me in order to connect the front of the house all the way to  
11 the back that you haven't seen in the drawings.

12           BZA CHAIR HILL: I see. What's your address  
13 again, please?

14           MS. SZIGETVARI: 2702 Cathedral Avenue. I have  
15 the common wall with the building. And if you allow me to  
16 share, I can show you what this looks like from the back for  
17 me.

18           BZA CHAIR HILL: No, I appreciate -- you can't  
19 share, I can't share the computer thing.

20           MS. SZIGETVARI: No worries. But it's just  
21 basically, it significantly increases the wall. The back  
22 currently is a see-through mosquito net thing. It's going to  
23 go up walls three floors and out for me. Plus, on top of the  
24 garage, there's going to be privacy walls for a planned  
25 patio, so all I'm going to see is wall, wall, wall, and more

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1 wall, and no sun.

2 BZA CHAIR HILL: Okay. Did you go to your ANC  
3 meeting?

4 MS. SZIGETVARI: No, I wasn't aware there was one.

5 BZA CHAIR HILL: Okay. All right. You said 2702  
6 Cathedral?

7 MS. SZIGETVARI: Yes. There's only one attachment  
8 to that building. That's me.

9 BZA CHAIR HILL: Oh, I see. Okay. Okay. How do  
10 you say your last name?

11 MS. SZIGETVARI: Szigetvari.

12 BZA CHAIR HILL: Szigetvari. Okay. Just give me  
13 a minute, okay?

14 MS. SZIGETVARI: Okay.

15 BZA CHAIR HILL: All right. So let me put you on  
16 mute or just mute yourself for a second.

17 MS. SZIGETVARI: Yes, I can mute myself.

18 BZA CHAIR HILL: Okay. Ms. Jones, let me do this  
19 now. So go ahead. Can my fellow board members, they can ask  
20 kind of whatever you want to ask. I'm going to have a couple  
21 of questions now about Ms. Szigetvari's home and the  
22 relationship as to what the proposal is, but does anybody  
23 have any questions for the architect?

24 Go ahead, Dr. Imamura.

25 COMMISSIONER IMAMURA: Ms. Jones, thank you for

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1 walking us through some of the challenges for this particular  
2 project. So now that we have Ms. Szigetvari's comments, I  
3 guess two questions. One, I don't see a shadow study in the  
4 record. Did you complete a shadow study?

5 MS. JONES: We did not. That was something I did  
6 discuss with the owners at one point, but one has not been  
7 completed.

8 COMMISSIONER IMAMURA: Okay. Essentially, what I  
9 see here, certainly in agreement with OP's assessment, sort  
10 of the addition that you're proposing to overcome some of the  
11 structural deficiencies and issues that you've had on the  
12 first and second floor. The third floor, the top floor, it  
13 appeared as if there was a bump-out for a bedroom, and so I  
14 guess my question is is that an extension just right above,  
15 in alignment with what you're calling the porch or the deck;  
16 is that right?

17 MS. JONES: No. It goes slightly beyond because  
18 what we're looking to do is align all of the walls. So it's  
19 like we're adding, like, three feet on the first floor and  
20 then probably, like, almost the equivalent on the top floor,  
21 and then we stayed consistent with that to the third floor.

22 COMMISSIONER IMAMURA: Right. Okay. So it's all  
23 in the same plane.

24 MS. JONES: Exactly.

25 COMMISSIONER IMAMURA: Okay. But where the

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1 existing porch, screened-in porch, you're saying it's about  
2 three feet beyond that. Is that --

3 MS. JONES: Right. It all started, you know, what  
4 we're drawing off of is on that first floor, on that existing  
5 first floor plan, the addition -- again, I don't know why --  
6 the brick wall that abuts with the garage goes along and then  
7 it cuts back and then it goes back again, and it's that  
8 corner that floods.

9 COMMISSIONER IMAMURA: Sure.

10 MS. JONES: And so we just wanted to align, the  
11 new wall that we build, we just wanted to align it so that it  
12 doesn't create that jog anymore, and that's where that three  
13 feet came from.

14 COMMISSIONER IMAMURA: Okay. I'm just trying to  
15 ascertain the additional shadow or shade that --

16 MS. JONES: Right. Yes.

17 COMMISSIONER IMAMURA: -- 702 will have because of  
18 that third floor addition.

19 MS. JONES: Correct. Yes.

20 COMMISSIONER IMAMURA: All right. I guess the  
21 relief or the variance for the first two floors, that three-  
22 foot additional bump-out, I guess, is nominal, but I do  
23 understand --

24 MS. JONES: Yes. And she is correct that it would  
25 be a morning impact because it's south-facing. Both of those

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1 walls are south-facing, so it would be a morning impact.

2 COMMISSIONER IMAMURA: Okay. All right. I know  
3 where I stand on this, and I think a shadow study would be  
4 helpful. But I'm interested to hear where my other board  
5 members are on this.

6 So thank you very much. I think you did a great  
7 job, Ms. Jones, explaining some of the challenges and  
8 intricacies, nuances, of this. So thank you.

9 BZA CHAIR HILL: Okay. Mr. Blake and Mr. Smith.

10 MEMBER BLAKE: I have a quick question. In  
11 looking at the requested relief, we are asking for 1.98 for  
12 relief, but the Office of Planning has looked at only the  
13 first two floors, which would take the, by my calculation,  
14 take it up to 1.95. The application request, though, is for  
15 1.98, so I'm not sure how we approve only a portion of that  
16 when the request is not for the subset of that.

17 So I kind of either want to understand if there  
18 are any other matters that you could include to justify the  
19 second half up the third floor beyond that is a necessity to  
20 have that additional bedroom or something like that or some  
21 other issue that creates a more substantial burdensome issue  
22 or practical difficulty. The other thing is I acknowledge  
23 that the request is binary and that we can't approve 1.98 --  
24 or 1.95. We have to approve 1.98 or nothing. So that would  
25 have to be revised.

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1           And I am concerned a little bit about the shadow  
2 on that other, the neighboring property. And I would  
3 actually be curious to know -- so that question is for you,  
4 just how would you address those two issues. I think that's  
5 two. And the Office of Planning, I wanted to get a sense of  
6 how you address what basically is the third prong of the test  
7 with regard to that shadowing impact on the neighboring  
8 property.

9           BZA CHAIR HILL: Ms. Jones, do you get the first  
10 couple of questions?

11           MS. JONES: Yes. I mean, again, in terms of  
12 practicality, you know, it's hard to, you know -- like I  
13 said, we don't have as much as a practical argument for that  
14 third floor as much as like an architectural integrity  
15 argument for the third floor. And, yes, you know, again, a  
16 sun study or shadow study, if, you know, I'm approved to get  
17 one, I would, you know -- like I said, I spoke previously  
18 about this because, as Aniko said, we have been going, she  
19 has been going back and forth, you know, asking questions  
20 here and there regarding the addition. And, you know, we did  
21 provide an elevation -- oh, sorry.

22           BZA CHAIR HILL: Ms. Jones, I'm just going to  
23 interrupt you one second. Mr. Smith, did you have thoughts?

24           MEMBER SMITH: What Mr. Blake was saying about --  
25 I'm really struggling with this bifurcation. We either

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1 approve one or we don't. As far as I read the staff report,  
2 it doesn't matter about the bifurcation. To me, the Office  
3 of Planning recommended denial of the application because we  
4 can't bifurcate it. The FAR is the FAR.

5 So I agree with him in the sense that I think you  
6 probably need to think through your arguments about the  
7 reason for practical difficulty for that third floor beyond  
8 an architectural integrity. I don't buy that argument; I'll  
9 be completely transparent with you. I do not buy that  
10 argument that, because you don't have a third floor, the  
11 architectural integrity of this building or the character  
12 would be compromised completely. I buy two percent of that  
13 argument.

14 So I think you probably want to revisit that  
15 question about practical difficulty or, honestly, remove that  
16 third floor.

17 BZA CHAIR HILL: Okay. So I can't tell where Dr.  
18 Imamura is. I love how you can watch screens. So, Dr.  
19 Imamura, do you need something else? When you say -- what is  
20 your thoughts on the third floor?

21 COMMISSIONER IMAMURA: You know, I disagree  
22 vehemently with Board Member Smith on that. I understand the  
23 applicant -- by the regulations, I understand, by the measure  
24 in which we're supposed to apply the regulations here. But  
25 what does that -- zoning isn't perfect, and it doesn't take

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1 into consideration urban design, and I think there is an  
2 argument to be made here about the integrity and character  
3 and typology of this property in the neighborhood as a whole.

4 It will look incomplete. It will look bad. This is one of  
5 those instances where the letter of the regulation here does  
6 not take into consideration some of these nuances.

7 I'm looking at the plan here. I understand, if I  
8 may, Ms. Aniko's concern about the shadows in the morning.  
9 We're talking about a difference of three feet, at least for  
10 the first two floors. Architecturally, I'm looking at the  
11 plan seeing if there's a way, and I don't know, Ms. Jones,  
12 maybe you can add a little more context here about some of  
13 the iterations that you looked at. I understand the way  
14 you've drawn the plans. It's a little cleaner and, for  
15 construction, makes sense. I'm wondering if did you at all  
16 in any of your iterations in that three feet there try to  
17 dial that wall back, the east, I guess, in plain view, it's  
18 the east, or the west wall rather where the garage is.  
19 Because then what we're talking about in terms of the shadow  
20 is just that third floor, the extension of the bedroom there.

21 But, ultimately, to me, it needs to be a complete  
22 project, all three floors, with the mansard roof. And I  
23 acknowledge that the applicants have gone to the HPRB. The  
24 HPRB has seen this. They've already weighed in on this. It  
25 is to protect the integrity and character of the

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1 neighborhood.

2 So that's where I stand, Mr. Chairman. I guess,  
3 Ms. Jones, this gives you an opportunity to at least provide  
4 some additional comment on what other iterations you tried,  
5 why that didn't work, and the why is going to be really  
6 important here because I do agree with Board Member Smith and  
7 Board Member Blake that it's either all or nothing here. But  
8 there is a little gray here, and it's about that three feet  
9 and dialing that wall back.

10 So tell me what did you do. What were your other  
11 iterations?

12 MS. JONES: Yes. I mean, in the whole grand  
13 scheme, we went through a lot of iterations, you know, before  
14 landing here. Based on what you're saying, so one of the  
15 other ways, I believe, what you're saying is to pick a  
16 different point along that addition to align, and, you know,  
17 so there is, you know, structurally, I'd have to go back and  
18 look at that.

19 COMMISSIONER IMAMURA: What I see here, Ms. Jones,  
20 is that it's along that plane. We're talking about that  
21 plane, and the corner of that bay is where you're  
22 establishing your point. It makes sense organizationally, so  
23 I get that. I'm just wanting to find out, I think, in order  
24 to work with, be a good neighbor, right, so work on that  
25 plane, I think, is important, to dial that back just a bit.

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1           But that's where I stand, Mr. Chairman. This  
2 needs to be a complete project, all three floors, to protect  
3 the integrity of the neighborhood and the character of the  
4 building and the typology of it. It's, in my view,  
5 architecturally, that's a must. Otherwise, this looks  
6 incomplete and it will look as it is now. So the applicant  
7 is trying to do their due diligence here and try their best,  
8 as I see it, to make this whole.

9           And I guess it was a vacant property, Ms. Jones,  
10 for a while, so it's important to have somebody there to put  
11 this back into good repair for the neighborhood and for the  
12 neighbors. And I don't know where Ms. Aniko will stand on  
13 that, but I think working with the neighbor to maybe identify  
14 a new plane might be helpful, and then it's an all or  
15 nothing, as Board Member Blake and Board Member Smith has  
16 pointed out.

17           BZA CHAIR HILL: Okay. What's happening when the  
18 architects all get together and they yell at each other?  
19 It's called gestalt or something. It's like you all -- it's  
20 a French word.

21           COMMISSIONER STIDHAM: Like a charrette?

22           BZA CHAIR HILL: Yes, there you go. We're having  
23 a charrette, how fantastic, right here at the BZA hearing.  
24 So what I think would be helpful, Ms. Jones, is why don't you  
25 go ahead -- sorry. I think that you're kind of fortunate

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1 that you got the draw that you got, okay, with the  
2 commissioner being the architect for us kind of. So, you  
3 know, I don't know. I think that you could go back and take  
4 a look at what has just been discussed and see if you'd like  
5 to fine-tune your argument about the third floor, right. And  
6 it seems to be you're getting at least some traction, and I  
7 don't know whether you got -- you have to get three, right?  
8 And so I don't know whether you're going to get three or not,  
9 and I'm kind of on the fence, so I don't know if that's  
10 helpful or not.

11 And then, you know -- Mr. Smith, I'll get you.  
12 And then, like, you know, fine-tune your argument, I guess,  
13 about what you had already started to talk about in terms of  
14 that third floor. And then a shadow study that shows what  
15 you are now proposing to us, right, and that could be  
16 something that we could take a look at.

17 Mr. Smith, you had your hand up.

18 MEMBER SMITH: So I agree that, yes, it takes  
19 three. But I do agree with -- and I'm not an architect, so,  
20 you know, I agree with Dr. Imamura that it would be complete.

21 But, again, like he had stated, architectural design and  
22 zoning sometimes conflict, and I have to read the  
23 interpretation, I have to read through the three prongs of  
24 hearings test, and I do not come on the side that  
25 architectural design rises to the level of a practical

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1 difficulty. If that's the case, we would see 25 million  
2 practical difficulty variances because of architectural  
3 design and completeness, which I don't think meets the test,  
4 I believe, and the Historic Preservation Office is on record  
5 stating that they disagree that the addition is necessary to  
6 preserve historic integrity of the building.

7 So, right now, I'm still not convinced that a  
8 complete design, having a complete design rises to the level  
9 of a practical difficulty. So I would recommend, you know,  
10 expounding or expanding on something beyond the architectural  
11 design.

12 BZA CHAIR HILL: I'm the wiffle-waffle on --

13 MS. JONES: I also just wanted to clarify it's not  
14 that we're arguing for historical integrity, we're arguing  
15 for architectural integrity.

16 MEMBER SMITH: Same thing. Same thing. Honestly,  
17 same thing.

18 BZA CHAIR HILL: You can make whatever argument  
19 you want, right. Architecturally, we have not had that  
20 argument stick. That's not been the practical difficulty  
21 that it architecturally works better, that we have the  
22 architect who's like, you know, architecture is architecture,  
23 and so, you know, you're going to get the architect. And  
24 then you've got the former zoning person in the other thing  
25 saying, no, the regulations are the regulations. So you're

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1 kind of stuck, Ms. Jones. I'm not exactly sure where you  
2 are.

3 And, Mr. Blake, do you want to see this thing  
4 without the third-floor addition or with the third-floor  
5 addition and an argument?

6 MEMBER BLAKE: I would like to see that impact I  
7 said with the shadow study because if the third floor is the  
8 issue that creates the, could potentially create a problem  
9 for the neighbor, then that's something I want to factor into  
10 the latter prong of the test. So that's what I would focus  
11 on for the analysis, and I would like to see some other  
12 strengthening arguments for the variance. Okay.

13 BZA CHAIR HILL: Okay. So I'm just trying to  
14 figure out how to get through my day here now that -- this  
15 not live thing is sometimes weird. So let me take a break,  
16 okay? Give me three minutes, and let me take a break. I  
17 need a minute, okay? I'll come right back. Thank you.

18 (Whereupon, the above-entitled matter went off the  
19 record at 1:48 p.m. and resumed at 1:49 p.m.)

20 BZA CHAIR HILL: Okay. Ms. Jones, can you hear  
21 me? Okay. So this is what I think I would like to see. I  
22 think you can -- it's your application, and you can talk with  
23 your client, and you can see what they'd like to do. What  
24 I'd like to see is what it looks like without the third  
25 floor, okay, and then also the shadow study the way you're

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1 proposing it without the third floor. That would bring your  
2 application down, the FAR request, I think, down to 1.95, so  
3 everything would then line up with what is the request. So  
4 that's the first thing.

5 And then you would show a shadow study, and that  
6 would then, and I'm going to call you Ms. S., Ms. S. can see  
7 that shadow study is how that works. I think that that third  
8 floor is going to be problematic for your client, as well as  
9 potentially more impactful on the shadowing.

10 If, however, you would like to stick with what  
11 you've got and go with Dr. Imamura and try to do the third  
12 floor, you know, three feet back, whatever it is, and make  
13 the third floor argument, you are welcome to do that. I  
14 don't necessarily think that's the way I would go. So you  
15 all can do what you want to do. Right.

16 So how long do you think it would take you to do  
17 those things?

18 MS. JONES: Two weeks.

19 BZA CHAIR HILL: Okay. Because you've got to talk  
20 to your client. Your client is in the air somewhere flying  
21 over something, and so, you know, you can convey this hearing  
22 and what I'm trying to share with you. And then you would  
23 change the drawings. OP would have to take a look at it  
24 again, although they would probably get whatever. You do the  
25 shadow study, you talk with the neighbor there and the

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1 neighbor maybe can pop something into the record as to she's  
2 seen the shadow study and, you know, understands, and then I  
3 think that will take more than two weeks, although I'd love  
4 to get you back here on the 5th, although I'm pretty much  
5 filling up the 5th pretty fast.

6 Go ahead, Dr. Imamura.

7 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.  
8 Ms. Jones, the shadow studies aren't going to be enough to  
9 convey the information that you need to. I think you're  
10 going to need -- and I've asked, I've mentioned this before  
11 today -- you're going to need some axonometric drawings of  
12 some kind, some perspectives, to illustrate that better. So  
13 it's a little difficult to see both in plain view, as well as  
14 in, like, Google Earth or whatever. So just make sure that  
15 you include some perspectives on that back side.

16 MS. JONES: Noted.

17 BZA CHAIR HILL: And I guess that would, again, be  
18 for whatever you and your client decide to do. But, again,  
19 the next time, it's going to be a yes or no, right, and if  
20 you come forward with asking for a lot more FAR that's going  
21 to get approved, it will get kicked down to a no and then  
22 you're back at the beginning of the line. I'm just saying,  
23 right?

24 So Ms. Mehlert, how much stuff do we got on the  
25 5th now?

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1 MS. MEHLERT: There's a few cases on the 5th. So  
2 one thing I was going to note is that the ANC commissioner is  
3 here now if you wanted to hear from them.

4 BZA CHAIR HILL: Okay. I will get to them in a  
5 second, then.

6 MS. MEHLERT: I was actually going to suggest the  
7 June 26th hearing. I'm assuming it's a continued hearing.  
8 We don't have a hearing on June 19th, so if you wanted to  
9 first suggest submission dates, you could give the applicant  
10 three weeks until June 12th and then responses by June 19th  
11 and then the hearing on the 26th.

12 BZA CHAIR HILL: Okay. I think we're going to do  
13 that. I'm not going to be here on the 26th.

14 (Simultaneous speaking.)

15 BZA CHAIR HILL: Oh, you're not here on the 26th  
16 either? Oh, that's not good. All right. Then we couldn't  
17 do it on the 26th. Let me see. So we're not here on the  
18 3rd, so the next time we'd be here on the 10th.

19 MS. MEHLERT: We're here on the 3rd. We don't  
20 have a hearing on the 10th of July.

21 BZA CHAIR HILL: How many do I have on the 3rd?

22 MS. MEHLERT: You have two decision cases and six  
23 hearing cases.

24 BZA CHAIR HILL: Okay. All right. Okay. So let  
25 me get to the commissioner. Commissioner, could you

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1 introduce yourself for the record?

2 MR. KRIPKE: Hello, everybody. Sorry I'm coming  
3 in late. I had a conflict at this specific time. My name is  
4 Gawain Kripke. I'm the ANC commissioner for ANC 3C07, which  
5 is inclusive of this property.

6 BZA CHAIR HILL: Okay. Commissioner, are you at  
7 the MLK Library?

8 MR. KRIPKE: I am.

9 BZA CHAIR HILL: Okay. All right. Good, good.  
10 That's not your ANC, Commissioner.

11 MR. KRIPKE: I'm allowed by law to depart from ANC  
12 commissioner.

13 BZA CHAIR HILL: All right. Let's see. So,  
14 Commissioner, I guess, if you want to give your testimony, go  
15 ahead.

16 MR. KRIPKE: I'll just be super quick just to say  
17 that we have been talking to the owners and the architect  
18 about this project. Our ANC commission had a committee  
19 meeting about the event, which the public was invited to, to  
20 discuss it. We had presentations on it and had some  
21 discussion around it. In addition, the Woodley Park  
22 Community Association has communicated to its membership  
23 about the project and, notwithstanding Ms. S.'s objection,  
24 which I, unfortunately, wasn't here for but I haven't heard  
25 until today, we had heard no other objections to the project

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1 or concerns about it. In fact, we've heard quite a few  
2 positive comments on the project.

3 We passed a resolution on Monday in support of the  
4 project to support it with the BZA application and also with  
5 HPRB without any reservations. So that's the position of the  
6 ANC at this point and that I endorse.

7 BZA CHAIR HILL: Okay. Thanks, Commissioner. How  
8 do you say your name, Miss --

9 MS. SZIGETVARI: Szigetvari.

10 BZA CHAIR HILL: Szigetvari. I mean, everybody is  
11 calling you Aniko --

12 MS. SZIGETVARI: You can call me Aniko. It's  
13 fine.

14 BZA CHAIR HILL: Okay. Well, Ms. Aniko, then,  
15 like, okay, Ms. Aniko just was concerned about the shadowing.  
16 I think she's trying to figure out what's actually going to  
17 go on.

18 All right. So then, Ms. Jones -- what date, Ms.  
19 Mehlert, did you mention?

20 MS. MEHLERT: So we had talked about going to  
21 possibly July 3rd since it looks like June 26th you guys  
22 aren't available.

23 BZA CHAIR HILL: Right. So July 3rd. If we do  
24 July 3rd, when do we need stuff from people?

25 MS. MEHLERT: We could just push all those

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1 deadlines back a week, so we could have submissions due by  
2 June 20th since the 19th is a holiday and then responses by  
3 June 27th and then the hearing on the 3rd.

4 BZA CHAIR HILL: Okay. Ms. Jones, can you hear  
5 me? Do you understand everything?

6 (No audible response.)

7 BZA CHAIR HILL: Okay. So please contact Ms.  
8 Aniko just so she knows, you know, then maybe we can get  
9 something from Ms. Aniko that at least she's seen the shadow  
10 study and understands it. And then, again, what I'd like to  
11 see again is without the third-story relief and what the  
12 shadowing looks like. And then, if you want to, go ahead and  
13 give your other thing with the third floor but -- well, I  
14 guess you have to choose. And if you choose --

15 MS. JONES: That's my question. If we do, you  
16 know, just, you know, for the sake of time and effort, if the  
17 owners say, all right, you know, let's just do the two  
18 floors, do we need to amend our application in order to get a  
19 -- that's something we can do, we can just amend the ask, as  
20 opposed to doing a new application?

21 BZA CHAIR HILL: Yes, I believe so.

22 MS. JONES: Okay.

23 BZA CHAIR HILL: And the Office of Zoning can help  
24 you with that. Okay. Any final questions, Ms. Jones?

25 MS. JONES: No. Thank you guys so much for the

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1 robust conversation and feedback. I appreciate it.

2 BZA CHAIR HILL: Charrette. It was a charrette.

3 MS. JONES: Or the charrette, yes.

4 BZA CHAIR HILL: Okay. Very good. Okay. All  
5 right. I'm going to close this portion of the hearing in the  
6 record, except for what we've asked for, and we will be back  
7 here on July 3rd.

8 MS. MEHLERT: That's a hearing, Mr. Chairman?

9 BZA CHAIR HILL: I'm sorry. Right. I'm sorry.  
10 For a continued public hearing, limited scope, on the issues  
11 that were brought forward today.

12 COMMISSIONER IMAMURA: I will add that, on some  
13 days, the BZA is more fun than the Zoning Commission.

14 BZA CHAIR HILL: Was this one of those days?

15 COMMISSIONER IMAMURA: It is.

16 BZA CHAIR HILL: Oh, hey, there you go. That's  
17 great. Well, I mean, for the first, like, five times you  
18 were with us, like, we had nothing to do, like you scared  
19 everybody away. All right. Okay.

20 We've got another two, okay, and I suggest we just  
21 hum along. We'll take a little break maybe after this next  
22 one. And then, Ms. Mehlert, you may call our next case.

23 MS. MEHLERT: The next case is Application No.  
24 21121 of R Capital Group, LLC. This is a self-certified  
25 application pursuant to Subtitle X, Section 901.2, for

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1 special exceptions under Subtitle E, 5201; and the rear yard  
2 requirements of Subtitle E, Section 207.1; and the lot  
3 occupancy requirements of Subtitle E, Section 210.1. This is  
4 to construct a rear stair addition to provide access to a  
5 second-story balcony of an existing three-story attached  
6 building for use as a two-unit flat. It is located in the  
7 RF-1 zone at 1364 Perry Place, Northwest; Square 2827S, Lot  
8 139.

9 BZA CHAIR HILL: Okay. If the applicant is here,  
10 if they could please introduce themselves for the record.

11 MR. DUPONT: Can you hear me?

12 BZA CHAIR HILL: Yes. Could you introduce  
13 yourself for the record?

14 MR. DUPONT: Yes. Steven Dupont. Thank you for  
15 your hearing this.

16 BZA CHAIR HILL: Okay. Great. Mr. Dupont, is  
17 your camera working, just so I know?

18 MR. DUPONT: It should be. I'm not used to this  
19 particular app. There we go.

20 BZA CHAIR HILL: Oh, there we go. Okay. Great.  
21 All right. Mr. Dupont, nice to see you.

22 MR. DUPONT: Nice to see you. Pardon my  
23 disheveled appearance. I'm out of town working on the family  
24 house.

25 BZA CHAIR HILL: Okay. That's great. That's all

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1 right. Okay. Mr. Dupont, if you want to go ahead and walk  
2 us through your client's application and why you believe  
3 they're meeting the criteria for us to grant the relief  
4 requested, and you can begin whenever you'd like.

5 MR. DUPONT: Okay. We jumped into this remodeling  
6 of a single-family home into a two-unit flat, and sometimes,  
7 when things seem so simple, they catch you upside the head.  
8 So we forgot about a rear entrance for the upstairs  
9 apartment, and, when you park in the rear, that means you  
10 have to walk out the alley and all the way down to the street  
11 and then back to the front door in order to get into your  
12 apartment. The solution is to add this helical stair at the  
13 back from the parking area up to the second-floor rear  
14 balcony.

15 Additional complication. When Mr. LeGrant was the  
16 zoning administrator, he would allow two-foot balconies  
17 without a problem, FAR or anything else. And I had drawn the  
18 three-foot floor. I was called on that during the DOB  
19 review, and, for some reason, I forgot to shorten them. I  
20 forgot to shorten them in the review or didn't notice it  
21 either, so the permit was approved with the balconies too  
22 big. We are cutting them back to where they should be, but,  
23 in order to make that second-floor stair work, I need to have  
24 part of the second-floor balcony projecting into the 20-foot  
25 rear yard setback. So we end up with 20 or 30 square feet,

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1 29 or 30 square feet of area in the rear yard setback, half  
2 of which is part of the helical stair.

3 And there's also a lot occupancy issue. I find  
4 that there's a difference of opinion between gross floor area  
5 and FAR as to whether balconies count, and I had not been  
6 counting the balconies as floor area or as lot occupancy. So  
7 I'm a 0.9 over the 60 percent by my count.

8 And that 17.3 actually represents -- it's a  
9 mistake. It's the area that's in the rear yard setback  
10 that's the percentage of lot occupancy, and it's less than  
11 the 60.9. It would be 59-something, so you can disregard the  
12 17.3. It should be more like 18-something.

13 BZA CHAIR HILL: Okay. Wait a minute. So what  
14 are your numbers that you're requesting for also now? I'm a  
15 little confused.

16 MR. DUPONT: Looking at 135, the final revision of  
17 --

18 BZA CHAIR HILL: Whoa. What's 135?

19 MR. DUPONT: Form 135.

20 BZA CHAIR HILL: Okay.

21 MR. DUPONT: I originally was only asking for the  
22 rear yard setback, but it turns out I need to ask for lot  
23 occupancy also. And if you look at the rear yard setback, I  
24 have a number 17.9. That shouldn't really be there. That is  
25 me overthinking things. It's the area, it's actually in the

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1 setback over the full lot area, so it doesn't really apply to  
2 zoning.

3 Lot occupancy is 60.9, so one and a half-percent  
4 request. The rear yard setback is 3 foot 11 and 3/8ths into  
5 the rear yard is at the actual stair. For the rest of the  
6 balcony, it's a much lesser number. If you look at sheet  
7 2.2, A002.2, you'll see that the actual projection of the  
8 rear yard is only 20 and a quarter inches, 22 and a quarter  
9 inches, but the stair projects further because it's, of  
10 course, a different shape.

11 Looking at sheet A004.4 is an isometric and gives  
12 you a better sense of what's actually going on here.

13 BZA CHAIR HILL: What did you just say, Mr.  
14 Dupont? Where are you sending me to?

15 MR. DUPONT: A004.4.

16 BZA CHAIR HILL: In which exhibit?

17 MR. DUPONT: I don't know the exhibit number  
18 offhand. I guess --

19 BZA CHAIR HILL: Are you looking at your updated  
20 plans?

21 MR. DUPONT: I'm looking at my --

22 BZA CHAIR HILL: Go ahead, Mr. Smith. Exhibit 5?

23 MEMBER SMITH: I think it's 5, the architectural  
24 plan.

25 MR. DUPONT: I'm sorry. I'm not looking at the

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1 BZA. I'm looking at --

2 BZA CHAIR HILL: That's all right, Mr. Dupont.  
3 Which one you say? A00 what?

4 MR. DUPONT: 4.4. It's a rear isometric.

5 BZA CHAIR HILL: Mr. Dupont, I'm just learning  
6 about spiral stair now being called a helix stair. Isometric  
7 doesn't, you know, like, you know, right --

8 MR. DUPONT: It's a rear angle sort of perspective  
9 view.

10 BZA CHAIR HILL: Okay. Great. Okay. I got to  
11 figure out what exactly you're requesting, so let me get  
12 there in a minute. So do you have anything else for us, Mr.  
13 Dupont?

14 MR. DUPONT: Just this. It's that circular stair  
15 going up to a second-floor balcony.

16 BZA CHAIR HILL: Okay.

17 MR. DUPONT: And the purpose, of course, is to  
18 allow the person on the upper apartment, after parking, to  
19 get into their apartment without having to walk all the way  
20 around the block, which, late at night or at other times,  
21 might not be a great --

22 BZA CHAIR HILL: No, I got it. I mean, you're  
23 right. You started a project, and it kind of ballooned in  
24 different ways.

25 MR. DUPONT: I just made a mistake.

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1 BZA CHAIR HILL: Okay. Let's see. Let me turn to  
2 the Office of Planning real quick.

3 MS. THOMAS: Yes. Good afternoon, Mr. Chair,  
4 members of the board. I'm sitting in for Matt Jesick, and we  
5 rest on the record in support of this application.

6 BZA CHAIR HILL: Okay.

7 MS. THOMAS: For the lot occupancy and rear yard.  
8 As stated by the applicant, we do have lot occupancy  
9 proposed at 60.9 percent, as he correctly stated.

10 BZA CHAIR HILL: Got it. Ms. Thomas, we can hear  
11 whoever is behind you right now, just so you know. Maybe go  
12 on mute. Okay. So the rear yard is going to be 16 feet 5  
13 inches and then the lot occupancy is the 60.9.

14 MR. DUPONT: Yes. It's 60.5 at 12 feet above  
15 grade, but, below that, there's no obstruction below that.  
16 It's just where the stair swings out --

17 BZA CHAIR HILL: Yes, that's fine. I'm just  
18 trying to make sure you get approved for what you need.

19 MR. DUPONT: Yes.

20 BZA CHAIR HILL: So it's the rear yard at 16 feet  
21 5 inches is what you need relief for.

22 MR. DUPONT: Yes, sir.

23 BZA CHAIR HILL: Okay. All right. And then the  
24 lot occupancy is 60.9.

25 MR. DUPONT: Yes, sir.

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1 BZA CHAIR HILL: Okay. Mr. Young, is there anyone  
2 wishing to speak?

3 (No audible response.)

4 BZA CHAIR HILL: Okay. Do my fellow board members  
5 have questions of the applicant or the Office of Planning?  
6 No. Okay.

7 Mr. Dupont, thank you so much for your time. I  
8 hope you have a nice day.

9 MR. DUPONT: Thank you very much.

10 BZA CHAIR HILL: Okay. I'm going to close the  
11 hearing on the record. Mr. Young, could you please excuse  
12 everyone? Okay.

13 I was a little unclear as to what I was -- how the  
14 argument was going around, but eventually I got there. So  
15 I'm comfortable granting the relief requested. I'm actually  
16 going to rest on the Office of Planning's report and their  
17 particular analysis, and then I am encouraged that the ANC  
18 has also weighed in. I'm sorry. The ANC has not weighed in.

19 I got something from a commissioner which is an email, which  
20 is not something that actually we can give great weight to.  
21 But at least there has been some outreach performed.

22 I'm going to be voting in favor of the  
23 application. I didn't particularly articulate that well.  
24 But, Mr. Smith, do you have anything you'd like to add?

25 MEMBER SMITH: No. I agree with your assessment

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1 of this particular case, and I would be in support of the  
2 application based on OP's staff report and the information  
3 within the record. But we probably should grant the relief  
4 based on the numbers that you just stated, so rear yard at 16  
5 feet 5 inches and lot occupancy at 60.9 percent and place  
6 that in the record, just ensure it's in the record. Okay.

7 BZA CHAIR HILL: Thank you. Agreed. And, Dr.  
8 Imamura, do you have anything you'd like to add?

9 COMMISSIONER IMAMURA: Mr. Chairman, I agree with  
10 Board Member Smith, and I think you summarized it quite fine,  
11 and I'm prepared to vote in support.

12 BZA CHAIR HILL: Thank you. Mr. Blake.

13 MEMBER BLAKE: I'm in support of the application.  
14 I give credit to your analysis and that of the Office of  
15 Planning and give great weight to the recommendation.

16 BZA CHAIR HILL: Okay. Thank you. I appreciate  
17 you guys, very generous with my analysis. So I'm going to go  
18 ahead and make a motion to approve Application No. 21121, as  
19 captioned, with the rear yard relief being at 16 feet 5  
20 inches and the lot occupancy relief being at 60.9 percent and  
21 ask the office, OZLD, to help clarify that in the record when  
22 the -- well, first, I'm clarifying it in the record now, but  
23 also when the order is written, and ask for a second. Mr.  
24 Blake.

25 MEMBER BLAKE: Second.

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1 BZA CHAIR HILL: Motion made and seconded. Madam  
2 Secretary, if you'd take a roll call.

3 MS. MEHLERT: The chair's motion to approve the  
4 application based on the calculations cited in his motion.  
5 Chairman Hill.

6 BZA CHAIR HILL: Yes.

7 MS. MEHLERT: Mr. Smith.

8 (No audible response.)

9 MS. MEHLERT: Mr. Blake.

10 MEMBER BLAKE: Yes.

11 MS. MEHLERT: And Dr. Imamura.

12 COMMISSIONER IMAMURA: Yes.

13 MS. MEHLERT: Staff will record the vote as 4 to 0  
14 to 1 to approve Application 21121 on the motion made by  
15 Chairman Hill and seconded by Mr. Blake with one board member  
16 not participating.

17 BZA CHAIR HILL: Guys, let's take a quick little  
18 five - ten-minute break, come back, and we'll start our last  
19 hearing. Thank you.

20 (Whereupon, the above-entitled matter went off the  
21 record at 2:14 p.m. and resumed at 2:23 p.m.)

22 BZA CHAIR HILL: Okay. Madam Secretary, you want  
23 to call our last case?

24 MS. MEHLERT: The last case is Application No.  
25 21119 of Vikramaditya Railan and Veena Railan. This is a

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1 self-certified application pursuant to Subtitle X, Section  
2 901.2, for special exceptions; under Subtitle U, Section 421,  
3 to allow new residential development; and Subtitle C, Section  
4 714.3, screening requirements of surface parking of Subtitle  
5 C, Section 714.2. This is to create two additional dwelling  
6 units in the existing four-unit apartment house with third  
7 story and three-story rear additions for the existing two-  
8 story semi-detached building. The project is located in the  
9 RA-1 zone at 2232 40th Street, Northwest; Square 1317, Lot  
10 15.

11 BZA CHAIR HILL: Okay. If the applicant can hear  
12 me, if they could please introduce themselves for the record.

13 MR. SULLIVAN: Thank you, Mr. Chair. Marty  
14 Sullivan with Sullivan & Barros on behalf of the applicant.

15 BZA CHAIR HILL: Okay. Great. Mr. Young, can you  
16 find the party status person?

17 MS. LEFTWICH: I'm here.

18 BZA CHAIR HILL: Oh, Ms. Leftwich.

19 MS. LEFTWICH: Can you hear me?

20 BZA CHAIR HILL: I can hear you, yes. I can't see  
21 you anywhere. Oh, you're calling in.

22 MS. LEFTWICH: I'm calling in. I don't have  
23 capability for that. I had a medical appointment I couldn't  
24 cancel, so I'm on the phone.

25 BZA CHAIR HILL: No problem.

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1 MS. LEFTWICH: Marla Leftwich here, present.

2 BZA CHAIR HILL: Okay. Great. Could you give us  
3 your address, Ms. Leftwich?

4 MS. LEFTWICH: 2228 40th Street, Northwest,  
5 Washington, D.C. 20007.

6 BZA CHAIR HILL: Thank you. So, Ms. Leftwich, I'm  
7 going to try to make this as easy as possible for you, given  
8 where you are, as well. But the applicant will have an  
9 opportunity to give their presentation, and they're going to  
10 tell us why they believe they're meeting the zoning relief  
11 for us to, you know, approve or deny. And then you'll have  
12 an opportunity to tell us your thoughts about the same  
13 project. And I know that you're not a zoning attorney, so,  
14 you know, we'll hear basically what your concerns are and  
15 then you'll have an opportunity to also ask questions, as  
16 well as that to the Office of Planning. And then also the  
17 applicant will have a chance to ask questions, as well.

18 And then, Mr. Sullivan, you can begin whenever  
19 you'd like.

20 MR. SULLIVAN: Thank you, Mr. Chair. If we could  
21 have the PowerPoint presentation loaded, please. And with us  
22 here, too, is Dave Bloom, the project architect. My client,  
23 Mr. Railan, had a medical issue this morning, and he's not  
24 here, but I believe his son may be here, if there's any need  
25 for any questions from the owner.

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1                   Next slide, please. The property is RA-1. The  
2 applicant is proposing to construct a third-floor addition  
3 and a three-story rear addition. The applicant is also  
4 proposing to add two new units for a total of six residential  
5 units, and the relief is required because relief is required  
6 any time a new unit is added under U-421.

7                   The applicant is also requesting relief from the  
8 parking screening requirements. And this proposal otherwise  
9 complies with all development standards. The height is under  
10 32 feet actually. The maximum height is 40 feet. The max  
11 FAR is 0.9. We're at 40 percent lot occupancy. Side yard is  
12 a little wider than required, and there's no changes to the  
13 side yard anyway. It's 8 and a half feet and almost a 40-  
14 foot rear yard. Four parking spaces. One is required.

15                   Next slide, please. ANC 3B voted unanimously in  
16 support of the application. The Office of Planning is in  
17 support, and DDOT has no objection.

18                   Next slide, please. And I'll turn it over to Mr.  
19 Bloom to take the board through the plans. Thank you.  
20 David.

21                   MR. BLOOM: Thanks, Marty. So here you see the  
22 subject property --

23                   BZA CHAIR HILL: Mr. Bloom, could you introduce  
24 yourself for the record?

25                   MR. BLOOM: Of course. My name is Dave Bloom with

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1 District Architecture Studio. I am the architect for the  
2 project.

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

4 MR. BLOOM: You're welcome. So here we have a  
5 photograph of the front, 2232 40th Street. Next slide,  
6 please. These are the site plans. To the bottom of the page  
7 is the existing site plan, top of the page is the proposed.  
8 In the proposed, you can get a sense that there are multiple  
9 entrances to this property in the front, in the side, and on  
10 the rear, and I'll go over those in more detail as we get to  
11 the individual floor plans. And you can see the four parking  
12 spaces in the back.

13 Next slide, please. This is just a landscape  
14 plan. This is based off of meeting the GAR requirement.

15 Next slide, please. So here we start with the  
16 floor plans. To the left is the cellar floor plan. There's  
17 two units in the cellar, one in the front and one in the  
18 back. 40th Street is towards the bottom of the page. The  
19 front unit is accessed via a separate door via an areaway in  
20 the front, stairs leading down. The rear unit is also  
21 accessed via a rear areaway, stairs going down, exterior  
22 stairs going down.

23 On the first floor, which is the drawing to the  
24 right, we also have two units. The front unit has its own  
25 private entrance at the front of the building facing 40th

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1 Street. Rear unit has a door, private door, facing the  
2 parking. You also see on the side, on the open side, which  
3 is the left, to the left, the door that leads up to the two  
4 units on the second and third floor.

5 Next page. Here you have the second floor. You  
6 see at the top of the stair there's two doors. One leads to  
7 the front unit, one leads to the back unit. The front unit  
8 is a duplex, so it occupies a partial third floor with two  
9 bedrooms up there. The rear unit is just a single floor  
10 unit.

11 Next slide. The roof plan. There is a roof deck  
12 on the second and third floor. We're maintaining the  
13 existing mansard.

14 Next slide. We have the proposed front elevation.  
15 It predominantly stays the same. We do have to add a ramp  
16 to the front first floor for accessibility requirements, and  
17 you can see the third floor popping up above the mansard  
18 roof. Side entrance. You can see the side of the rear  
19 addition third floor, the shared doorway to the upper units,  
20 as well as the railings that are required around the  
21 areaways.

22 Next slide. And then I think this is the final  
23 one. Rear elevation. Again, we have a ramp to the first  
24 floor unit, and you can see what the rear addition and third  
25 floor additions look like.

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1 And thank you very much for your time.

2 MR. SULLIVAN: So the next slide, please, and I'll  
3 take you through the zoning criteria. The project will be in  
4 harmony with the general purpose and intent of the zoning  
5 regulations and zoning maps and will not tend to affect  
6 diversely the use of neighboring property. The RA-1 zone  
7 provides for areas predominantly developed with low to  
8 moderate-density development, including multi-family  
9 residential buildings. The building will conform to all  
10 other RA-1 zoning development standards.

11 Accordingly, the granting of the special exception  
12 will be in harmony with the purpose and intent of the  
13 regulations and maps. And the project includes six dwelling  
14 units and the design is sensitive to the existing homes and  
15 surrounding neighborhood. Accordingly, the granting of this  
16 special exception will not tend to adversely affect the use  
17 of neighboring properties.

18 Next slide, please. Specific requirements for the  
19 parking screening relief. The parking area is located at the  
20 rear of the property and does not intersect with any  
21 pedestrian environments, as it is adjacent to the public  
22 alley. The proposed parking will not have an impact on  
23 existing vegetation, buildings, or protective screening walls  
24 located on adjacent properties, and there are no unusual  
25 topographic conditions in the area of the proposed parking.

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1 The land is generally flat, and the parking area is located  
2 at the rear of the property along the public alley. The  
3 request relief would not have any impact on traffic  
4 conditions in the alley and may improve the residents'  
5 ability to park their cars more efficiently.

6 As the board has become familiar, I think, with  
7 this type of relief and the need for it, the way around the  
8 relief is to put a faux fence of sorts in the middle of the  
9 area, which just takes away from the parking area and doesn't  
10 really solve any problems, not that there's any problems  
11 needed to be solved.

12 So we had the similar relief for the adjacent  
13 property, the adjoining half of this structure, which  
14 recently was approved to go from four to six units, as well.

15 Next slide, please. Specific requirements for U-  
16 421. The BZA shall refer the application to the relevant  
17 agencies for comment and recommendation, including existing  
18 and planned area schools to accommodate the numbers of  
19 students that can be expected to reside in the project. And  
20 since we're only adding two units, we don't think that the  
21 office of the state superintendent of education would have  
22 concerns with the increase.

23 Public streets, recreation, and other services to  
24 accommodate the residents that can be expected to reside in  
25 the project. It is expected that DDOT and other relevant

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1 D.C. agencies will find that the surrounding public streets,  
2 recreation, and other services are adequate to accommodate  
3 the residents that can be expected to reside in the project.

4 And the BZA shall refer the application to the Office of  
5 Planning for comment and recommendations on the site plan,  
6 arrangement of building and structures, provisions of light,  
7 air, parking, recreation, landscaping, and grading as they  
8 relate to the surrounding neighborhood.

9 And the application has been reviewed by OP, which  
10 has issued detailed favorable findings on these elements in  
11 its report. Among other things, the Office of Planning noted  
12 that there would be no adverse impacts to light and air of  
13 neighboring properties, and the applicant is providing plenty  
14 of parking.

15 A couple of things I'll point out that sort of  
16 stand out for me in RA-1 cases. Many RA-1 cases are taking a  
17 single-family home in a single-family neighborhood and  
18 turning them into multi-family. We're in the multi-family  
19 neighborhood here and just expanding from four to six. It's  
20 a very low FAR at 0.9. Our height is 8 feet, more than 8  
21 feet under the max height, and the third floor addition,  
22 which is very limited because of the FAR limit, is also set  
23 back from all sides significantly, as well. And we're  
24 providing three more parking spaces than is required for this  
25 six units. And I think that's it.

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1 Next slide, please. No. That's it. Thank you.

2 BZA CHAIR HILL: Okay. Thanks, Mr. Sullivan.

3 Okay. Before we get to -- actually, what I'd like to do is  
4 hear from everyone and then we'll have questions and answers.

5 Let's see. Ms. Leftwich, can you hear me?

6 MS. LEFTWICH: Yes, I can.

7 BZA CHAIR HILL: Okay. Would you like to go and  
8 give your testimony?

9 MS. LEFTWICH: I was trying to -- I am using my  
10 phone, and I was trying to -- I downloaded the WebEx, but I'm  
11 not able to get in. I was letting Mr. Reed know that. I'm  
12 not sure why. It says I have to be let in by the host.

13 Yes. This is Marla Leftwich. My testimony is I,  
14 as a party to this case, I did request a continuance or  
15 postponement for this hearing right now so that I could hire  
16 an attorney and submit professional reports. I also wanted  
17 to have time to negotiate with the applicants. I did speak  
18 with the applicant and wasn't able to come to an agreement.  
19 This board denied my request for a postponement and a  
20 continuance.

21 I did not receive a 40-day notice prior to this  
22 hearing. I found out about the hearing on the 2nd of May, so  
23 I didn't have that 40-day notice. I would have used that  
24 time to be much better prepared. Having four hours between  
25 becoming a party and the hearing, I don't think it's fair.

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1 So I feel like I have been deprived of meaningful time to  
2 raise my concerns and be prepared to make a presentation to  
3 the board.

4 BZA CHAIR HILL: Okay. Ms. Leftwich, I want to  
5 get on the record, I want to re-get on the record again that  
6 we did have this discussion at the very beginning of the day,  
7 meaning that your filing was actually late. And I don't know  
8 about the 40 days. I mean, you being an immediate neighbor,  
9 you should have received the 200-foot indication about this  
10 meeting.

11 MS. LEFTWICH: No, I did not.

12 BZA CHAIR HILL: Well, I can check with the Office  
13 of Zoning and whether or not you got it in the mail, it was  
14 sent out to you. And so your argument now -- well, first of  
15 all, I just want to get clear on the record that we, the  
16 board, allowed you party status because we thought that you  
17 were meeting the criteria, even though you were late for the  
18 filing. And being late for the filing puts also the  
19 applicant at a disadvantage by them now having to defend  
20 themselves against someone they don't know what the argument  
21 may or may not be.

22 I still haven't gotten from you yet what your  
23 concerns are about the project. I mean, I understand you're  
24 not a zoning attorney, but what they're here currently for is  
25 relief from screening from the parking. Like --

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1 MS. LEFTWICH: I understand.

2 BZA CHAIR HILL: Okay. So what is it that you  
3 have --

4 MS. LEFTWICH: Yes, I want to say what that is,  
5 but I just want to get this on the record that I did not get  
6 40 days' notice. So within 200 feet mailing, I didn't get  
7 it. So it had my address, but it didn't have my name. It  
8 just said owner. I have tenants, and when they see owner, a  
9 lot of times they just trash it because it's junk mail, and  
10 that's the only thing that I can think of. So I did not get  
11 that.

12 Now, my name is on the real property records.  
13 There's no question. It is there. But my name was left off,  
14 so I can only speculate why I didn't get that mailing, but I  
15 didn't get that mailing and I was supposed to get that  
16 mailing 40 days prior to the hearing. So I'm just making  
17 sure that's on the record. I didn't get it, so I'm  
18 scrambling --

19 BZA CHAIR HILL: Right. Ms. Leftwich, Ms.  
20 Leftwich --

21 MS. LEFTWICH: -- I am scrambling --

22 BZA CHAIR HILL: -- Ms. Leftwich, what I wanted to  
23 also mention for the record again is that we, the Board of  
24 Zoning Adjustment, did everything that we're supposed to do  
25 to make sure that you did get notice. And so I just wanted

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1 that to be clear, as well. Like, they have to post, and then  
2 they also went through their ANC, so the ANC also had notice  
3 of this and then also had a hearing on this. And so --

4 MS. LEFTWICH: Right. I want to respond to that,  
5 too.

6 BZA CHAIR HILL: Okay.

7 MS. LEFTWICH: And I plan to do it.

8 BZA CHAIR HILL: Okay.

9 MS. LEFTWICH: So the posting took place on the  
10 9th of May, and that was way beyond the time for me to file  
11 for party status or even know anything about it. So I did  
12 scramble on the 9th after I called the zoning office to file  
13 everything I needed to file. And as far as I can tell, I was  
14 one day late for filing for party status on time. So, like I  
15 said, the posting on the property didn't take place until the  
16 9th, so that's only 14 days ahead of the meeting.

17 The ANC meeting, I want to comment on that. So my  
18 ANC meeting was held on the 9th of May. And on the 10th of  
19 May, I found out from this office by calling your clerk, Mr.  
20 Reed, he informed me that there was an ANC meeting that was  
21 held the day before on May 9 in the evening. I didn't know  
22 about the meeting, I didn't hear about the meeting. He also  
23 said that they made a note in their system that they tried to  
24 locate -- they postponed their ANC meeting twice, once in  
25 March and one in April, because the applicant couldn't,

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1 quote, locate me. I've lived in the same place for 30 years  
2 next door to the applicant. And on Wednesday, May 8, I saw  
3 the applicant in person at the property, walked right by me.  
4 Didn't say there you are, we couldn't find you, we haven't  
5 been able to find you for two months. He never said a word  
6 to me, went to the hearing the next day that I knew nothing  
7 about.

8 I also want to say that I've spoken to the ANC, my  
9 commissioner and the chairperson, also the OANC office, who  
10 has said to me that there are options. My ANC can take a re-  
11 vote. I'm on the schedule for the June meeting on June 11.  
12 They said they can revisit, they can retake a vote, and they  
13 can actually make a new recommendation. I plan to take  
14 advantage of that, so I want to put that on the record.

15 I believe that I was kept out of the meeting. The  
16 applicant knows full where I've lived for 30 years, right  
17 next door. And so when they presented to the ANC that I  
18 couldn't be located, that is not true.

19 BZA CHAIR HILL: Okay. Ms. Leftwich --

20 MS. LEFTWICH: Now, the problems that I have with  
21 --

22 BZA CHAIR HILL: -- Ms. Leftwich, Ms. Leftwich,  
23 Ms. Leftwich, now, you got a chance to speak, so let me also  
24 respond. It's my understanding that you were five days late,  
25 and I'm not even sure --

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1 MS. LEFTWICH: Who is this?

2 BZA CHAIR HILL: Pardon me?

3 MS. LEFTWICH: Oh, I'm sorry. Who's speaking?

4 BZA CHAIR HILL: I'm Fred Hill. I'm the chair of  
5 the Board of Zoning Adjustment.

6 MS. LEFTWICH: Okay. I filed one day late. It  
7 was 14 days prior to the hearing, and I filed on the 10th.

8 BZA CHAIR HILL: Okay. I will have to check again  
9 with the Office of Zoning, but they told me that it was five  
10 days late. Regardless, we're not here to learn about the  
11 time limit. We're here to understand what issues you have  
12 with the project in terms of the zoning relief they're --

13 MS. LEFTWICH: I understand.

14 BZA CHAIR HILL: -- providing. So go ahead and  
15 direct your testimony to that, please.

16 MS. LEFTWICH: Yes. No, I just wanted to get the  
17 other information on the record. And it was not five days.  
18 It was one day, which was the 10th of May.

19 BZA CHAIR HILL: Yes, we can disagree all you  
20 like. I disagree with you, okay. So we can go ahead and  
21 take a look at it --

22 MS. LEFTWICH: Okay. I heard what you said.  
23 Thank you.

24 BZA CHAIR HILL: I'd like to hear your --

25 MS. LEFTWICH: Yes.

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1 BZA CHAIR HILL: -- issues with the application,  
2 please.

3 MS. LEFTWICH: Yes. I'm going to get to those  
4 issues, but I have a right to be heard. I want these other  
5 items on the record that I did not file five days late. The  
6 rule says 14 days prior to the hearing, and I made it in 13  
7 days, and that is my testimony about that.

8 The problem that I have with this project is I  
9 want to make a reference to BZA Case No. 20937 located at  
10 2236 40th Street, Northwest, called the 2236 40th Street,  
11 LLC, which shares a party wall with this address right here  
12 that we're talking about today. And I want to make a  
13 reference to that, and Susan Wilson, who was the authorized  
14 representative of that adjoining property, just as I am the  
15 owner of the adjoining property to this side of the two  
16 buildings. And I have the same exact arguments in opposition  
17 raised by Susan Wilson at 2240 40th Street, Northwest.  
18 Everything they have opposed and objected to is the same  
19 objections that I have.

20 And I also have to say, more to the point, Wilson,  
21 in the exact same manner and issue, was granted a  
22 postponement, and I didn't get mine. And I think it's a  
23 reasonable request.

24 The problem that I have with this -- also, I want  
25 to point out that Mr. Sullivan sent a filing a few days back

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1 in his opposition to my becoming a party to the case, stated,  
2 quote, the applicant in this case isn't a developer and have  
3 owned the property for 20 years and will continue to own it  
4 after renovation. Their concern is more focused on executing  
5 an optimal design, and timing is not a critical issues,  
6 unquote. So, again, I would like to have more time, and the  
7 board said I could not have more time.

8 The problems that I have are drainage along the  
9 proposed sidewalk at this project draining onto my property  
10 into my foundation, causing dampness. Again, I would have  
11 loved to have time to submit something from an expert.

12 The other issue that I have is there is -- so on  
13 the project that shares the party wall with this property,  
14 same attorney, same architect, Mr. Bloom, I understand  
15 probably the same GC, the owner at 2236 40th Street, BZA  
16 20937, changed the plan away from a side entryway to have  
17 only a front entrance. That's my same objection.

18 BZA CHAIR HILL: Ms. Leftwich, Ms. Leftwich --

19 MS. LEFTWICH: The side entrance --

20 BZA CHAIR HILL: -- Ms. Leftwich, Ms. Leftwich.  
21 I'm sorry. I'm just getting confused. You keep referencing  
22 another case, and so it's difficult for me to understand.  
23 We're here to argue about this case.

24 MS. LEFTWICH: I understand.

25 BZA CHAIR HILL: Okay. So can you tell me then

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1 what issues you have with this case?

2 MS. LEFTWICH: Yes. The same issues as in that  
3 case, which is of a side entrance 7 and a half feet away from  
4 my bathrooms, living rooms, and sleeping rooms.

5 BZA CHAIR HILL: Okay. Side entrance.

6 MS. LEFTWICH: That's right. I have a real  
7 serious problem with that. So I submitted a document  
8 yesterday at 9:30 in the morning which very clearly states  
9 all of my objections. Is that in the record?

10 BZA CHAIR HILL: I don't know, Ms. Leftwich. I  
11 have to look.

12 MS. LEFTWICH: Okay. Thank you. I sent that to  
13 Mr. Young and all of the parties yesterday morning.

14 BZA CHAIR HILL: That's the response to your  
15 filing. Is that the one that starts off response to --

16 MS. LEFTWICH: It was filed yesterday --

17 BZA CHAIR HILL: -- applicant's May 17th --

18 MS. LEFTWICH: -- at 9:30 in the morning. No, it  
19 is not. Excuse me?

20 BZA CHAIR HILL: Someone from the board was trying  
21 to help me find the exhibit.

22 MS. LEFTWICH: Thank you.

23 BZA CHAIR HILL: Okay. We see it.

24 MS. LEFTWICH: Okay. Has that been reviewed, and  
25 is it in the record?

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1 BZA CHAIR HILL: Yes.

2 MS. LEFTWICH: Okay. So everyone on this board  
3 has read that document that I submitted yesterday on time?

4 BZA CHAIR HILL: Yes.

5 MS. LEFTWICH: Okay. So those are the reasons,  
6 those are the issues that I have, those exact same issues  
7 right there: having an entrance on the side of the property.  
8 Entrances, especially these days, are noisy with deliveries,  
9 Amazon, food deliveries, doorbells, intercom, bright  
10 lighting. That side of my property is currently very quiet.  
11 There's no lighting there. It's been that way since the  
12 property was built, so it's a very quiet, nice, pleasant  
13 space. I have a lot of trees and shrubs on that side. But  
14 as I said, the bedroom, bathroom, the bathroom window would  
15 be directly across from this front entryway. So on my side,  
16 we would have to have shades completely down all of the time,  
17 and we will hear everything going in and out of that door.  
18 Moving trucks; moving furniture; as I said, delivery;  
19 doorbell; bright lights; completely altering the nature of  
20 the way that is currently.

21 So, yes, I have a serious problem with that. I  
22 feel that that can affect me financially. Part of the  
23 attraction in Glover Park that I have a four-unit building  
24 there is it's a garden community. It's quiet. It's  
25 extremely green, and it's extremely highly sought after. And

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1 my apartments are very nice, and I don't want to take a  
2 financial hit due to this here. When someone looks at  
3 Apartment 2 and 4 and says, gee, why do I want to live across  
4 from a busy entrance, you know, or any entrance. Oh, look  
5 out the bathroom window, there's somebody's front door is  
6 right there.

7 So that is a huge objection that I have. I did  
8 call Mr. Sullivan before we had the hearing and tried to  
9 negotiate this. He says, no, applicant doesn't want to  
10 consider that. And the reason I pointed out 20937, the  
11 property on the other side of Mr. Railan's property that  
12 shares a party wall, he did change that entryway. He says  
13 because he didn't want to delay, and they gave up party  
14 status so that they could get the side entryway moved to the  
15 front. And this applicant says he's not in a hurry, so I,  
16 frankly, don't understand why I can't have more time to hire  
17 a lawyer and prepare documents when I only filed one day  
18 late.

19 I have a problem, as I said, with the drainage.  
20 I'm at a disadvantage because I don't have my computer, and I  
21 can't see the drawings. But there is a walkway that's  
22 proposed, a sidewalk walkway, directly bordering my property  
23 line at the 7 and a half-foot mark. There is a little under  
24 16 feet between Mr. Railan's brick wall and my brick wall,  
25 and that sidewalk would be directly on the boundary of my

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1 property line. And I am concerned about water running off  
2 into my property and down into my foundation, so that is my  
3 second concern that I have about this.

4 I think that it could cause me to lose money on  
5 rentals with a front door on the side of that property. I  
6 have expressed that I am not against this project. I am not  
7 against it at all. I want it to go forward. I want to be  
8 friendly about it and flexible, but I don't feel like I have  
9 -- there is no incentive for the Railans, for Mr. Railan to  
10 accommodate me in any way if the board allows this side  
11 entrance. I have no defense against noise or lighting. I  
12 have nothing, and it puts me at a very serious disadvantage,  
13 in my opinion, financially and just disturbs the peace, the  
14 peace that we've had for decades at that property. I've  
15 lived there 30 years. I intend to retire there.

16 And I ask the board not to allow this, to  
17 reconsider this, to make some sort of order that includes  
18 allow me to submit something that makes, some sort of  
19 negotiation. If you approve this side entrance, I would want  
20 something in the final order relating to lighting and noise.

21 The door itself, I wouldn't want slamming, I would want a  
22 closure, things of that nature. And I think that's  
23 reasonable.

24 So those are my concerns.

25 BZA CHAIR HILL: Okay. All right. Thank you, Ms.

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1 Leftwich.

2 MS. LEFTWICH: And I wanted to ask am I allowed to  
3 ask questions?

4 BZA CHAIR HILL: Yes. What I'm trying to do, Ms.  
5 Leftwich, I'm going to go through all of the testimony, and  
6 then my fellow board members will have an opportunity to ask  
7 questions of anyone. And then you'll have an opportunity to  
8 ask questions also of the applicant, as well as the Office of  
9 Planning.

10 MS. LEFTWICH: And Mr. Bloom?

11 BZA CHAIR HILL: Pardon me? You'll have an  
12 opportunity to ask questions of the applicant, yes.

13 MS. LEFTWICH: What about Mr. Bloom, the  
14 architect?

15 BZA CHAIR HILL: It depends on, I guess, what your  
16 question is. I would imagine he can answer your question.

17 MS. LEFTWICH: Okay.

18 BZA CHAIR HILL: Okay. All right. So I'm going  
19 to turn to the Office of Planning next.

20 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
21 and members of the BZA. I don't know why my folder isn't  
22 coming up, but can you hear me?

23 BZA CHAIR HILL: Yes, yes.

24 MS. BROWN-ROBERTS: Okay. Great. So good  
25 afternoon, Mr. Chairman and members of the BZA. Maxine

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1 Brown-Roberts for the Office of Planning. The proposal meets  
2 the requirements of Subtitle U-421 as outlined in our report.

3 The relief from the parking area screen wall along the alley  
4 side of the parking area should not impact pedestrian or  
5 vehicle movements along the alley or landscaping on adjacent  
6 properties.

7 The rear addition will extend the building  
8 approximately half a foot, and the building continues to meet  
9 the development standards. The addition should not unduly  
10 impact light and air or privacy of adjacent property.

11 The Office of Planning, therefore, recommends  
12 approval of the requested special exception. Thank you, Mr.  
13 Chairman.

14 BZA CHAIR HILL: Okay. Thanks, Ms. Brown-Roberts.  
15 All right. Do my fellow board members have any questions of  
16 anyone at this time, and, if so, please raise your hand.  
17 Okay. Ms. Leftwich -- oh, Mr. Sullivan, do you have any  
18 questions of anybody at this time?

19 MR. SULLIVAN: No, I do not. Thank you.

20 BZA CHAIR HILL: Okay. Ms. Leftwich, can you hear  
21 me? Do you have any questions of anyone?

22 MS. LEFTWICH: I do. I have a couple of  
23 questions.

24 BZA CHAIR HILL: Okay.

25 MS. LEFTWICH: One is for Mr. Bloom. Is he on the

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1 phone?

2 BZA CHAIR HILL: Yes, he's here.

3 MR. BLOOM: Yes, I'm here.

4 MS. LEFTWICH: Mr. Bloom, hi. Do you recall the  
5 project adjoining this one at 2236 40th Street?

6 MR. BLOOM: I do.

7 MS. LEFTWICH: Okay. Did you change the plans  
8 that there would no longer be a side door?

9 BZA CHAIR HILL: Ms. Leftwich, Ms. Leftwich?

10 MS. LEFTWICH: Yes.

11 BZA CHAIR HILL: I'm sorry. I guess you can ask -  
12 -

13 MS. LEFTWICH: I'm not allowed to ask him that  
14 question? Okay.

15 BZA CHAIR HILL: No, no, that's not -- you're  
16 asking questions about an application that's not in front of  
17 us. That's what I'm trying to figure out. I guess if you  
18 wanted to ask a question -- I don't know. I mean, even the  
19 attorneys might be able to help me better than I am. I just  
20 want to make sure that I'm not handling this the wrong way.  
21 Like --

22 MS. LEFTWICH: He knows what I'm talking about.  
23 But you don't know, is that what it is?

24 BZA CHAIR HILL: Ms. Leftwich, Ms. Leftwich, Ms.  
25 Leftwich, I know what you're talking about.

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1 MS. LEFTWICH: Okay.

2 BZA CHAIR HILL: What I'm saying is that you can't  
3 ask questions about another -- that's not the case that's  
4 before us. The question I think --

5 MS. LEFTWICH: I understand.

6 BZA CHAIR HILL: The question I think you want to  
7 ask is, I don't know, can you move the door on this project  
8 the way you moved it on the other project.

9 MS. LEFTWICH: Right. And I was about to get to  
10 that. I was just verifying that he made the design which  
11 changed the one next door. He's working on both projects.

12 BZA CHAIR HILL: Okay. So ask your question.

13 MS. LEFTWICH: Mr. Bloom, is it possible for you  
14 to change the plan and the side entryway door to the front  
15 like you did at 2236 40th Street?

16 MR. BLOOM: I think it is physically possible.

17 MS. LEFTWICH: Okay. Thank you. That's all I  
18 wanted. That's the only question I had.

19 MR. BLOOM: Okay. I had a little bit more to say,  
20 if that's okay.

21 MS. LEFTWICH: Yes. But you could do it and you  
22 have done it.

23 MR. BLOOM: The issue is the side entrance for  
24 both this owner and for the adjacent owner provides what both  
25 feel is a superior architectural interior layout.

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1 MS. LEFTWICH: Right. Define superior.

2 MR. BLOOM: Well, that's in the eyes of the owner.

3 MS. LEFTWICH: I'm sorry?

4 MR. BLOOM: Well, that's in the opinion of the  
5 owner.

6 MS. LEFTWICH: Right. So superior is very vague.  
7 I mean, the way I look at it is you probably are having a  
8 side entrance because you can squeeze out a few more square  
9 feet. I mean, that's usually what happens in that  
10 neighborhood. I've been watching projects get developed  
11 there for about five years --

12 BZA CHAIR HILL: Ms. Leftwich, Ms. Leftwich.

13 MS. LEFTWICH: Yes, yes, yes, I'm here. I can  
14 hear you.

15 BZA CHAIR HILL: Ms. Leftwich, I'm trying to run  
16 the hearing, and I'm trying to help get this hearing through.

17 MS. LEFTWICH: I understand.

18 BZA CHAIR HILL: I don't know if you understand or  
19 not. You keep trying to tell me that I'm not -- I'm not  
20 really clear what you're --

21 MS. LEFTWICH: I haven't spoken to you. I was  
22 asking Ms. Bloom a question about the side entrance.

23 BZA CHAIR HILL: I have to organize the hearing.  
24 That's my job.

25 MS. LEFTWICH: Okay.

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1 BZA CHAIR HILL: And so please ask your next  
2 question.

3 MS. LEFTWICH: Oh, yes, I wanted to know if it  
4 could be moved, and he said yes. I don't have another  
5 question for him. My other question is for the applicant.

6 BZA CHAIR HILL: The applicant's attorney is here.

7 MS. LEFTWICH: Okay. Great. Can you shed some  
8 light on the existing stop work order at that property?

9 MR. SULLIVAN: If the board wants to hear about  
10 irrelevant things, yes. One of the citations was for peeling  
11 paint on fascia. One of the citations was for deteriorated  
12 handrail, and one was for cracked concrete for a sidewalk.  
13 So it's curious that those citations appeared after we filed  
14 this application, but that's what they're for, and we're  
15 fixing them and appealing them actually because they were  
16 rather minor items that don't actually have anything to do  
17 with this proceeding.

18 MS. LEFTWICH: Oh, okay. So the stop work order  
19 is related to those things?

20 MR. SULLIVAN: It was a citation, one of which was  
21 for peeling paint.

22 MS. LEFTWICH: Okay. And then there's a permit  
23 that was applied for by the applicant to cut down a heritage  
24 tree, and there are no trees at this property of the  
25 applicant. I have the tree, and I wondered if you knew

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1 anything about that. Is the applicant trying to cut down my  
2 tree as part of this project?

3 MR. SULLIVAN: I have no information about any  
4 trees whatsoever.

5 MS. LEFTWICH: Okay.

6 MR. SULLIVAN: And we didn't provide any  
7 information on that in this testimony.

8 MS. LEFTWICH: Okay. So I guess the last thing  
9 for me would be to ask the board am I allowed -- so there's  
10 two things. So there will be no summary order in this case;  
11 is that correct, Mr. Chairman of the Board?

12 BZA CHAIR HILL: I don't know. We haven't gotten  
13 to that point yet.

14 MS. LEFTWICH: Oh, you don't know? Okay. I  
15 thought my party status was an automatic no summary order.

16 BZA CHAIR HILL: That is usually the case, but it  
17 really depends on the board and after each case after I've  
18 had a chance to reach out with the Office of Zoning. But,  
19 normally, you are correct, there would not be a summary  
20 order, but I don't know that for sure yet.

21 MS. LEFTWICH: Okay. When would we know that?

22 BZA CHAIR HILL: I don't know. It would be after  
23 the board deliberates, and then the Office of Zoning would  
24 have to meet with me and we would determine whether or not  
25 there would be a full or summary order. But I would imagine,

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1 as you are correct, there would be a full order.

2 MS. LEFTWICH: Okay. And then, lastly, would  
3 there be a way, would the board allow me to submit  
4 statements, documents, drawings, expert witness, something in  
5 writing related to the side entrance, the drainage issue,  
6 after we all hang up. Note it's after the hearing?

7 BZA CHAIR HILL: I understand. I guess it would  
8 depend on what information the board thinks it might need or  
9 want to hear, and then I guess what would need to happen  
10 after that, Ms. Leftwich, is that the applicant would have an  
11 opportunity to respond to anything that would be put into the  
12 record. And so I don't know at this point whether or not the  
13 board would be interested in that or not, but I understand  
14 that you're requesting that at this point.

15 MS. LEFTWICH: Okay. Yes, I thought maybe there  
16 was a rule that there was a certain time period where any  
17 party could submit additional information or evidence and  
18 things like that, but you're saying, no, there isn't.

19 BZA CHAIR HILL: It's only what the board thinks  
20 is necessary during or after the hearing to make a decision.

21 MS. LEFTWICH: Okay. Well, I would like to submit  
22 something.

23 BZA CHAIR HILL: I understand. I understand  
24 you're making the request, and, as we get through this  
25 hearing, we'll see whether or not the board wants to hear

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1 anything else.

2 MS. LEFTWICH: Right. I just would, lastly, part  
3 of my testimony is I'm asking the board to consider this side  
4 entryway into this plan and to consider making the final  
5 order. Here's what I want to say, and I want to articulate  
6 this correctly and clearly. I would like the board to  
7 incorporate and make the approval contingent on some sort of  
8 fix for the side entryway, a guarantee of low lighting, a  
9 door with a closer, things along those lines, and I'd like to  
10 submit my request for those things in writing to the board,  
11 at the very least, if the board can't give me relief from a  
12 side entryway.

13 BZA CHAIR HILL: Okay.

14 MS. LEFTWICH: If that makes sense.

15 BZA CHAIR HILL: Yes. No, I'm --

16 MS. LEFTWICH: I don't do this every day. This is  
17 totally new to me, but I think I'm saying what I'm trying to  
18 say, which is I would like the board not to approve the side  
19 entryway into my quiet area that affects my tenants and my  
20 finances, and I would like to submit to you to address a side  
21 entryway, should you approve it and consider it.

22 BZA CHAIR HILL: Okay. I understand.

23 MS. LEFTWICH: That's it. Thank you.

24 BZA CHAIR HILL: All right. Okay. Let's see.

25 Oh, Mr. Young, is there anyone here wishing to speak? Okay.

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1        Could you please allow that witness into the hearing room?

2                MR. YOUNG:    Yes.    You also have the ANC also.

3                BZA CHAIR HILL:    Oh, great.

4                MR. YOUNG:    The individual signed up is Gupi Howie  
5 and the ANC commissioner is Ms. Blumenthal.

6                BZA CHAIR HILL:    Okay.    Great.    Let's see.    Mr.  
7 Howie or Ms. Howie, can you hear me?

8                MS. HOWIE:    Yes, Commissioner, I can.    Actually,  
9 Chairperson Blumenthal will speak for both her and myself.

10                BZA CHAIR HILL:    Oh, okay.    Commissioner  
11 Blumenthal, can you hear me?

12                MS. BLUMENTHAL:    I can.    And I am mostly here in  
13 case there are questions about the ANC process raised by the  
14 late opposition after our approval.    But I will say that the  
15 ANC did not schedule a meeting for June to discuss this, as  
16 Ms. Leftwich proposed.    We only said, if the hearing were  
17 postponed, we would respect her wish to put her case before  
18 us.    And since the hearing was not postponed, we would do not  
19 have any intention of taking up this issue again.

20                BZA CHAIR HILL:    Okay.    All right.

21                MS. LEFTWICH:    Can I say something about that?  
22 This is Ms. Leftwich.

23                BZA CHAIR HILL:    Yes.    One second, Ms. Leftwich.

24                MS. LEFTWICH:    Okay.    Thank you.

25                BZA CHAIR HILL:    Mr. Sullivan, do you have any

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1 questions for the commissioner?

2 MR. SULLIVAN: No. Thank you.

3 BZA CHAIR HILL: Okay. Thank you. Ms. Leftwich,  
4 you have a question for the commissioner?

5 MS. LEFTWICH: Well, okay, I understood that I  
6 could be heard at the June meeting. I didn't know it was  
7 contingent on a postponement. So that's something I didn't  
8 know about.

9 MS. BLUMENTHAL: Well, we would not have another  
10 decision to make. Our decision is already made.

11 MS. LEFTWICH: Right. But we did learn that the  
12 ANC could retake a vote, and I had asked you if I could be on  
13 the agenda for June and you might have said, yes, if you get  
14 a postponement, so that's the part I wasn't aware of. I  
15 wasn't aware that you required a postponement in order for me  
16 to present for the ANC.

17 MS. BLUMENTHAL: Well, that is the case and that  
18 is what I said.

19 MS. LEFTWICH: Okay. I can -- all right.

20 BZA CHAIR HILL: Okay. Thanks, Ms. Leftwich. I'm  
21 looking to my board members.

22 MS. LEFTWICH: You're welcome.

23 BZA CHAIR HILL: I'm not exactly sure what you may  
24 or may not want. Do you all need anything else?

25 MEMBER SMITH: It seems to be that there was some

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1 concern raised about privacy. Were there any consideration  
2 to constructing a privacy fence or putting some screening  
3 along the property line to protect the privacy of the party  
4 in opposition, or would the applicant be amenable to that?

5 MR. SULLIVAN: I think we are. I'll defer to Mr.  
6 Bloom on that. Dave.

7 MR. BLOOM: Yes. I think that would probably be a  
8 pretty easy item to add. That would address the privacy  
9 issue that's been expressed.

10 MEMBER SMITH: Thank you. I want that shown on  
11 the record, or we could put it in as a condition if we move  
12 forward with the application.

13 BZA CHAIR HILL: Okay.

14 MS. LEFTWICH: I'm sorry. Could someone explain  
15 what he -- this is Ms. Leftwich. I couldn't make out exactly  
16 what he was saying.

17 BZA CHAIR HILL: Sure. It's okay, Ms. Leftwich.

18 MS. LEFTWICH: It was a little distorted.

19 BZA CHAIR HILL: Sure. The board member was  
20 asking if the applicant had considered privacy screening or  
21 anything like that on your side of the property, and they  
22 said that they hadn't -- they said it wouldn't be that  
23 difficult for them to do that.

24 MS. LEFTWICH: Okay. Okay. Can I make a comment  
25 about it?

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1 BZA CHAIR HILL: Sure.

2 MS. LEFTWICH: Okay. Again, I would like to ask  
3 the board members to allow me, if they are going to approve  
4 the side entryway, I would like them not to approve that,  
5 but, if they were to, I would like to submit -- I'm happy to  
6 do it in a timely fashion -- a list that would protect my  
7 privacy and my noise and lighting there in that area. I  
8 would really appreciate the opportunity and make those  
9 contingent and part of your approval. Thank you.

10 BZA CHAIR HILL: Okay. Thank you. Okay. So now  
11 what happens, Ms. Leftwich, now I think I'm going to ask for  
12 a conclusion from everybody, and that will be an opportunity,  
13 Ms. Leftwich, for you to voice anything that you think you  
14 haven't had a chance to voice and put it in the record. And  
15 I have to make sure that the applicant has an opportunity to  
16 respond to that.

17 But, first, I'm going to ask the applicant if  
18 there was any rebuttal or what I'm going to do, Mr. Sullivan,  
19 is I think -- I'm just trying to figure out how to do this  
20 most effectively. Give the party in opposition a chance to  
21 write a conclusion that might have some further details in it  
22 concerning privacy or light issues. I'm not terribly sure.  
23 And then the applicant would have an opportunity to respond,  
24 and then the board will be able to make a decision.

25 And so that all being the case, Mr. Sullivan, do

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1 you have any rebuttal?

2 MR. SULLIVAN: Just a question for Mr. Bloom to  
3 describe the sidewalk that Ms. Leftwich mentioned. David, if  
4 you could talk about the sidewalk.

5 MR. BLOOM: Sure. So the sidewalk that leads from  
6 40th Street through the side yard to the rear yard is  
7 permeable pavers. It's not concrete. It's part of what will  
8 be our strategy to meet the GAR requirements that are  
9 specific to this site.

10 I'll also add the parking spaces themselves are  
11 also permeable pavers. And, in general, D.C., particularly  
12 when GAR is involved, has fairly strict regulations in terms  
13 of controlling stormwater and preventing it from crossing  
14 over property lines.

15 MR. SULLIVAN: Thank you. That's all I have, Mr.  
16 Chair --

17 BZA CHAIR HILL: Okay. Thanks, Mr. Sullivan.

18 MR. SULLIVAN: -- for rebuttal.

19 BZA CHAIR HILL: All right. What I suggest, and  
20 I'm looking at my fellow board members -- Ms. Leftwich, can  
21 you hear me?

22 MS. LEFTWICH: I can hear you, and I wondered if -  
23 - no, go ahead, I'm listening.

24 BZA CHAIR HILL: Okay. So I was going to leave  
25 the record open for a conclusion from you, and that

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1 conclusion, you can go ahead and, I guess, mention the items  
2 that you had already brought up but put them in a way that  
3 the board could see them in a concise manner. And then the  
4 applicant would have an opportunity to respond to that and  
5 also provide a conclusion, and then the board would come back  
6 for a decision.

7 How much time do you think you might need, Ms.  
8 Leftwich, to put your thoughts together?

9 MS. LEFTWICH: Fifteen minutes. Tomorrow.

10 BZA CHAIR HILL: Oh, no, no, that's okay. Yes,  
11 that's okay, that's all right. So then if you could get --

12 MS. LEFTWICH: I have a question. I'm sorry. I  
13 was going to ask you about that. Would it be possible, does  
14 it have to be today?

15 BZA CHAIR HILL: No, no, no. This is going to be,  
16 like, next Tuesday.

17 MS. LEFTWICH: Yes, that's fine.

18 BZA CHAIR HILL: Okay. So, next Tuesday, if you  
19 could give us your conclusion, okay, put something in the  
20 record, okay, that is a conclusion of your points. And then,  
21 Mr. Sullivan, when do you think you might be able to respond  
22 to that or how much time would you need?

23 MR. SULLIVAN: Oh, just a couple of days or less.

24 MS. LEFTWICH: Mr. Chairperson.

25 BZA CHAIR HILL: Yes, Ms. Leftwich.

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1 MS. LEFTWICH: Today is Wednesday. Could we make  
2 this a week, please, which would be next Wednesday, close of  
3 business?

4 BZA CHAIR HILL: That's fine. Ms. Leftwich, if  
5 you can give me your summary by next Wednesday, close of  
6 business, okay, and then, Mr. Sullivan, if you can give me  
7 whatever you can give me by Friday, the 31st, okay, then the  
8 board can come back for a decision on the 5th. Okay. Ms.  
9 Leftwich, do you understand?

10 MS. LEFTWICH: I do. The date of next Wednesday  
11 would be a week from today, which would be the 29th of May;  
12 is that correct?

13 BZA CHAIR HILL: Yes, the 29th of May. Okay. And  
14 then the applicant will have an opportunity to respond to  
15 that, and those are the only two things that we'll take into  
16 the record.

17 MS. LEFTWICH: Okay. Is this going to be a phone  
18 call?

19 BZA CHAIR HILL: No. You're going to submit  
20 something into the record.

21 MS. LEFTWICH: Okay.

22 BZA CHAIR HILL: In writing.

23 MS. LEFTWICH: And after I submit that and Mr.  
24 Sullivan has a chance to respond by Friday, do you then take  
25 a vote?

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1 BZA CHAIR HILL: Yes. We would take a vote on the  
2 5th.

3 MS. LEFTWICH: I see. Okay.

4 BZA CHAIR HILL: Okay. All right. Do you have  
5 any further questions, Ms. Leftwich?

6 MS. LEFTWICH: I don't have any further questions.  
7 Well, I did ask already about the summary order. You  
8 answered that. I don't think there are any other questions,  
9 Mr. Chairman.

10 BZA CHAIR HILL: Okay. Great. All right. So,  
11 again, Ms. Leftwich, I mean, go ahead and summarize your  
12 points and the items that you mentioned in this hearing.  
13 Then Mr. Sullivan will have an opportunity to respond to that  
14 for his client. And, again, I mean, some of the things that  
15 -- yes, anyway, that's fine. Sorry.

16 Does anybody have any final questions or anything  
17 before I excuse everyone? Okay. All right. Then those are  
18 the dates that we'll get everything, and I'm going to close  
19 the hearing on the record except for the items that we  
20 requested from everyone. And I'm going to excuse everybody.

21 Thank you all for your time.

22 MS. LEFTWICH: Thank you.

23 BZA CHAIR HILL: Okay. Ms. Mehlert, can you hear  
24 me?

25 MS. MEHLERT: Sorry.

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1 BZA CHAIR HILL: That's all right. So you got  
2 those days, and then we're going to have a decision on 6/5.  
3 6/5 has gotten very busy all of a sudden.

4 MS. MEHLERT: Yes, I got them.

5 BZA CHAIR HILL: And then, Dr. Imamura, we'll do  
6 our best, I don't know who's on that day, but we'll do our  
7 best to get your stuff out first.

8 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I  
9 won't be there on the 5th, but I will provide my absentee  
10 ballot.

11 BZA CHAIR HILL: Okay. Great. Okay. Great. All  
12 right. Is there anything else before the board? Okay. Mr.  
13 Blake, I was only four minutes wrong. Okay. All right.  
14 Thank you all very much. Have a nice day.

15 (Whereupon, the above-entitled matter went off the  
16 record at 3:19 p.m.)

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Before: DC BZA

Date: 05-22-24

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