

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY
JUNE 26, 2024

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 9:30 a.m. EDT, Lorna L. John, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

- SARAH BAJAJ, ESQ.
- CARISSA DEMARE, ESQ.

The transcript constitutes the minutes from the Regular Public Meeting held on June 26, 2024.

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

9:36 a.m.

1
2
3 BZA VICE CHAIR JOHN: Good morning, ladies and
4 gentlemen.

5 The Board of Zoning Adjustment's June 26th
6 public hearing will please come to order.

7 My name is Lorna John, Vice Chairperson of the
8 District of Columbia Board of Zoning Adjustment. Joining
9 me today are Board Members Carl Blake and Chrishaun Smith,
10 and Zoning Commissioners Tammy Stidham and Anthony Hood.
11 Chairman Hill is also joining for one decision case.

12 Today's meeting and hearing agendas are
13 available on the Office of Zoning's website.

14 Please be advised that this proceeding is being
15 recorded by a court reporter and is also webcast live via
16 Webex and YouTube Live. The video of the webcast will be
17 available on the Office of Zoning website after today's
18 hearing.

19 Accordingly, everyone who is listening on Webex
20 or by telephone will be muted during the hearing. Also,
21 please be advised that we do not take any public testimony
22 at our decision meeting session.

23 If you experience difficulty accessing Webex or
24 with your telephone call in, then please call our OZ
25 hotline number at 202-727-5471 to receive Webex log-in or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealgross.com

1 call-in instructions.

2 At the conclusion of the decision meeting
3 session, I shall, in consultation with the Office of
4 Zoning, determine whether a full or summary order may be
5 issued. A full order is required when the decision it
6 contains is adverse to a party, including an affected ANC.
7 A full order may also be needed if the Board's decision
8 differs from the Office of Planning's recommendation.
9 Although the Board favors the use of summary orders
10 whenever possible, an applicant may not request the Board
11 to issue such an order.

12 In today's hearing session, everyone who is
13 listening on Webex or by telephone will be muted during
14 the hearing and only persons who have signed up to
15 participate or testify will be unmuted at the appropriate
16 time.

17 Please state your name and home address before
18 providing oral testimony or your presentation. Oral
19 presentations should be limited to a summary of your most
20 important points. When you are finished speaking, please
21 mute your audio, so that your microphone is no longer
22 picking up sound or background noise.

23 Once again, if you experience difficulty
24 accessing Webex or with your telephone call-in, or if you
25 have forgotten to sign up 24 hours prior to this hearing,

1 then please call our OZ hotline number at 202-727-5471 to
2 sign up and testify and to receive Webex log-in or call-in
3 instructions.

4 All persons planning to testify either in favor
5 of or in opposition should have signed up in advance.
6 They will be called by name to testify. If this is an
7 appeal, only parties are allowed to testify. By signing
8 up to testify, all parties completed the oath or
9 affirmation, as required by Subtitle Y, Section 408.7.

10 Requests to enter evidence at the time of an
11 online virtual hearing, such as written testimony or
12 additional supporting documents, other than live video,
13 which may not be presented as part of the testimony, may
14 be allowed, pursuant to Subtitle Y, Section 103.13,
15 provided that the person making the request to enter an
16 exhibit explains how the proposed exhibit is relevant; the
17 good cause that justifies allowing the exhibit into the
18 record, including an explanation of why the requester did
19 not file the exhibit prior to the hearing, pursuant to
20 Subtitle Y, Section 206; and how the proposed exhibit
21 would not unreasonably prejudice any party.

22 The order of procedure for special exceptions
23 and variances, pursuant to Subtitle Y, 409, will be as
24 follows:

25 Preliminary and procedural matters;

1 Statement of the applicant and the applicant's
2 witnesses;

3 Report and recommendation from the D.C. Office
4 of Planning;

5 Reports and recommendations from other public
6 agencies;

7 Reports and recommendations from the affected
8 Advisory Neighborhood Commission and the ANC's witnesses,
9 if any, with the area in which the property is located;

10 Parties in support of the application;

11 Individuals and organization representatives in
12 support of the application;

13 Parties in opposition to the application;

14 Individuals and organization representatives in
15 opposition to the application;

16 Individuals and organization representatives
17 who are undeclared with respect to the application;

18 Rebuttal and closing statements by the
19 applicant.

20 At the conclusion of each case, an individual
21 who was unable to testify because of technical issues may
22 file a written request for leave to -- may file a request
23 for leave to file a written version of the planned
24 testimony to the record within 24 hours following the
25 conclusion of public testimony in the hearing. If

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 additional written testimony is accepted, then parties
2 will be allowed a reasonable time to respond, as
3 determined by the Board. The Board will, then, make its
4 decision at its next meeting session, but no earlier than
5 48 hours after the hearing.

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

12 Once again, after the Board adjourns the
13 hearing, the Office of Zoning, in consultation with me,
14 will determine whether a full or summary order may be
15 issued. A full order is required when the decision it
16 contains is adverse to a party, including an affected ANC.
17 A full order may also be needed if the Board's decision
18 differs from the Office of Planning's recommendation.
19 Although the Board favors the use of summary orders
20 whenever possible, an applicant may not request the Board
21 to issue such an order.

22 Finally, the District of Columbia
23 Administrative Procedure Act requires that the public
24 hearing on each session -- on each case be held in the
25 open before the public. However, pursuant to Sections

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 405(b) and 406 of that Act, the Board may, consistent with
2 its rules of procedure in the Act, enter into a closed
3 meeting on a case for purposes of seeking legal counsel on
4 a case, pursuant to D.C. Official Code Section
5 2-575(b)(4), and/or deliberating on a case, pursuant to
6 D.C. Official Code Section 2-575(b)(13), but only after
7 providing the necessary public notice, and in the case of
8 an emergency closed meeting, after taking a roll call.

9 Madam Secretary, do you have any preliminary
10 matters?

11 MS. MEHLERT: There are a couple of preliminary
12 matters.

13 In terms of scheduling changes, Application No.
14 21125 of M. Sean Royall has been administratively
15 rescheduled to the public hearing on September 11th.

16 Application No. 20802 of 639A LLC, the Board's
17 action on the Motion to Stay has been rescheduled to July
18 24th's public meeting.

19 And then, Appeal No. 20984 of Jonathan Dupree,
20 Mike Maguire, and the 2429 Ontario Condominium Unit Owners
21 Association, has been withdrawn.

22 For the late filings, the Vice Chair has
23 reviewed and granted waivers to allow late filings into
24 the applicants' record, pursuant to Subtitle Y, Section
25 206.7 and Section 103.13. Any other late filings during

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 the course of today's hearing should be presented before
2 the Board by the applicant or parties or witnesses after
3 the case is called.

4 And any other preliminary matters will be noted
5 when the case is called.

6 BZA VICE CHAIR JOHN: Thank you, Madam
7 Secretary.

8 Before you call the first case, I would like to
9 thank Chairman Hill for coming in today on his birthday
10 and wish him a very happy birthday, as he gets younger and
11 younger. And I hope you enjoy the rest of your day.

12 Thank you, Ms. Mehlert.

13 BZA CHAIR HILL: I'm a little embarrassed.
14 Thanks.

15 BZA VICE CHAIR JOHN: Well, you deserve it, Mr.
16 Chairman.

17 Madam Secretary?

18 MS. MEHLERT: So, the Board's first case on the
19 meeting agenda is Application No. 21037 of Nathaniel and
20 Patricia Robb. This is an application pursuant to
21 Subtitle X, Section 901.2, for Special Exceptions, under
22 Subtitle E, Section 5201, from the lot occupancy
23 requirements of Subtitle E, Section 210.1, and the rear
24 yard requirements of Subtitle E, Section 207.1.

25 This is to construct a rear deck addition to an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 existing, three-story attached building. This is a two-
2 unit flat located in the RF-1 Zone, at 1361 Oak Street,
3 Northwest, Square 2835, Lot 73.

4 This case has been heard several times since
5 March 20th. On June 5th, the Board granted a request to
6 postpone the decision from ANC Commissioner Jeremy Sherman
7 to allow time for the ANC to provide additional input.

8 And participating are Chairman Hill, Mr. Blake,
9 Mr. Smith, and Chairman Hood.

10 BZA VICE CHAIR JOHN: Thank you.

11 I'm not on this case. So, I'm going to turn
12 off my video.

13 BZA CHAIR HILL: Thanks, Vice Chair John.

14 Okay. Thanks, everybody.

15 So, we -- I found this pretty difficult for me,
16 to be quite honest, and I've kind of struggled with it a
17 little bit. So, I'll be happy to hear what you all have
18 to say.

19 This was postponed so that I think the ANC
20 could also weigh-in. The ANC didn't weigh-in the first
21 time. And so, they were like, you know, they didn't give
22 us -- they didn't take a position. I can't recall
23 exactly. But now, they're voting in opposition. And what
24 they seem to be pointing out more, or more to, is, again,
25 light and air issues rather than privacy, although they do

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 mention privacy.

2 My issues with the project primarily centered
3 around privacy from that balcony on the third story and
4 the size of that balcony on the third story. There has
5 been a lot of testimony about, you know, whether or not
6 there's a third unit or not. And that's not really within
7 the purview of the Board, neither would it be something
8 that we would be enforcing. Right? That's something
9 that, you know, that's on the neighborhood, I guess, to
10 see if they wanted to -- if there is a third unit and they
11 wanted to report it, and then, that's not our area to
12 enforce.

13 So, that's just kind of -- I'm shelving that.
14 Right? Like that's not something that we're looking at.
15 It's now, basically, just this Special Exception for the
16 lot occupancy and the rear yard.

17 And the Office of Planning weighed-in and also
18 thought that they, the Applicant, met the criteria for
19 this project. And I can review the Office of Planning's
20 recommendation, but it's all there in the record.

21 And they -- the Office of Planning, I guess --
22 as I was kind of speaking about this with a colleague, you
23 know, think that there are other decks like this in that
24 neighborhood that are up this high and are this big, that
25 have been approved.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 And I'm not going to, like, say one way or the
2 other as to what I think. But since this is my only case,
3 I get to speak a little bit longer. So, I won't keep you
4 guys much longer.

5 But my issue was the size and the fact that
6 that deck went in front of the elevator shaft. Right?
7 And so, just the privacy. So, then, we talked about the
8 privacy screening. And so, I guess that's kind of where
9 we are right now.

10 To me, if they were like little decks that just
11 came out to the elevator shaft, two little decks on either
12 side of the elevator shaft, and then, a stairwell from one
13 of the decks down to the bottom, so that there would also
14 be fire egress, which is something that the Applicants
15 spoke about, it would make me feel better.

16 But I'm not trying to redesign the thing. So,
17 I'm going to wait to see what you all say, and I'm going
18 to turn it over to Mr. Smith, if I could.

19 MEMBER SMITH: We've had a lot of deliberation
20 on this particular case. And based on the information
21 within the record and what was presented by the Office of
22 Planning, I do agree with the Office of Planning's
23 analysis of this particular case in how it meets the
24 Special Exception criteria for us to grant the Special
25 Exception for lot occupancy and rear yard.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 Some of the major concerns that were raised by
2 the neighborhood relate to privacy and light and air.
3 This is an open deck. It's open to the -- and it's not
4 enclosed or nothing. So, I do not believe that, given the
5 nature of it being open, it would have an undue effect on
6 the light and air.

7 One of the primary concerns that was raised by
8 the neighbors relates to privacy and a question about
9 whether the upper-floor unit would be rented. That's not
10 something that could be regulated by this particular
11 Board. There are other avenues within the District of
12 Columbia's government that could allay some of those
13 concerns.

14 And as I stated previously when we last talked
15 about this case -- and this is to the Applicants -- that
16 the ANC is paying attention. So, if you are renting out
17 those units, or renting out the upper floor as a dwelling
18 unit, you will be cited. And there are other avenues that
19 they can pursue to correct that issue.

20 Regarding privacy, I do -- and the Office of
21 Planning has brought this up -- they do not believe, per
22 their analysis of 5201.4(b), that the inclusion of a
23 third-floor deck would, while it would result in some
24 level of privacy impacts, there are similar types of
25 structures along this alley, but they do believe that some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 of those privacy impacts could be mitigated by screening,
2 planters, and the like.

3 And I did make a recommendation to include a 3-
4 foot screening wall, a privacy wall, along all sides of
5 the upper-floor deck. And I do believe that that would
6 sufficiently mitigate some of the privacy concerns. I do
7 not believe that a 3-foot privacy wall or screening would
8 have an undue impact on the neighboring properties as it
9 relates to light and air, because this is still an open
10 deck or balcony.

11 So, I believe, with that and given the analysis
12 that has been presented by the Office of Planning, and the
13 additional pictures presented by the Office of Planning,
14 as well as the Applicant, I believe that the Applicant has
15 met the burden of proof for us to grant both of these
16 Special Exceptions, and supported with the condition that
17 the upper-floor deck would be screened, as illustrated
18 within the most recently submitted ones.

19 So, that's all I would inject.

20 BZA CHAIR HILL: All right. Thanks, Mr. Smith.

21 I think it's Exhibit 82.

22 Mr. Blake?

23 MEMBER SMITH: Eighty-one, Mr. Chair. It's 83.

24 Thank you, Mr. Chair.

25 BZA CHAIR HILL: Eighty -- which one? I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 sorry.

2 MEMBER SMITH: Three.

3 BZA CHAIR HILL: No, the drawings are in 81.

4 MEMBER SMITH: Yes, 81.

5 BZA CHAIR HILL: Okay.

6 Sorry. Mr. Blake?

7 MEMBER BLAKE: Yes, I agree with the analysis
8 that you and Mr. Smith provided for us. I do think this
9 case has had a very full record. And I do appreciate the
10 input from Commissioner Sherman, as well as the ANC, as
11 they have evolved through this process. We've got a lot
12 of information from the community, tons of community
13 input.

14 So, as Board Member Smith pointed out, the main
15 issue -- and as you, Mr. Chair, pointed out -- the main
16 issue that came up to me was the issue of privacy from the
17 discussions with the community. And I do believe that the
18 privacy screen will, in fact, actually do a lot to deal
19 with the privacy issue.

20 I don't anticipate, given the way that the
21 Applicant has expressed their use for this facility, it
22 does not appear that you would have 20 people gathered at
23 one time peering into other people's yards for extended
24 periods of time. So, I do believe that the use of this
25 property, you know, this deck, will not necessarily cause

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 that problem. If you're sitting down on the deck, the
2 privacy screen actually would shield both the users of the
3 property as well as those beneath.

4 Also, in the Office of Planning's analysis,
5 there was an issue that there would be potentially some
6 privacy concerns on the neighboring properties on the
7 side. I think this will definitely address that.

8 As far as the light and air portion of the
9 criteria, it's pretty clear from this, as Board Member
10 Smith pointed out, it's an open-air deck. And because of
11 that and its height, it isn't necessarily going to cast
12 additional shadow, especially since it's the building
13 faces north-south, and the shadows cast from the building
14 itself will pretty much not be that much more as a result
15 of the deck, even though it's on the third floor.

16 I would argue that putting the screening up
17 could actually worsen that, but I do not think it's a
18 significant amount. I think the Office of Planning did
19 determine that -- and I credit the analysis they did --
20 that it would not be an undue impact from a light and air
21 perspective.

22 And as you pointed out, Mr. Chair, the vantage
23 point, the visual intrusion issue is somewhat mitigated by
24 the fact -- if you look at the entirety of the square, it
25 includes, obviously, a MU zone, which has much larger

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 structures with larger decks which are very close to it.
2 So, the overall proximity makes that not as visually
3 intrusive as one might think.

4 And as you realize, the deck is not the least
5 bit visible from Oak Street itself, and this building does
6 sit at the peak of a hill on Oak Street. So, it does
7 appear to tower over everything else, largely because of
8 the topography.

9 We are, by Y, 406.2, we are required to give
10 great weight to the issues and concerns, including that in
11 the written report of the ANC as it relates to the
12 standards in which the application is judged, not
13 necessarily a recommendation of the ANC. Great weight,
14 basically, means that the BZA has to acknowledge the
15 legally relevant issues and concerns raised by the ANC and
16 explain the degree of particularity in their order and why
17 it did not find the ANC's views persuasive.

18 In this written report, in Exhibit 83, the ANC
19 want to oppose the application based on light and shadow
20 and the oversized nature of the structure, and the
21 repeated changes to plans throughout the BZA process.

22 I, first, say that, again, it's the legally
23 relevant issues which, basically, are light and shadow,
24 but, as we talk about the repeated changes, there weren't
25 a lot of changes. There was a refinement, a lack of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 information. We had measurement issues which were
2 addressed by the Zoning Administrator and corrected in the
3 application which is the subject of this current
4 application and revised measurements (audio interference)
5 that actually did not change.

6 The other issue that came up with regard to the
7 oversized structure, the Applicant said that the ANC was
8 concerned that it was a larger deck than necessary for the
9 purposes of fire escape and for the use that they have
10 specified. We are not able to control the size of it.
11 They have a right to use their property pretty much the
12 way that they would like to, so long as it meets the
13 criteria for approval, which really relates to the impact
14 on the neighboring properties with regard to light and air
15 and privacy. And I do believe that the privacy screen, as
16 I said, addressed that, and we believe that those issues
17 have been met, essentially.

18 So, I would argue that, while I appreciate the
19 efforts of the ANC's vantage point regarding the
20 application -- it was very helpful and insightful -- I did
21 not find that the ANC offered persuasive advice that would
22 warrant denial of the zoning relief requested by the
23 Applicant.

24 So, I would agree with, again, the Office of
25 Planning's report and give great weight to their

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 recommendation. And I will be voting in favor of the
2 application.

3 BZA CHAIR HILL: Thank you.

4 Chairman Hood?

5 ZC CHAIR HOOD: Thank you, Mr. Chairman.

6 I won't repeat everything I heard, which I
7 actually agree with the analysis of my colleagues and the
8 conclusions they have come to.

9 I will agree with Board Member Blake about the
10 ANC report. As I was reading through it, while we were
11 expounding ourselves and trying to get to some relevant
12 issues and understanding exactly what was actually
13 happening, and get a full understanding before we made a
14 decision, I wanted to make sure that, while we respect
15 what the ANC said and, yes, we went back and forth and
16 never changed it, because we need to understand what we
17 are voting on. And I think Board Member Blake hit that
18 right on the head, about how we went through that process.

19 So, I want to make sure the ANC understands
20 that we appreciate their information, but I think this
21 case meets the criteria. The privacy issue, as Board
22 Member Smith has mentioned, I think has been satisfied.

23 And, Mr. Chairman, without me elaborating and
24 keep going on here, I will be voting to support this
25 application, and also wish you a happy birthday and also

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 tell you that all of us work on our birthdays on the
2 zoning.

3 So, I'll leave it at that. Thank you.

4 BZA CHAIR HILL: Okay. All right.

5 Let's see. I still don't like it. I'll just
6 tell you guys that I still don't like it.

7 All right. I'm going to make a motion to
8 approve Application No. 21037 -- approve Application No.
9 21037, as captioned and read by the Secretary, including
10 the condition that there is a 3-foot privacy screening all
11 the way around the third-floor deck, except for the little
12 entrance area where there's, like, the stairwell, as in
13 Exhibit 81, and ask for a second, Mr. Blake.

14 MEMBER BLAKE: Second.

15 BZA CHAIR HILL: The motion is made and
16 seconded.

17 Madam Secretary, if you would take the roll
18 call?

19 MS. MEHLERT: All right. So, for the Chair's
20 motion to approve the application with the condition
21 regarding the privacy screening, as shown in Exhibit 81.

22 Chairman Hill?

23 BZA CHAIR HILL: Yes.

24 MS. MEHLERT: Mr. Blake?

25 MEMBER BLAKE: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 MS. MEHLERT: Mr. Smith?

2 MEMBER SMITH: Yes.

3 MS. MEHLERT: Chairman Hood?

4 ZC CHAIR HOOD: Yes.

5 MS. MEHLERT: Staff will report the vote as
6 4-to-0-to-1 to approve Application 21037 with one
7 condition on the motion made by Chairman Hill and seconded
8 by Mr. Blake.

9 BZA CHAIR HILL: Okay. Thanks.

10 Ms. John, are you there?

11 ZC CHAIR HOOD: See you all later.

12 BZA CHAIR HILL: Bye, Chairman Hood.

13 BZA VICE CHAIR JOHN: Good day, Chairman Hill.

14 Thank you.

15 BZA CHAIR HILL: Thank you. Thank you all.

16 MEMBER STIDHAM: Happy birthday, Chairman Hill.

17 BZA CHAIR HILL: Thank you.

18 And thank you, Ms. John. I appreciate it.

19 BZA VICE CHAIR JOHN: Thanks.

20 BZA CHAIR HILL: Bye.

21 BZA VICE CHAIR JOHN: So, we can call the next
22 case, Ms. Mehlert.

23 MS. MEHLERT: Next on the agenda is Application
24 No. 21147 of Deirdre O'Scannlain and Stephen Jones. This
25 is an expedited review case, a self-certified application,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 pursuant to Subtitle X, Section 901.2, for a Special
2 Exception under Subtitle D, Section 5201, and Subtitle D,
3 Section 5004.1(a), to allow an accessory building in the
4 rear yard. This is to construct a two-story rear addition
5 to an existing detached principal dwelling with an
6 existing one-story accessory structure in the rear yard.
7 It's located in the R-1B zone at 4913 Rodman Street,
8 Northwest, Square 1477, Lot 39.

9 BZA VICE CHAIR JOHN: Thank you.

10 So, are we ready to deliberate?

11 And I guess I'll go ahead and get started.

12 So, as we heard, this is a Special Exception
13 request for a rear yard relief for 18 feet, where 25 feet
14 are required. And the relief is necessary in this case
15 because the addition to the principal building brings it
16 much closer to the accessory structure and would encroach
17 on the rear yard, the existing rear yard.

18 So, in looking at the application, I did not
19 believe that there's any adverse impact on either air or
20 privacy, and we're only looking at 7 feet of relief, which
21 I don't believe was significant enough to have an adverse
22 impact on the neighbors.

23 And in terms of whether or not the addition is
24 consistent with the current scale and pattern of houses
25 along this street or alley, I believe that the application

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 met that requirement.

2 I also agree with OP's analysis and
3 recommendations and give great weight to OP's report, and
4 I note that the ANC is in support as well.

5 So, does anyone have anything to add?

6 Mr. Blake?

7 MEMBER BLAKE: And, Madam Vice Chair, I agree
8 with your analysis of this case. It's fairly
9 straightforward. And I believe the Applicant has met the
10 burden of proof to be granted the requested relief.

11 I'm going to be voting in support of the
12 application. I agree with the Office of Planning's
13 analysis of how they met the standards. I give great
14 weight to their recommendation. I also note that DDOT has
15 no objection, as you point out, and ANC 3D is in support.
16 They weigh no issues or concern. And there are also
17 several persons who support it, including the abutting
18 neighbors. So, I'll be voting in favor of the
19 application.

20 BZA VICE CHAIR JOHN: Thank you.

21 Board Member Smith?

22 Can you hear me, Board Member Smith?

23 MEMBER SMITH: I have nothing to add. I agree
24 with your assessment and Board Member's Blake's assessment
25 of this case, and will give, also, Planning's staff report

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 great weight, and support the application.

2 BZA VICE CHAIR JOHN: Thank you.

3 Commissioner Stidham?

4 MEMBER STIDHAM: I also agree with everything
5 that has already been said, and with that great weight
6 being applied to the OP report, and will be voting in
7 support as well.

8 BZA VICE CHAIR JOHN: Thank you.

9 I think I have everybody.

10 So, with that, I'll go ahead and make a motion
11 to approve Application 21147, as captioned and read by the
12 Secretary, and ask for a second, Mr. Blake.

13 MEMBER BLAKE: Second.

14 BZA VICE CHAIR JOHN: Thank you.

15 Madam Secretary, would you please take the roll
16 call?

17 MS. MEHLERT: On the Chair's motion to approve
18 the application, Vice Chair John?

19 BZA VICE CHAIR JOHN: Yes.

20 MS. MEHLERT: Mr. Blake?

21 MEMBER BLAKE: Yes.

22 MS. MEHLERT: Mr. Smith?

23 MEMBER SMITH: Yes.

24 MS. MEHLERT: And Commissioner Stidham?

25 MEMBER STIDHAM: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 MS. MEHLERT: Staff will record the vote as
2 4-to-0-to-1 to approve Application 21147 on the motion
3 made by Vice Chair John and seconded by Mr. Blake with one
4 Board member not participating.

5 BZA VICE CHAIR JOHN: Thank you.

6 You can call the next case.

7 MS. MEHLERT: Next is another expedited review
8 case. This is Application No. 21148 of Claire Carlin and
9 Martin Hamburger. This is a self-certified application,
10 pursuant to Subtitle X, Section 901.2, for a Special
11 Exception under Subtitle D, Section 5201, from the rear
12 yard requirements of Subtitle D, Section 207.1. This is
13 to construct a three-story rear addition to an existing
14 detached, two-story principal dwelling. The project is
15 located in an R-1B zone at 1303 Quincy Street, Northeast,
16 Square 3967, Lot 84.

17 BZA VICE CHAIR JOHN: Thank you.

18 So, I'll go ahead and get started.

19 This is a Special Exception request from the
20 rear yard requirements and the project would replace the
21 existing one-story rear addition with a three-story
22 addition and reduce the required rear yard to 8 feet.

23 The Office of Planning analyzed the application
24 and is in support. I would give great weight to OP's
25 analysis and recommendations of how the application meets

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 the criteria for the relief. The application meets all of
2 the development standards. And of note, there is a 12-
3 foot -- or 11-foot side yard, where 8 feet is required.
4 So, in terms of light and air, there should be no impact
5 from having that rear addition in a part of the rear yard.

6 I don't think, also, that there's any impact on
7 privacy because there are trees on the property which
8 would provide some protection for any potential privacy
9 impact, as the Office of Planning noted in its analysis.

10 I'll note that the ANC is in support of the
11 application. DDOT has no objection.

12 It's, basically, quite straightforward, and I'm
13 in support of the application.

14 Mr. Blake?

15 MEMBER BLAKE: Thank you, Vice Chair John.

16 I agree with the analysis that you've put
17 forth. I agree with the Office of Planning's analysis in
18 how the Applicant has met the conditions, D 5201, as well
19 as the general standards.

20 I do believe that the Applicant's additional
21 photographs were very helpful in seeing how the potential
22 impact would be on the adjacent properties. It's an
23 unusual property because it's a corner lot, et cetera.

24 I would love to have seen something from the
25 neighbors, but the ANC report said that the drawings and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 proposal were given to the adjoining neighbors. So, I
2 note that they were aware of it, and therefore, I feel
3 pretty comfortable that there are no objections. So, I
4 will be voting in favor of the application.

5 BZA VICE CHAIR JOHN: Thank you, Mr. Blake.

6 Board Member Smith?

7 Mr. Smith? Board Member Smith, we --

8 MEMBER SMITH: Sorry, can you hear me?

9 BZA VICE CHAIR JOHN: Now I can.

10 MEMBER SMITH: It keeps freezing. Sorry.

11 BZA VICE CHAIR JOHN: Okay.

12 MEMBER SMITH: Every time I hit unmute.

13 So, I agree with the analysis presented by you
14 and Board Member Blake on the reasons why this application
15 meets the burden of proof. So, I agree with everything
16 that's stated. I do believe that it was a fairly
17 straightforward application and I will be in support as
18 well.

19 BZA VICE CHAIR JOHN: Thank you, Board Member
20 Smith.

21 Commissioner Stidham?

22 MEMBER STIDHAM: Thank you.

23 I also agree with everyone, everything that's
24 already been stated and OP's analysis, and will be in
25 support as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 BZA VICE CHAIR JOHN: Thank you.

2 So, with that, I'll make a motion to approve
3 Application -- is that 21148, Ms. Mehlert?

4 MS. MEHLERT: Yes.

5 BZA VICE CHAIR JOHN: Okay. Thank you.

6 So, with that, I'll make a motion to approve
7 Application No. 21148, as captioned and read by the
8 Secretary, and ask for a second, Mr. Blake.

9 MEMBER BLAKE: Second.

10 BZA VICE CHAIR JOHN: Madam Secretary, would
11 you please the roll call?

12 MS. MEHLERT: Please respond to the Vice
13 Chair's motion to approve the application.

14 Vice Chair John?

15 BZA VICE CHAIR JOHN: Yes.

16 MS. MEHLERT: Mr. Smith?

17 MEMBER SMITH: Yes.

18 MS. MEHLERT: Mr. Blake?

19 MEMBER BLAKE: Yes.

20 MS. MEHLERT: And Commissioner Stidham?

21 MEMBER STIDHAM: Yes.

22 MS. MEHLERT: The staff will report the vote as
23 4-to-0-to-1 to approve Application 21148 on the motion
24 made by Vice Chair John and seconded by Mr. Blake.

25 BZA VICE CHAIR JOHN: Thank you. So I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 we'll take a 10-minute break and return at 10:25. Okay?

2 Thank you.

3 (Whereupon, the above-entitled matter went off
4 the record at 10:12 a.m. and resumed at 10:28 a.m.)

5 BZA VICE CHAIR JOHN: Okay. Ms. Mehlert, can
6 you call us back in?

7 MS. MEHLERT: The Board has returned from a
8 short break.

9 The last piece in the meeting session is
10 Application No. 20763-A of MR H Street Land, LLC, and MR
11 617 H Street 2 Capital, LLC. It's a time extension
12 request, pursuant to Subtitle Y, Section 705.1, for a two-
13 year time extension of the validity of the order approving
14 Application No. 20763, which was issued and final on
15 August 2, 2022.

16 The project is to construct a new 11-story
17 attached building with office and retail uses and you've
18 got the parking garage and penthouse. The project is
19 located in the D-5-R zone at 613 to 617 H Street,
20 Northwest, Square 453, Lots 847 and 848.

21 BZA VICE CHAIR JOHN: Thank you, Mr. Mehlert.

22 Just give me a minute.

23 Okay. So, this is a request for a time
24 extension, and I believe there is good cause to grant the
25 extension, the two-year extension.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 The Applicant states that there is a lack of
2 financing and that this is partly due to market
3 volatility. And so, I believe the Applicant -- the time
4 extension should be granted until August 2nd, 2026.

5 The Office of Planning recommends approval, and
6 I don't believe we have a report from ANC, the ANC.

7 So, I'm in support of the application.

8 And I'll go to Mr. Smith next.

9 Board Member Smith?

10 Can you hear me, Board Member Smith?

11 Okay. Let's take a few minutes to see if Board
12 Member Smith can get his technical difficulties resolved.

13 (Pause.)

14 Can you hear me now, Board Member Smith?

15 MEMBER SMITH: Yes, I can hear you now.

16 BZA VICE CHAIR JOHN: Okay. All right. Thank
17 you.

18 Please go ahead, Board Member Smith.

19 MEMBER SMITH: I'll be quick because of these
20 technical difficulties.

21 I agree with the statement provided by you or
22 the explanation provided by the -- or the reasons why this
23 application meets the burden of proof for us to grant the
24 time extension, and I will also vote to support.

25 BZA VICE CHAIR JOHN: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 Board Member Blake?

2 MEMBER BLAKE: Thank you, Vice Chair John.

3 I am in support of the time extension request.
4 I will credit the Office of Planning's report on the
5 determination of why 705.2(b), which indicated there are
6 no substantial changes in any of the material facts upon
7 which the Board based its original zoning approval on the
8 zoning surrounding the development or proposed development
9 -- or the proposed development.

10 I would also note that the ANC has not provided
11 a report. However, I would note Exhibit 14, which the
12 Applicant provided, providing information on the unanimous
13 support that they received from the Commission for the
14 time extension at the meeting which was held recently.

15 And I, again, agree with you it is good cause,
16 and I'll be voting in favor of the time extension.

17 BZA VICE CHAIR JOHN: Thank you, Board Member
18 Blake.

19 Commissioner Stidham?

20 MEMBER STIDHAM: Thank you.

21 I support the comments of Board Member Blake
22 and agree that the term extension is worthy and I will
23 support that as well.

24 BZA VICE CHAIR JOHN: Thank you.

25 And with that, I make a motion to approve

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 Application No. 20763-A, as captioned and read by the
2 Secretary, and ask for a second, Mr. Blake.

3 MEMBER BLAKE: Second.

4 BZA VICE CHAIR JOHN: Madam Secretary, would
5 you please state the roll call?

6 MS. MEHLERT: This is on the Vice Chair's
7 motion to approve the time extension application.

8 Vice Chair John?

9 BZA VICE CHAIR JOHN: Yes.

10 MS. MEHLERT: Mr. Smith?

11 MEMBER SMITH: Yes.

12 MS. MEHLERT: Mr. Blake?

13 MEMBER BLAKE: Yes.

14 MS. MEHLERT: And Commissioner Stidham?

15 MEMBER STIDHAM: Yes.

16 MS. MEHLERT: Staff will report the vote as
17 4-to-0-to-1 to approve Application 20763-A on the motion
18 made by Vice Chair John and seconded by Mr. Blake.

19 BZA VICE CHAIR JOHN: Thank you.

20 (Whereupon, the above-entitled matter went off
21 the record at 10:33 a.m.)

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DC BZA

Date: 06-26-24

Place: telenconference

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



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1716 14TH ST., N.W., STE. 200

WASHINGTON, D.C. 20009-7831