BZA CASE NO. 21510 | HEARING NOVEMBER 4, 2026

Rock Creek Club at Greystone: The Applicant Has Not Carried Its Burden

Opposition of the abutting neighbors: Joseph Sellers and Laurie Davis (2331 Porter Street NW) and Julia and Lowell Schiller (2323 Porter Street NW)

Cozen O'Connor | Meridith H. Moldenhauer, Counsel for the Neighbors

Board of Zoning Adjustment
District of Columbia
CASE NO. 21510
EXHIBIT NO. 137

Preliminary Matter 1: Admit Julia and Lowell Schiller as parties in opposition

Why the Schillers are uniquely affected

- Own and reside at 2323 Porter Street NW; property directly abuts Greystone (zero feet)
- Home sits beside the tennis court, padel area, meadow, and the new main entrance and trash staging
- Club traffic crosses their land on the gravel lane, the only pedestrian access to their home
- Children walk the lane to the school bus; a wheelchair-bound parent depends on it

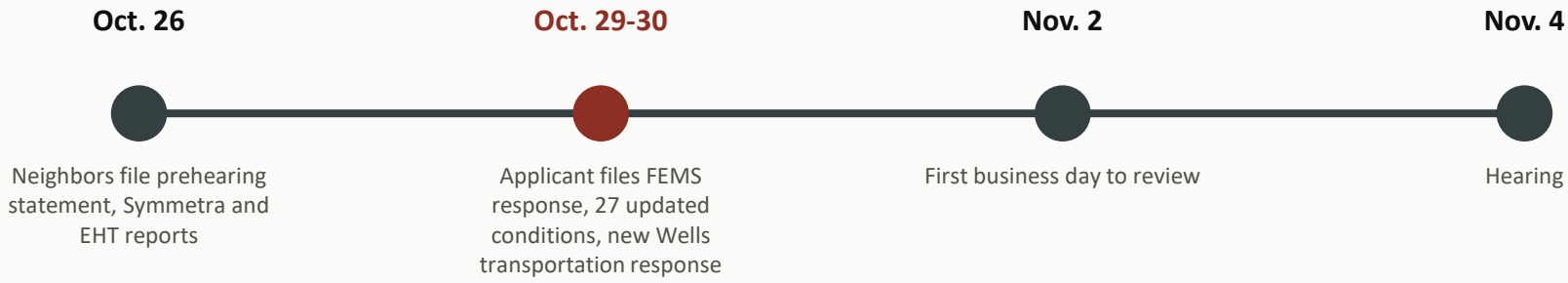
Request

Admit Julia and Lowell Schiller as parties in opposition, jointly represented with Joseph Sellers and Laurie Davis by Cozen O'Connor.

Record posture

Party status application named Sellers and Davis only. The Schillers joined the prehearing statement and filed a personal statement; the Applicant served counsel for both households.

Preliminary Matter 2: Renewed request to postpone



Late, substantive filing

Friday Oct. 30 filing adds new conditions, a revised term, a trip threshold, and a new traffic analysis. The Applicant adds a new letter in response to FEMS letter.

Applicant filed substantive documents later than thirty (30) days before the hearing as required by Subtitle Y § 300.15, 301.13 and 301.14.

Adequate time to review

Our traffic and preservation experts need time to evaluate the new Wells analysis and the FEMS response.

Neighbors renew request to postpone for good cause shown, Subtitle Y § 400.5.

Survey pending

The Neighbors are awaiting a survey needed to address the gravel lane, FEMS response and property lines. Survey was request expeditiously by Davis/Seller but will not be ready until mid-November.

BZA CASE NO. 21510

Case in Opposition: The Merits

Neighbors Joseph Sellers, Laurie Davis, and Julia and Lowell Schiller

PROXIMITY OF THE NEIGHBORS' HOMES

Our clients live on both sides of the proposed club, at zero feet

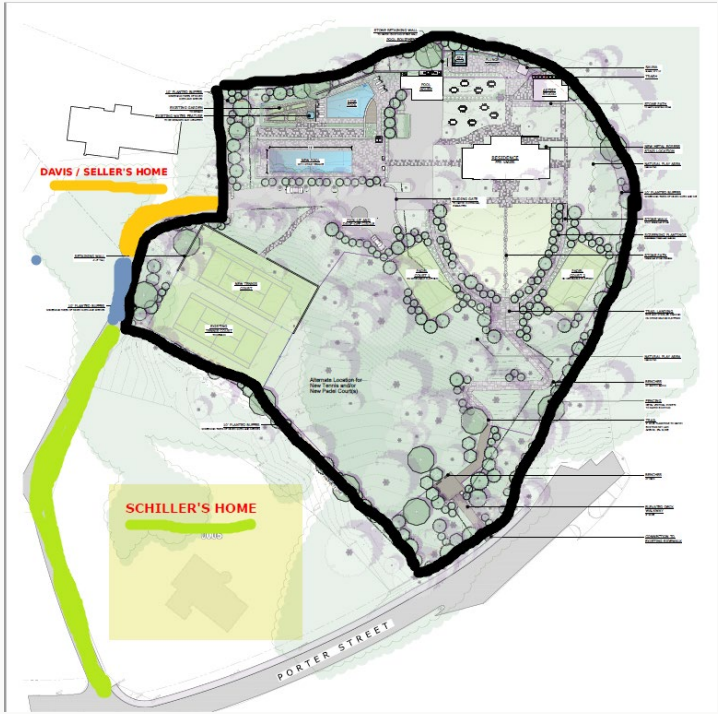


- Davis/Sellers' Home Approximately 50 ft from Pool and new proposed Baby Pool
- Schiller's Home less then 130ft from existing tennis court.
- Schiller's Home approximately 175 ft from proposed Padel Courts.
- Schiller's Home less then 150 ft from pedestrian entrance.

THE UNIQUE SETTING

The neighbors live on both sides of Greystone, and the only vehicle access is Not Owned by the Applicant but owned by objecting Neighbors.

- Applicant's Property landlocked
- Only access for 270 members (~1,000 people is over) Schiller and Seller's land
- Unique condition when proposed use can not be accessed by public property and must impose excessive burden over Schiller and Davis/Sellers' Property over their object.
- Neighbors have not consented to any widening, grading, paving, tree removal, or other modifications within the easement area and have expressly reserved their rights to object to such activities on their property



THE ASK: DENY THE APPLICATION

Four special conditions plus the general standard: none is satisfied Subtitle U§ 203.1(d) Community Center Building

(d)(1)	(d)(2)	(d)(3)	(d)(4)	X 901.2
Use organized exclusively for Social welfare of the neighborhood	**No retail sales; may charge a fee to members for services (e.g. refreshments)**	**Not objectionable for noise or traffic**	**Reasonably necessary or convenient**	**Harmony with zoning; no adverse effect**
NOT MET	**NOT MET**	**NOT MET**	**NOT MET**	**NOT MET**
Members-only luxury club with resort-scale amenities; Stewart controls	Dues fund a $7.5M acquisition; guest and event sales unclear	Private 12-16 ft gravel lane; padel, pools, 100-person dinners 2xwk, unlimited group events of 49 or fewer	Demand is not need; public recreation is as close or closer	R-1-A family zone; historic rural enclave; neighbors express adverse effect; incomplete record

Burden: the Applicant must prove no undue adverse impact on the record, even if unopposed (X § 901.3).

INTENSITY OF USE

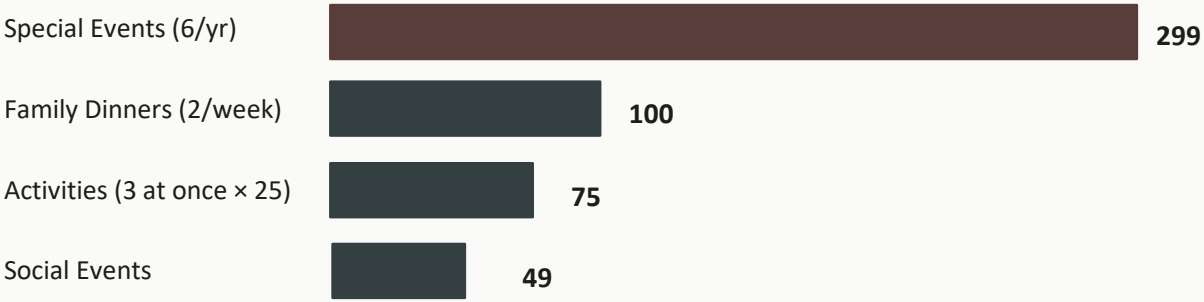
From one family to 270 households: the scale the Board is asked to approve

1 → 270
households (residence to club)

~800-1,010
people in member households, before guests and staff

9
employees on site at once, excluding lifeguards

Maximum attendance permitted by the Applicant's own conditions





Not Organized by the Neighbor's in which it is located.

CONDITION (D)(1): SOCIAL WELFARE

Stewart v. BZA reversed approval of a materially similar members-only club

Factor	Stewart tennis club (reversed)	Rock Creek Club
Access	Members and guests only; not open to community at large	Members and guests only (Cond. 6(b))
Limited, paid memberships	Only those "willing and able to pay"; limited number	270-household cap; 125+ memberships already distributed by an undisclosed process
Share of the area	Members "no substantial portion of the general public"	~1% of ~25,000 households in the one-mile radius
Financing	$1M price; $9,610/month mortgage borne by members	$7.5M purchase; $6M in reported loans
Reach	Applicant did not want to limit membership to Georgetown	15% of members may live beyond the one-mile radius

Same regulatory text then and now: "exclusively for the promotion of the social welfare of the neighborhood."

Stewart, 305 A.2d 516, 519-20 (D.C. 1973)1

CONDITION (D)(1): EXCESSIVE AMENITIES

A luxury club with resort-scale amenities is not “social welfare”

Aquatics

Lap pool, children's pool, hot tub, cold plunge

Racquet

Two tennis courts, padel courts

Fitness

Fitness center, group fitness classes, open studio

Hospitality

Café/bar, lounges, library, buffet Family Dinners

Work and meet

Co-working space, meeting space

Locker rooms

100 lockers and 5 showers

"A luxury social club that serves an exclusive self-selected group of friends is not the intent of the nonprofit social welfare requirement."

Prehearing Statement § III.A.3

Compare: approved community centers offered tutoring, ESL, after-school care, and food and clothing distribution to people in need. Lenore had one court and one small pool.

CONDITION (D)(1): WHAT THE BOARD HAS APPROVED

“Social welfare” has meant serving people in need or a small, walkable group

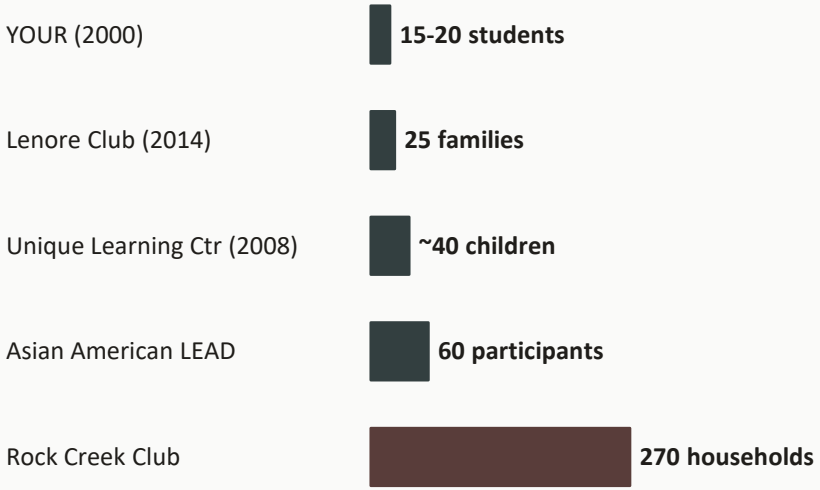
Federal tax law draws the same line

§ 501(c)(4) Social welfare organizations	§ 501(c)(7) Clubs for pleasure and recreation (RCC's status)

26 C.F.R. § 1.501(c)(4)-1(a)(2)(ii): a social club for members' recreation is not a social welfare organization.

Lenore, the only private club approved, was limited to families mostly within 1,000 feet, with one court and one 20 × 55 ft pool.

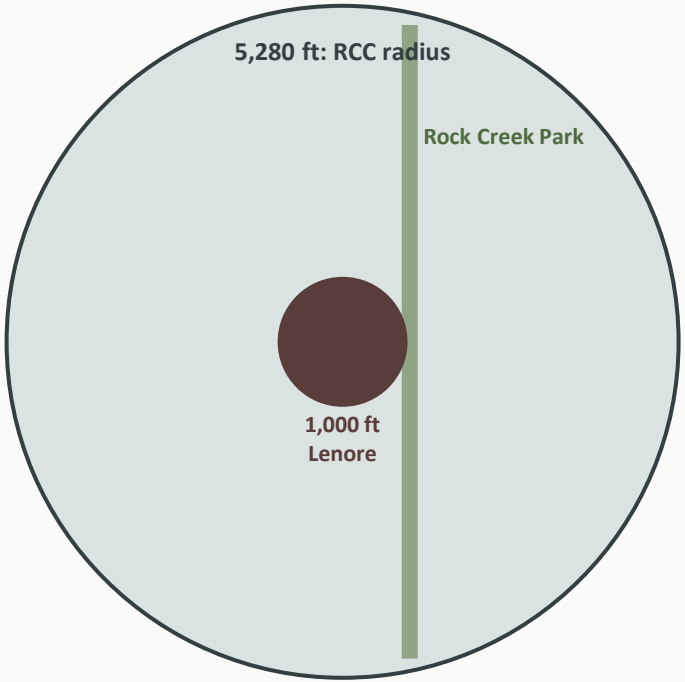
Size of past community-center approvals



Units differ by case (students, families, participants); figures are the caps or populations in each order.

Prehearing Statement §§ III.A.2-3 and chart; BZA Orders 17080, 17742, 16532, 14619/18718

The Applicant drew its own “neighborhood”: a one-mile circle spanning three Wards



~28× the area of Lenore's 1,000-foot limit

~1% of ~25,000 households (pop. 48,000+) could be members

3 Wards about 5 ANCs, 9+ named neighborhoods, 5-6 elementary school zones

15% of members may live outside even the one-mile circle

CONDITION (D)(2): NO RETAIL SALES; LIMITED FEES

A “fee to members for services” does not cover the owner’s acquisition and carrying costs

PERMITTED: a service to the member

- Refreshments (the regulation's only example)
- Classes, events, programming at cost

NOT PERMITTED: the owner's property costs

- Mortgage principal, interest, acquisition debt
- Upkeep, landscaping, renovation, capital work
- Relabeling these as "dues" does not change the analysis

$7.5M

purchase price

$6M

reported acquisition loans

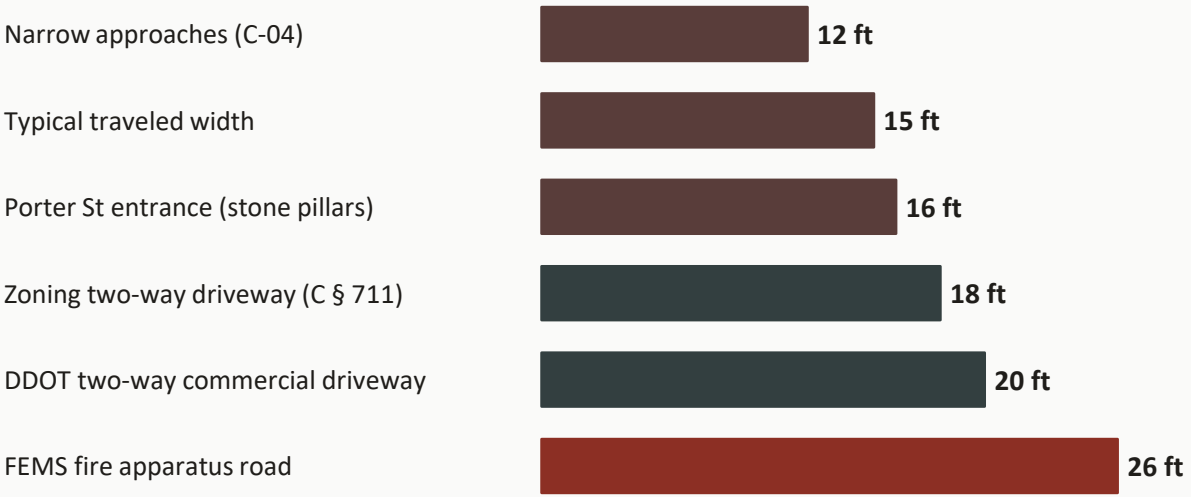
Not disclosed

financing structure and dues; a $10,000-$12,000 deposit was described orally, not in the record

Retail risk: guests may attend Social Events (up to 20) and visit daily (4 per member); the record does not foreclose guest fees, lessons, clinics or camps sold to non-members.

CONDITION (D)(3): TRAFFIC AND ACCESS

The gravel lane is narrower than every relevant benchmark, and no agency has evaluated it



Typical width shown as midpoint of the measured 14-16 ft range.

Opposing vehicles must yield or reverse at curves with limited sight distance; residents and children walk this same lane.

DDOT: segments do not meet the 18 ft two-way standard, but DDOT "did not request the Applicant evaluate the design or operations" of the lane.

Result: private land, no public oversight; the Neighbors bear the safety and queuing risk.

CONDITION (D)(3): TRIP GENERATION

The traffic study rests on optimistic assumptions the record does not support

Average vehicle occupancy



Bike / scooter share



Daily person trips



Static membership: over 50% of supporting families have children under 4. As children grow, cargo-bike trips become car, carpool, rideshare and teen-driver trips. The exception runs with the land.

The 68-trip daily threshold (Cond. 19) is a monitoring trigger with self-selected corrective actions, not an enforceable cap.

CONDITION (D)(3): NOISE

Noise: outdoor courts and pools beside two homes, with testing deferred until after approval

Padel setback benchmark

Recommended minimum setback from dwellings: 100 m (328 ft)

RCC: not dimensioned; much closer

Study: padel's "dry, impulsive sounds" and "metallic clangs" produce higher annoyance than tennis and are a leading cause of legal disputes.

Plans show no setback dimensions to side and rear lot lines.

Hours	7 AM-9/10 PM, six days; racquet sports 8 AM-sunset
Main source	Cumulative unamplified noise from pools, courts and terraces used at once; no occupancy cap for outdoor areas
Padel	Acoustic testing only after approval, before CO (Cond. 23(d))
Trash	Bins moved down the steep path to Porter St twice weekly

WHAT DDOT, FEMS AND OP DID AND DID NOT DECIDE

The agency reports leave the critical questions open

DDOT

No objection, with TDM conditions

- Lane segments below the 18 ft two-way standard
- Did not evaluate the gravel lane's design or operations
- Pedestrian gaps; missing ADA ramp on Porter St
- 5 Heritage and 18 Special trees on site

FEMS

Code requirements not yet addressed

- Change to A-3 triggers full sprinkler system
- Fire access road within 150 ft of all structures; no exception recommended
- 26 ft wide, 75,000 lb, ≤10% grade; two roads at 33 ft height
- No access roads or water supply shown in plans

OP

Requested a term and conditions

- Applicant reports OP agreed to a 5-year term
- Term confirms actual impacts are uncertain
- No operator or programming in record when OP met with Neighbors

THE APPLICANT'S OCT. 29-30 RESPONSE AND THE LANDMARK

Fire access and the historic lane cannot both be satisfied on this record

FEMS requires

- 26 ft access road
- Within 150 ft of every structure
- Code-compliant gate and turnaround

The landmark protects

- Rural lane, ~16-20 ft; 15 ft easement segment
- Historic bridge and stone pillars under 25 ft
- 1997: subdivision denied in part because lane changes would destroy its character

Grill letter (10/29)

Says building is under 30 ft, so one road suffices. FEMS relied on the 33 ft height in the Applicant's own Form 135. No design submitted; only confidence the team "will be able to" comply.

Ask: the Board cannot find no adverse effect on the landmark or the Neighbors until the Applicant shows a fire-access design and its effect on the lane, bridge, pillars, trees and drainage.

Expert: Emily Hotaling Eig (EHT Traceries) on the Greystone Enclave's rural character, axes and vistas.

ALTERNATIVE REQUEST UNDER X §§ 901.4-901.5

If the Board approves, the Neighbors' conditions are the minimum needed

Issue	Neighbors' request**	Applicant's 10/30 offer
Term	1 year, then renewal	5 full operational years
Membership	150 families (20 held for Neighbors)	270 households (20 held for Neighbors)
Geography	Within 2,000 ft	85% within one mile
Guests	25 per day total	4 per member per day; 20 at Social Events
100-person dinners	Once a month	Up to twice a week
Outdoor hours	8 AM-8 PM	Club 7 AM-10 PM; racquet 8 AM-sunset
Amplified sound	None outdoors	Allowed at Special Events, 12-9 PM
Dues	May not fund acquisition or capital costs	Not addressed
Stormwater	Plan showing no added runoff	Not addressed

** Neighbors' request permission to supplemental the record with comments on the conditions if a postponement is not granted.

The Board should deny the application

1. A members-only, member-financed club is not organized for the social welfare of the neighborhood (Stewart).
2. A one-mile circle across three Wards is not "the neighborhood in which it is proposed to be located."
3. Traffic depends on a private 12-16 ft lane no agency has evaluated, crossing the Neighbors' land.
4. Fire access, noise, and landmark impacts are unresolved; the Applicant, not the Neighbors, bears that gap.

Alternatively: strict conditions and a one-year term under X §§ 901.4-901.5.

Expert Witnesses: Traffic and Historic

- The Neighbors' traffic expert shows the objectionable challenges of the proposed use along the narrow gravel.
- The Neighbors' historic preservation expert shows the objectionable challenges of the proposed use in conflicting with the landmark status, providing unsafe conditions for FEMS Compliance, and lack of harmony with the zone plan.
- The Neighbors will provide personal statements regarding concerns and objections.