

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

APRIL 7, 2015

+ + + + +

The Regular Public Meeting convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
MARNIQUE HEATH, Vice Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LAWRENCE FERRIS III, ESQ.
MARY NAGELHOUT, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
STEPHEN COCHRAN
STEPHEN GYOR
MATT JESICK
ELISE VITALE

The transcript constitutes the minutes from the
Public Hearing held on April 7, 2015.

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

10:06 a.m.

CHAIRMAN JORDAN: All right. So, now we move to our hearing cases. And don't forget the witness cards. Thank you.

I guess there's no party status request in these today, right? So, we lost that one, we got that one. Got that one, lost that one.

All right, let's call 969 and see where we are on that one.

MR. MOY: Yes, sir. That would be to the table, parties to Application Number 18969 of Edward G. Fisher, M.D. Mr. Chairman this was advertised for a special -- it was advertised for a special exception relief. And I believe the Applicant made an amendment for a variance use provision under Section 320.

CHAIRMAN JORDAN: Good morning. Just make sure your microphone is turned on please. The microphone in front of you. It's a -- yes, push. It says push. See, it's a button that says push on the base of the -- yes.

DR. FISHER: The green light is on.

CHAIRMAN JORDAN: There go you go now. Yes, what you originally see is a little light that looks green, but it's not really on.

DR. FISHER: All right.

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1 CHAIRMAN JORDAN: It will glow brightly once it's on.
2 Would you give us your name please?

3 DR. FISHER: Yes, my name is Dr. Judy Fisher. And I'm
4 the spouse of Dr. Edward Fisher and his authorized -- to be
5 here for him.

6 CHAIRMAN JORDAN: Okay. Got some issues here that need
7 to work through procedurally. And I think you're aware of
8 those.

9 This was originally advertised as a special exception.

10 DR. FISHER: Yes. I spoke with Mr. LaGrant when I first
11 called, because I didn't know I had to go through this when
12 I called the office. He spent quite a bit of time of time
13 speaking with me.

14 And after hearing my story, he suggested that I go for
15 a special exception. And after I followed through and did
16 everything and uploaded the case.

17 And when the Office of Planning got it, they called and
18 says well, we don't think this fits a special exception. You
19 need to go with a use variance. But I said, but I didn't do
20 it, Mr. LaGrant suggested it.

21 So she said, well, let me talk to Mr. LaGrant. So she
22 went back and talked to the Zoning Administrator. And he gave
23 me another letter, a revision, saying okay, go for a use
24 variance. And that's what I did.

25 So you will see in the record some back and forth where

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1 I address the special exception. But when I got the letter
2 to revise it, I had to backtrack and then go that way.

3 But there was no way for me to remove what I had done
4 for the special exception because they said they couldn't
5 delete.

6 CHAIRMAN JORDAN: Got you. But the issue is, the
7 notice to the public.

8 DR. FISHER: Oh, that was changed.

9 CHAIRMAN JORDAN: Okay. So, tell me what you mean it
10 was changed?

11 DR. FISHER: Well, they gave me new -- because I had
12 posted -- I had picked up the posters and had filed my affidavit
13 and everything.

14 So when I got the revision letter, then the office called
15 me. The Office of Planning called me and says, well you got
16 to come get new posters.

17 So I came down, picked up the new notices that now says
18 use variance. And removed the one that said special
19 exception. And got the affidavit and sent that in.

20 And then there was --

21 CHAIRMAN JORDAN: Okay, how long were the -- all right,
22 how long was the use, the variance notice posting on the
23 property?

24 DR. FISHER: It was almost like -- well, it was from the
25 time I picked them up, oh, the same day that I uploaded -- I

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1 think in the record it shows maybe toward Exhibit 25 or
2 something.

3 CHAIRMAN JORDAN: Just a second.

4 DR. FISHER: The second set that I had notarized.

5 CHAIRMAN JORDAN: Give me one second here. Let me --
6 certainly.

7 DR. FISHER: I didn't bring my total file. Let's see
8 --

9 CHAIRMAN JORDAN: Exhibit 26 you say?

10 DR. FISHER: I received the revision letter on March 17.
11 And filed -- refiled for that. And on the 21st of March, the
12 new posters went up.

13 The affidavit of posting was notarized that day. And
14 I submitted it, uploaded that same day.

15 CHAIRMAN JORDAN: Wait a minute, so you posted it on
16 March --

17 DR. FISHER: 21st.

18 CHAIRMAN JORDAN: 21st.

19 DR. FISHER: Um-hum.

20 CHAIRMAN JORDAN: And --

21 DR. FISHER: That was for the variance, the use
22 variance. The second set.

23 CHAIRMAN JORDAN: Right. Is it still up?

24 DR. FISHER: Yes.

25 CHAIRMAN JORDAN: What's today? I mean that's -- how

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1 many days is that? That's two weeks. Okay, let's go for it.

2 All right. All right. Okay, I think we just made it.

3 DR. FISHER: Yes.

4 CHAIRMAN JORDAN: All right. Okay. Does the Board
5 have any questions with this case? Anyone have any questions
6 or anything they need to hear from the Applicant?

7 I believe the record is sufficient to support the relief
8 requested for the particular relief. Anyone?

9 (No response)

10 CHAIRMAN JORDAN: Seeing that there's no questions from
11 the Board, we can proceed on the hearing. We typically will
12 give the opportunity -- the Applicant the opportunity to come
13 back and do any rebuttal.

14 You certainly have the opportunity up front to do a
15 presentation. But we're telling you we don't think we need
16 to hear anything else from you.

17 DR. FISHER: Okay.

18 CHAIRMAN JORDAN: And so with your permission, we'll
19 just proceed onto the hearing.

20 DR. FISHER: All right.

21 CHAIRMAN JORDAN: Okay. So, then let's turn to the
22 Office of Planning and see if Ms. Brown-Roberts has something
23 else for us.

24 MS. BROWN-ROBERTS: Good morning Mr. Chairman and
25 members of the Board. The Office of Planning will rest on our

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1 submission.

2 We are very supportive of the work of the organization.
3 And we recommend approval. Thank you, Mr. Chairman.

4 CHAIRMAN JORDAN: Thank you. Board, any questions of
5 the Office of Planning?

6 (No response)

7 CHAIRMAN JORDAN: Does the Applicant have any questions
8 of the Office of Planning?

9 DR. FISHER: No, I don't.

10 CHAIRMAN JORDAN: Is anyone here from the Department of
11 Transportation on this file?

12 (No response)

13 CHAIRMAN JORDAN: We do have a letter of no objection
14 to the relief. Let me go back a second. I don't think I have
15 an ANC letter in this.

16 Dr. Fisher, let me ask you, was there a presentation in
17 front of the ANC 7? Let me first ask, is anyone from the ANC
18 7F, is it? Anyone here from ANC 7F?

19 (No response)

20 CHAIRMAN JORDAN: Did you do a presentation in front of
21 the ANC 7F?

22 DR. FISHER: Well, what happened, and that's also
23 explained in my file, we couldn't find the ANC Commissioner.
24 And when I spoke with the Office of Planning, they said well,
25 you know, we've been getting that.

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1 So, let us know what you find. And what had happened,
2 her contact information was in error from the ANC Office. I
3 called the Mayor's Office and said I can't find the ANC
4 Commissioner. And he says, well, call ANC and see.

5 And so they gave me a number. I call it. It wasn't
6 working. They gave me an email address. I sent it. But I
7 got no response. And I indicated that.

8 And then as we -- as I spoke with the Office of Planning,
9 I say, let me find this lady. So I just started calling all
10 the ANCs in the area.

11 And finally, I got in touch with the lady who was the
12 Chairperson. And she said, there's something wrong here
13 because the number you gave me is not her number. And --

14 CHAIRMAN JORDAN: Wait a minute you said that -- who
15 said that?

16 DR. FISHER: Oh, was it -- Carson. Her name was Ms.
17 Carson. She said, well, I am the Chairperson of the ANC in
18 the area. She says, let me call you back. And she called
19 back. She said, somebody gave you the wrong phone number and
20 the email.

21 So I called the office of planning, I said, well I found
22 the lady. I have her number. I called her immediately. As
23 it turned out, she was my neighbor for 35 years.

24 And she says, Dr. Fisher, no one -- I have not heard from
25 anybody. Not Planning. Not Zoning.

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1 She said, I can't even get in my email box. She said
2 I've asked the ANC for my password. They have not given it
3 to me. She says, I knew nothing about this.

4 She said, you know, I saw the signs in the yard and all
5 this, so okay, I know you all. So, I went around -- we spoke
6 a long time on the phone. I reported that to the Office of
7 Planning.

8 And then I went to her home because the ANC meeting had
9 already happened. She says, I can't present you until the next
10 one. She says, but, what you're doing is exactly what we've
11 been talking about.

12 And I'm sure if I --

13 CHAIRMAN JORDAN: What date was that in? When is the
14 next one?

15 DR. FISHER: The next one is April 21.

16 CHAIRMAN JORDAN: Okay.

17 DR. FISHER: But she said we have no problems. She
18 said, in fact, your agenda is exactly what we have been wanting.
19 Especially for the senior citizens.

20 So she wrote a letter herself. She said, I'll write a
21 letter. And I think the Office of Planning said they would
22 accept one from her since the meeting had already happened.

23 It wasn't my fault. It wasn't her fault. She was not
24 notified of it nor could I find her. But we have been in
25 constant communication since that time.

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1 CHAIRMAN JORDAN: Yes, any single member --

2 MR. TURNBULL: Yes, we have a letter under Exhibit 37.

3 CHAIRMAN JORDAN: From the single member district
4 chair.

5 MR. TURNBULL: Right.

6 CHAIRMAN JORDAN: Okay. Mr. Moy, did we get a returned
7 mail from our mailing to the ANC Chairperson?

8 MR. MOY: All right, just a second sir, let me check.

9 CHAIRMAN JORDAN: I don't see anything in here
10 indicating that it was.

11 MR. MOY: No, sir. Not in the official record. And
12 usually when they're returned, we would enter it into the
13 record.

14 CHAIRMAN JORDAN: Why don't we have -- who did we send
15 it to? You saw an address? What did they say about it? I
16 hear something -- okay.

17 All right, Board, what do you want to do? Proceed on,
18 is that okay? Okay. All right, we'll take that as some
19 extenuating circumstances with the attempt to try to contact
20 the ANC.

21 We do sometimes have some glitches in communicating with
22 ANCs and et cetera. But we don't make it part of our norm to
23 proceed that way because ANCs should actually have the
24 opportunity to weigh in, under the law to weigh in, provided
25 within the guidelines of the law.

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1 So, I won't hold this up. Okay. So, is there anyone
2 here wishing to speak in support of this application? Any
3 wishing to speak in support?

4 Yes, please come forward. And make sure your
5 microphone is on. It's the button that says push. I think
6 you might --

7 MS. HAZEL: Okay. Great. Good morning.

8 CHAIRMAN JORDAN: And one other thing, did you give your
9 --

10 MS. HAZEL: I did, yes.

11 CHAIRMAN JORDAN: Okay. Very good. Thank you.

12 MS. HAZEL: Good morning. I am Commissioner Janis
13 Hazel, Advisory Neighborhood Commission 7D 05. 7D 05 is my
14 single member district, which is the Benning Road/East Capital
15 Area, Shrimp Boat/Benning Road Metro Station. That's my
16 actual single member district.

17 7D encompasses East Capital along Benning Road through
18 19th Street NE. And all the way back almost to the Maryland
19 boarder. Parkside, Mayfair Mansions. So 7F is my
20 neighboring commission.

21 And I apologize profusely, but I certainly understand,
22 this is a real challenge with the ANCs throughout the City.
23 Many of them do not have websites. Many of them do not have
24 posted email addresses.

25 Many of the Commissioners do not look at their

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1 government issued email address. They have their personal
2 gmail, Yahoo, et cetera. And oftentimes they don't even look
3 at their government address.

4 So, what the gentle lady here is stating, is so very
5 true. And it is very aggravating for our residents.

6 And I and other Commissioners from 7D have actually
7 testified before the Advisory Neighborhood Commission's
8 Office, with the Executive Director being Gottlib Simmons and
9 the Chair being Councilwoman Anita Bonds, on this very issue.
10 Because it is very, very critical for our constituents, our
11 residents to be able to reach Commissioners because this can
12 hold up a proceeding such as this morning.

13 So, 7F is right across East Capital from me. Right
14 across the street. I do know Commissioner Carson Carr, who
15 became the Chair in January of this year. And so I can
16 definitely testify that what she is saying, happens all the
17 time.

18 In that she is in a neighboring area, basically right
19 across the street from me, across East Capital, her services
20 will also provide services to my residents, which are the 7D,
21 7D 05 area. And I would like to say that I support the efforts
22 that Dr. Fisher is providing.

23 CHAIRMAN JORDAN: I appreciate you coming and giving us
24 that that information. Thank you so much.

25 Someone has a cell phone on. And I'm going to ask once

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1 again, to be sure to silence those.

2 Okay. Thank you again. Anyone else wishing to speak
3 in support?

4 (No response)

5 CHAIRMAN JORDAN: We do have letters of support from --
6 several letters of support of this application. Is there
7 anyone wishing to speak in opposition? Anyone in opposition?

8 (No response)

9 CHAIRMAN JORDAN: Okay. So, let's close the record in
10 this case and move to deliberation. The Board's ready to
11 deliberate?

12 I would move that we grant the relief requested in 18969.
13 Motion made and seconded -- second by Commissioner Turnbull.

14 All those in favor of the motion, aye?

15 (Chorus of ayes)

16 CHAIRMAN JORDAN: Those opposed, nay?

17 (No response)

18 CHAIRMAN JORDAN: The motion carries. Mr. Moy?

19 MR. MOY: Staff would record the vote as four to zero.
20 This is on the Motion of Chairman Jordan to approve the
21 Application for the relief requested, the variance relief.

22 Second the motion Mr. Turnbull -- Commissioner Turnbull
23 from the Zoning Commission. Also in support, Vice Chair
24 Heath, Mr. Hinkle. We have a Board seat vacant. Motion
25 carries sir.

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1 CHAIRMAN JORDAN: Summary please.

2 MR. MOY: Yes, thank you.

3 CHAIRMAN JORDAN: Thank you, it's done.

4 DR. FISHER: Thank you. May I make a comment? I'd
5 just like to say, and to thank the Zoning Board.

6 Despite all the glitches, everybody was always so
7 supportive and very helpful to me at the Office of Planning.
8 And I just want to say thank you so very much.

9 I really didn't know that the District had such friendly
10 people. Because I was so afraid of Zoning, not having a
11 lawyer, couldn't afford one. But they were just tremendous.

12 And I just want to thank each one of you. And especially
13 the Office of Planning over there.

14 CHAIRMAN JORDAN: We appreciate that. Thank you so
15 much.

16 DR. FISHER: Thank you so much.

17 CHAIRMAN JORDAN: I also was frightened of it too.

18 (Laughter)

19 CHAIRMAN JORDAN: But thank you. Thank you all. Dr.
20 Fisher, yes, your witness cards please.

21 Mr. Moy, can we do 71 please? Right, 71 guys?

22 MR. MOY: All right, to the table, Applicants to
23 Application Number 18971. This is the Application of Nicholas
24 Nowak.

25 And as advertised, publically requests variance --

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1 variance relief of lawn occupancy, open court and
2 nonconforming structure at 317 9th Street, SE.

3 CHAIRMAN JORDAN: Okay. Thank you. Would you please
4 introduce yourselves. Make sure your microphone is on. And,
5 did you give your witness cards to the court reporter.

6 MR. NOWAK: I haven't given my witness card yet.

7 CHAIRMAN JORDAN: Ah, see. That's why we went over it
8 50 times. All right. I knew -- so, that was the test. So
9 denied the relief. Didn't follow instructions.

10 Thank you for that. Can you give us your names please?

11 MR. NOWAK: Sure. My name is Nicholas Nowak. I'm the
12 owner of 317 9th Street, SE.

13 MR. JONES: Kim Jones. I'm the architect working with
14 him.

15 CHAIRMAN JORDAN: Okay. Let me ask you, have the
16 physical conditions of this property changed since 1973?

17 MR. NOWAK: Well, my wife and bought the -- my wife and
18 I bought about ten years ago. And so, prior to ten years ago,
19 I don't know.

20 CHAIRMAN JORDAN: Okay. I just asked that because this
21 property actually received relief and the Board already made
22 a finding in regards to the various parts of the test on this
23 property. And so, we're just kind of making some alterations
24 of that.

25 MR. NOWAK: I don't believe it's been changed.

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1 CHAIRMAN JORDAN: All right. With that, I -- Board, do
2 you have any questions of this Applicant since this has been
3 before us before?

4 And it's just some minor modifi -- I'm going to use the
5 word minor, I don't mean to use necessarily word minor
6 modification in a technical sense. But it's just expansion
7 of that.

8 Okay, so the Board believes there's sufficient
9 information at this time to grant the relief requested based
10 upon what's been filed. And again, as I said, the Board has
11 already ruled that this property had some unique conditions
12 and some practical difficulties in doing various things with
13 this property. So we would adhere to the previous Board
14 finding.

15 So, with your permission, I will proceed onto the Office
16 of Planning. And if there's any issues come up, you can come
17 back and talk about them in rebuttal, if that's okay with you?

18 MR. NOWAK: That's fine.

19 CHAIRMAN JORDAN: Okay. So let's turn to the Office of
20 Planning and see if Ms. Vitale has anything for us.

21 MS. VITALE: Good morning Mr. Chair and Members of the
22 Board. The Office of Planning will rest on the record. I can
23 answer any questions that you might have.

24 CHAIRMAN JORDAN: Board, any questions of Planning?
25 (No response)

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1 CHAIRMAN JORDAN: Applicant, any questions of
2 Planning?

3 MR. NOWAK: No, none at this time.

4 CHAIRMAN JORDAN: So, we do have a letter from the
5 Department of Transportation. No objection to the relief
6 requested.

7 Is anyone here from ANC 6B, is it? ANC 6B?

8 (No response)

9 CHAIRMAN JORDAN: We do have a letter of support from
10 ANC 6B, supporting the relief requested. We have several
11 letters -- we have a letter also from the Capital Hill
12 Restoration Society in support of the Application. And
13 letters in support from both of your adjacent neighbors.

14 Is there anyone else here wishing to speak in support
15 of the Application? Anyone else wishing to speak in support
16 of the Application?

17 (No response)

18 CHAIRMAN JORDAN: Anyone wishing to speak in opposition
19 to the Application? Any opposition to the Application?

20 (No response)

21 CHAIRMAN JORDAN: Then we would normally turn back for
22 any level of rebuttal. But there is nothing to rebut. So,
23 we'll close the record on this if it's okay with the Board?

24 And I would move that we grant the relief requested in
25 18971.

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1 MS. HEATH: Second.

2 CHAIRMAN JORDAN: Motion made and seconded.

3 Additional discussion?

4 (No response)

5 CHAIRMAN JORDAN: All those in favor, aye?

6 (Chorus of ayes)

7 CHAIRMAN JORDAN: Those opposed, nay?

8 (No response)

9 CHAIRMAN JORDAN: The motion carries. Mr. Moy?

10 MR. MOY: Staff would record the vote as four to zero.

11 This on the motion of Chairman Jordan to approve the
12 Application for the variance relief requested.

13 Seconded on the motion of Vice Chair Heath. Also in
14 support, Mr. Turnbull and Mr. Hinkle. A Board seat vacant.
15 The motion carries four to zero, sir.

16 CHAIRMAN JORDAN: Summary please.

17 MR. MOY: Yes, sir. Thank you.

18 CHAIRMAN JORDAN: Then we're done. And thank you.

19 MR. NOWAK: Thank you, very much.

20 CHAIRMAN JORDAN: 75 Mr. Moy?

21 MR. MOY: All right, Applicants to the table to
22 Application Number 18975. This is the Application of Scratch
23 LLC.

24 And this Application was met with -- posted or
25 advertised for special exception from the roof structure

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1 requirements under 411.3 at property 2619 Evarts Street, NE.

2 CHAIRMAN JORDAN: All right, got it. Please identify
3 yourself.

4 MR. HANSAN: My name is Ryan Hansan. I'm the owner of
5 Scratch, LLC and the building.

6 CHAIRMAN JORDAN: Okay. And you turned in your witness
7 card?

8 MR. HANSAN: Oh, yes.

9 CHAIRMAN JORDAN: Mr. Hansan, let me ask you, I was kind
10 of a bit confused regarding the -- what's being over budget.
11 How much over budget -- how much, oh, excuse me, let me go back.

12 Not how much over budget is the project. But
13 particularly, how much would the addition for the screening
14 cost?

15 MR. HANSAN: The initial estimate of the screening that
16 was written onto the permit plans, it was added after the
17 comments, due a comment. The initial permit application had
18 no screening whatsoever.

19 In the permitting process they instructed us to add
20 screening. So in a haste to get the permits through, our
21 architect did not consult us, and just added the standard
22 architectural louver systems in order to get through the
23 six-month permit process. Sorry.

24 CHAIRMAN JORDAN: Work with me.

25 MR. HANSAN: Sorry.

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1 CHAIRMAN JORDAN: How much?

2 MR. HANSAN: It was \$100,00.00 for parts and labor for
3 the initial screening.

4 CHAIRMAN JORDAN: That's --

5 MR. HANSAN: Yes.

6 CHAIRMAN JORDAN: Okay. Because there's a couple of
7 numbers floating in here.

8 MR. HANSAN: Right.

9 CHAIRMAN JORDAN: It was \$28,000.00.

10 MR. HANSAN: Yes.

11 CHAIRMAN JORDAN: I saw an estimate for \$28,000.00.
12 How did we get to the \$100,000.00?

13 MR. HANSAN: So the \$100,000.00 is what is in the permit
14 set. What was approved by DC. So we came -- once we learned
15 that, after getting the permits issued, we then actually bid
16 that out. And it was \$100,000.00 expense.

17 So we went to Mr. LaGrant. We met with Mr. LaGrant and
18 proposed cheaper alternatives. Because the \$100,000.00
19 system was just not, you know, not in the budget.

20 We did come up with a \$28,000.00 replacement. Which was
21 the chainlink fence with slats in it. And there was no
22 precedent for that. So we then filed for the BZA.

23 In further conversations with members from the Office
24 of Zoning, with neighbors, with the Office of Planning, with
25 basically everyone we've spoken to through this matter, they

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1 have actually instructed us to push to eliminate the screening
2 altogether. Because the screening, if we were to install it,
3 then something on the roof would be visible.

4 But as the equipment is installed now, there is -- it's
5 not visible.

6 CHAIRMAN JORDAN: And it seems like sufficient set back
7 to me. Okay. That's the only issue that I really. Board,
8 please, any questions of the Applicant? Mr. Turnbull, please?

9 MR. TURNBULL: Yes, thank you, Mr. Chair. Interesting
10 name, Scratch.

11 MR. HANSAN: Yes.

12 MR. TURNBULL: And --

13 MR. HANSAN: It's from Scratch. So, we're a food
14 business, so --

15 MR. TURNBULL: Okay, from scratch, I get it.

16 MR. HANSAN: The idea, from scratch, yes.

17 MR. TURNBULL: And I like it. I like it. No, I think
18 -- I have -- the only one issue that I had was the one piece,
19 the one unit that was over nine feet --

20 MR. HANSAN: Yes.

21 MR. TURNBULL: High, and it's -- it looks like one
22 piece, but is eight foot, but that looks like it's to a piece
23 sticking out. The actual nine foot section might be back nine
24 feet from the side. I'm not really sure.

25 MR. HANSAN: I believe it is. But again, I'm not, you

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1 know, I'm a food guy. This is my first time doing this.

2 MR. TURNBULL: Yes.

3 MR. HANSAN: So, you know, I think in talking with the
4 neighbors and in talking with everybody, literally nothing is
5 visible. Even if you're kind of in the back, across two
6 streets, you know, you still can't see anything.

7 MR. TURNBULL: Yes. I'm looking at a color photograph.
8 It looks like you really can't see anything.

9 MR. HANSAN: And there was an addendum that I added that
10 had, you know, multiple different pictures from multiple
11 angles all throughout the street, through the back. You know,
12 and so there's literally nothing visible.

13 But, if you were to install screening and put that, you
14 know, ten feet, it has to be the same height. It has to be
15 ten feet.

16 So it has to be closer to the front of the building, to
17 the sides of the building, to the back of the building. And
18 that would be visible if we were to install something.

19 MR. TURNBULL: Yes. I'm sure you've got to have a
20 certain amount of clearance from all these.

21 MR. HANSAN: Right.

22 MR. TURNBULL: Now the equipment, was that there,
23 existing?

24 MR. HANSAN: No. That is new equipment that we
25 installed.

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1 MR. TURNBULL: But that -- I'm assuming that the
2 location is related to whatever is directly below it,
3 functioning there?

4 MR. HANSAN: Yes. Correct. Yes. And support
5 engineering and all of that good stuff.

6 MR. TURNBULL: Yes. Okay. All right. Thank you.

7 CHAIRMAN JORDAN: Okay. Board, any additional
8 questions of the Applicant?

9 (No response)

10 CHAIRMAN JORDAN: Okay. Then with your permission,
11 we're going to turn to the Office of Planning. Because there's
12 nothing else we need to hear from you. Unless you just want
13 to talk?

14 MR. HANSAN: No. No.

15 CHAIRMAN JORDAN: Okay. Good move. Good move.
16 Good morning.

17 MR. GYOR: Good morning Mr. Chairman and Members of the
18 Board. Stephen Gyor with the Office of Planning.

19 We are not opposed to the proposed relief in this case.
20 Typically we strongly support rooftop -- or screening of
21 rooftop structures.

22 However, in this case, we think the structures are out
23 of public view. I did make a site visit and I couldn't see
24 that nine foot structure. You know, I went across the street
25 and looked, and you still couldn't see it. It wasn't visible.

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1 And I went around to the back and still couldn't see it.
2 So, I think the -- you know, in our view, the relief would be
3 appropriate. Thank you.

4 CHAIRMAN JORDAN: Okay. Board, questions of Planning?

5 MR. HINKLE: Just one Mr. Chair. I didn't see a zoning
6 map in the file. But it appears you have somewhat of one on
7 your report. But I can't quite make it out.

8 Is there any zoning nearby where, you know, in the future
9 there might be some larger buildings that could overlook this
10 subject property?

11 MR. GYOR: The surround -- immediate surrounding area
12 is CM-1. There are some residential structures to the
13 northeast that are zoned R1B. But, I believe the structures
14 across the street are also zoned CM-1.

15 MR. HINKLE: Okay. So it's relatively low, in terms of
16 high -- low density in the area?

17 MR. GYOR: Correct. Yes.

18 MR. HINKLE: Okay. Thank you.

19 CHAIRMAN JORDAN: Anyone else?

20 (No response)

21 CHAIRMAN JORDAN: We have a letter of no objection to
22 the relief from the Department of Transportation. Is there
23 anyone here from ANC, I believe 5C? Yes, please come forward.

24 I notice we don't have a -- give us your name please?

25 MR. DELEON: Good morning. Walter Deleon, AMC 5C 02,

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1 which is a single member district that Scratch DC is operating
2 in.

3 CHAIRMAN JORDAN: And did this -- was there a
4 presentation in front of the full ANC?

5 MR. DELEON: there was not. Our meetings -- so we
6 received notice of the application after our regularly
7 scheduled meeting. And I believe Ryan was out of town when
8 we had our April meeting. Therefore, we weren't able to
9 discuss this.

10 CHAIRMAN JORDAN: Okay, so -- all right. So there's no
11 action by the ANC. And -- all right.

12 So, let me do this. Let me now convert and move over
13 to our receiving statements from those people in support.

14 So are you here speaking in support or opposition?

15 MR. DELEON: Yes. I'm speaking here in support. I met
16 with Ryan and I think the -- well, there's a few reasons why
17 I support it.

18 First of all, the four pieces of equipment on top of the
19 roof are not visible from the street level. They're not
20 visible -- actually I live in a two-story home on 28th Street.
21 And I can actually see the Capitol and the Washington Monument,
22 but I actually can't see the pieces of equipment myself.

23 And so there is no esthetic damage done by the equipment.
24 And I think that the proposed screening of the equipment would
25 actually make it noticeable to the residents in front of the

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1 -- in front of Scratch DC and of course to me.

2 CHAIRMAN JORDAN: Okay. I appreciate it. Thank you.
3 Board, any questions?

4 (No response)

5 CHAIRMAN JORDAN: Appreciate it. Thank you.

6 MR. DELEON: All right. Thank you, very much.

7 CHAIRMAN JORDAN: Anyone else wishing to speak in
8 support of the Application? Anyone else speaking in support
9 of the Application?

10 (No response)

11 CHAIRMAN JORDAN: Anyone want to speak in opposition?
12 Opposition, please come forward. Please come forward to the
13 microphone.

14 And a couple of things. One, did you submit your
15 witness cards to the court reporter? Okay. Then I'm going
16 to need you to take a seat and push the button so that we can
17 hear you.

18 MR. GHEBRETINSAE: Okay. Thank you. Hi, my name is
19 Mengstab Ghebretinsae.

20 CHAIRMAN JORDAN: Give me your last name again?

21 MR. GHEBRETINSAE: Mengstab Ghebretinsae.
22 M-E-N-G-S-T-A-B. Ghebretinsae is G-H-E-B-R-E-T-I-N-S-A-E.

23 CHAIRMAN JORDAN: Okay. Please?

24 MR. GHEBRETINSAE: I am the owner of the property to --
25 adjacent property for this company. I got a letter to come

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1 to this hearing.

2 In regards of the screen you're talking about right now,
3 it's not really visible. It's okay. But one thing is, this
4 -- I would be in some kind of opposition when I -- if I can
5 talk -- continue already can talk about it?

6 CHAIRMAN JORDAN: Yes, you have another two minutes and
7 30 seconds to tell us what's on your mind.

8 MR. GHEBRETINSAE: Okay.

9 CHAIRMAN JORDAN: No you can -- go ahead. Go ahead
10 while you're sitting there. You're in opposition, right?

11 MR. GHEBRETINSAE: Well, in partially I'm in support.
12 And in another one in the --

13 CHAIRMAN JORDAN: You have a concern you want to
14 express.

15 MR. GHEBRETINSAE: Yes. Yes. Exactly. My concern
16 is, we share the same wall with this property. And the
17 properties are adjacent. And we share the same wall in between
18 two of us.

19 And the property ceiling is concrete. It's on top of
20 the adjacent wall. And now with the add-on equipment and metal
21 beams --

22 CHAIRMAN JORDAN: Okay, back off the mic just a little
23 bit. Pull back. Yes. Okay, there you go.

24 MR. GHEBRETINSAE: With the additional beams about ten
25 beams across the building, and they fall into our shared wall.

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1 And really, I don't know how much impact would be on the wall,
2 on the supporting wall. And the vibration comes through that.

3 So, I don't know exactly -- this -- this equipment's been
4 already installed. But when I see this notice, maybe I should
5 come and say something about it.

6 Because it was my concern whether the structure is in
7 the -- put or analyze that the wall would support this
8 additional equipment. And I don't know whether I can get a
9 lawyer or an architect to come back to you. Or I don't know
10 what I do with that?

11 CHAIRMAN JORDAN: Yes, by that time it would probably
12 be a bit too late. So let's do this. Let's talk to the
13 Applicant about the concerns and see --

14 MR. GHEBRETINSAE: Okay.

15 CHAIRMAN JORDAN: What if anything your engineers or
16 architects have talked about in regards to these structural
17 beams?

18 MR. HANSAN: Yes. We actually -- we had a structural
19 engineer actually analyze the plans. And they recommended
20 that we install two steel beams to support the structural
21 equipment.

22 I forget the exact term. But, essentially there are two
23 steel beams from our wall to wall that the equipment sits on
24 top to brace it. And to, you know, put the weight on the walls.

25 CHAIRMAN JORDAN: And did they communicate any concerns

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1 or conditions for any of the --

2 MR. HANSAN: They did say that our ceiling based on
3 their analysis could hold the equipment. But to be safe, they
4 instructed us to essentially install those steel beams to brace
5 the equipment. Just, you know, for maximum security or you
6 know, maximum safety I guess.

7 CHAIRMAN JORDAN: And this is not the first time you two
8 have talked is it?

9 MR. GHEBRETINSAE: And actually no. Nobody talked to
10 us. Nobody notice -- and there are not two. There are ten
11 beams. And I don't have the picture here right now. This
12 morning I picked them up.

13 CHAIRMAN JORDAN: Well, I think this --

14 MR. GHEBRETINSAE: And they're very, very heavy.

15 CHAIRMAN JORDAN: I think if there's some integrity
16 issues --

17 MR. GHEBRETINSAE: Yes.

18 CHAIRMAN JORDAN: The DCRA will catch it during the
19 construction permit process. During the permit process, DCRA
20 would have caught it or had some concerns about it.

21 MR. GHEBRETINSAE: Well I am, let me tell you, I love
22 these young guys coming in and out. Very good. I am very
23 happy to know they are starting the business. I interpreting
24 myself from the -- the child.

25 But I have a little concern on the structure now.

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1 CHAIRMAN JORDAN: I understand.

2 MR. GHEBRETINSAE: Because it's a 23 high building.
3 It's the -- it's the -- the steel -- the ceiling is concrete
4 and it's very heavy. I know.

5 And on top of that, if you put on the shared -- there's
6 no other strong structure there.

7 CHAIRMAN JORDAN: Yes, I know. You explained that to
8 us.

9 MR. GHEBRETINSAE: Yes.

10 CHAIRMAN JORDAN: And so I'm saying, I think you have
11 the opportunity, if you have a concern, let me say, with the
12 construction aspect of that, talk to DCRA and make sure they
13 come down and do the proper measurements of that to see if it
14 supports. If there's going to be any issue.

15 So that would be the -- what I would suggest that would
16 happen. Board, any other questions of the --

17 (No response)

18 CHAIRMAN JORDAN: Okay. Thank you. Thank you so
19 much.

20 MR. TURNBULL: No, then it's really not under -- I mean,
21 it's really a -- it's a separate zoning issue. What's before
22 us is just the rooftop units.

23 But I'm sure that the Applicant has looked into the
24 structure and vibration isolation and all that. So I mean,
25 but if you have a question, I think you need to go back to the

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1 regulatory authority.

2 CHAIRMAN JORDAN: Okay? And thank you. I appreciate
3 that.

4 MR. GHEBRETINSAE: Okay, thank you.

5 CHAIRMAN JORDAN: Anyone else wishing to speak in
6 opposition? Anyone else in opposition?

7 (No response)

8 CHAIRMAN JORDAN: Then we would turn back to the
9 Applicant. If necessary, Board do we need to hear anything
10 else from the applicant?

11 (No response)

12 CHAIRMAN JORDAN: All right. Then I would move that we
13 grant the relief in 18975.

14 MS. HEATH: Second.

15 CHAIRMAN JORDAN: Motion made and seconded. Further
16 discussion?

17 (No response)

18 CHAIRMAN JORDAN: All those in favor, aye?

19 (Chorus of ayes)

20 CHAIRMAN JORDAN: Those opposed, nay?

21 (No response)

22 CHAIRMAN JORDAN: The motion carries. Mr. Moy?

23 MR. MOY: Staff would record the vote as four to zero.
24 It was on the motion of Chairman Jordan, for the relief
25 requested.

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1 Second the motion by Vice Chair Heath. Also in support,
2 Mr. Turnbull and Mr. Hinkle. We have a Board seat vacant.
3 Motion carries sir.

4 CHAIRMAN JORDAN: Summary please.

5 MR. MOY: Thank you.

6 MS. HEATH: Just one last comment.

7 CHAIRMAN JORDAN: Yes?

8 MS. HEATH: I think it's a great business.

9 MR. HANSAN: Thank you.

10 MS. HEATH: A great business model. As a busy working
11 professional, I see great benefit in it. And I'm glad you're
12 doing well and growing.

13 MR. HANSAN: Thank you. I appreciate it. Thank you.

14 CHAIRMAN JORDAN: Okay. Let's do this, Mr. Moy, I tell
15 you what. We're going to take five minutes? A five minute
16 break. And come back.

17 And then we're going to head up with 18900, 18900, okay.
18 (Whereupon, the above-entitled matter went off the
19 record at 10:43 a.m. and resumed at 10:49 a.m.)

20 CHAIRMAN JORDAN: Okay. Mr. Moy, you want to do 900?

21 MR. MOY: Yes, sir. The next Application before the
22 Board is Application Number 18900 of Academy of Ideal
23 Education.

24 And Mr. Chairman and Board Members, this is a request
25 for a special exception from the private school requirements

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1 under Section 206.1. Which has been advertised and amended
2 for variance from the off street parking requirements under
3 Section 2101.1.

4 CHAIRMAN JORDAN: All right. Please identify
5 yourselves.

6 MR. TUCKER: Good morning.

7 CHAIRMAN JORDAN: Just make sure your microphone is on,
8 please.

9 MR. TUCKER: All right. Good morning, Mr. Chairman and
10 Members of the Board of Zoning Adjustment. I am Henry T.
11 Tucker. I am the principal of the Academy for Ideal Education,
12 which is the trade name for Associates for Ideal Education,
13 the Applicant in this case.

14 CHAIRMAN JORDAN: Okay.

15 MS. BELL: I am Mildred Paulette Bell. And I am
16 Director, Executive Director for the Associates for Ideal
17 Education.

18 MS. HAZEL: I'm Commissioner Janis Hazel. And I serve
19 as the Advisory Neighborhood Commission 7D 05.

20 CHAIRMAN JORDAN: Thank you. Okay, let's see where we
21 are. Do I have the conditions here? Or there is the
22 conditions.

23 All right, Board, do you have any issues? Since we --
24 our first calling of this case, there's been an update -- the
25 record's been updated. We understand now that the church has

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1 17 spaces, but by lease are providing 14 spaces to the school.
2 Is that correct?

3 MR. TUCKER: That is correct, sir. Which is in
4 compliance with 2101.1.

5 CHAIRMAN JORDAN: Board any additional questions on
6 this? Does anybody have anything they need to hear from the
7 Applicant on? I think the letter kind of cleared up some
8 things for me.

9 Anything the Board, want to hear anything? You're
10 good?

11 MR. TURNBULL: No, I think -- basically you're reusing
12 an existing building.

13 MR. TUCKER: Correct, sir.

14 MR. TURNBULL: Yes. All right.

15 CHAIRMAN JORDAN: Okay. Then, let us proceed on during
16 the hearing. I think the record sufficiently supports the
17 relief requested. And so, let me go -- let me go back one
18 second though.

19 There are some conditions here. That enrollment be
20 limited to 110 students.

21 MR. TUCKER: Correct.

22 CHAIRMAN JORDAN: Teacher and staff shall be limited to
23 12?

24 MR. TUCKER: Correct.

25 CHAIRMAN JORDAN: And the hours of operation shall be

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1 from 8:30 to 3:30 for students. And 8:00 a.m. to 4:00 p.m.
2 Monday through Friday. They shall not exceed those times. Is
3 that your understanding?

4 MR. TUCKER: Yes, sir.

5 CHAIRMAN JORDAN: All right. So then let's turn to the
6 Office of Planning and see if there's anything in addition for
7 you to talk about.

8 MR. MORDFIN: Good morning Chair and Members of the
9 Board. I'm Stephen Mordfin with the Office of Planning. And
10 the Office of Planning continues to support this Application
11 subject to the conditions in the report.

12 And is available for questions. Thank you.

13 CHAIRMAN JORDAN: Very good. Thank you. We do have a
14 letter of support from the Department of Transportation.

15 MR. TUCKER: Yes, sir.

16 CHAIRMAN JORDAN: And is there anyone here from ANC --
17 the full ANC 7D? Are you the elected the represent -- are you
18 to represent the full ANC?

19 MS. HAZEL: Yes.

20 CHAIRMAN JORDAN: Okay. Proceed please.

21 MS. HAZEL: Okay. As I stated, I am the single member
22 District Commissioner for 7D 05, which is where the building
23 resides.

24 Currently it is operating as a church. Formerly the
25 space that the Ideal Academy is seeking to move into was a

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1 daycare facility. So it had a very similar use.

2 I met with Principal Bell -- I'm sorry, Director Bell
3 and Principal Tucker back in September/October of last year
4 when they were getting the lease. And they sought me out. And
5 we met.

6 I outlined a strategy for them to seek any support or
7 opposition to this adjustment. Which was to meet with the ANC
8 Commission. Which was to meet with the Civil Association,
9 which is the Central Northeast Civic Association, which it
10 resides in that footprint.

11 To meet with the Ward 7 Education Council. And just a
12 number of other stakeholders. And they did that to the letter.

13 And all of those entities are all very supportive. As
14 is the Advisory Neighborhood Commission 7D, the full
15 Commission. On February 10 we met and we voted unanimously
16 to support this Application as well as the -- because this
17 hearing was postponed, we also had an opportunity to discuss
18 the supplement, which was the parking issue.

19 So, our community is in support of this. You have the
20 letter for the record. I won't burden you with reading it in
21 it's entirety. But I'm very pleased that we are going to be
22 getting this operation for our community.

23 And one of the real critical things that I asked when
24 we met back in the fall was, will there be any scholarships
25 available for students? Because this is a private school.

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1 It's not a public charter. It's not a public school.

2 And Principal Tucker said, yes, indeed it is. Because
3 many of our residents in Ward 7 do not have the available funds
4 to pay a private school tuition. And so I'm very pleased to
5 say that they definitely work with their families to get any
6 support necessary.

7 So, we whole heartedly support them.

8 CHAIRMAN JORDAN: Well, thank you, Commissioner. I
9 really appreciate you -- for staying for both cases. And
10 certainly in support and the letter from the full ANC.

11 That's just important to us. And we take those things
12 greatly to heart.

13 Board, any questions of Commissioner Hazel?

14 (No response)

15 CHAIRMAN JORDAN: Okay. Applicant, any questions of
16 the Commissioner?

17 MR. TUCKER: No, sir.

18 CHAIRMAN JORDAN: All right. Is there anyone wishing
19 to speak in support of the Application? Anyone wishing to
20 speak in support?

21 (No response)

22 CHAIRMAN JORDAN: Anyone wishing to speak in
23 opposition? Anyone in opposition?

24 (No response)

25 CHAIRMAN JORDAN: Then let's close the hearing based

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1 upon what we have from the record. And I would move that we
2 grant the relief requested in 18900 with the conditions as
3 defined.

4 MR. TURNBULL: Second.

5 CHAIRMAN JORDAN: Motion made and second. Additional
6 discussion?

7 (No response)

8 CHAIRMAN JORDAN: All those in favor, aye?

9 (Chorus of ayes)

10 CHAIRMAN JORDAN: Those opposed, nay?

11 (No response)

12 CHAIRMAN JORDAN: The motion carries. Mr. Moy?

13 MR. MOY: Yes, sir. The staff would record the vote as
14 four to zero. It was on the motion of Chairman Jordan to
15 approve the Application for the amended relief requested along
16 with the three conditions proffered by the Applicant.

17 Seconded the motion, Mr. Turnbull. Also in support,
18 Vice Chair Heath and Mr. Hinkle. Board seat vacant. The
19 motion carries, sir.

20 CHAIRMAN JORDAN: On summary order, please.

21 MR. MOY: Thank you.

22 CHAIRMAN JORDAN: Thank you all very much.

23 MR. TUCKER: Thank you, sir.

24 CHAIRMAN JORDAN: So Mr. Moy, can we have 915 please?

25 MR. MOY: All right, next before the Board are the

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1 parties to Application Number 18915 of Aminta, LLC. Mr.
2 Chairman, as advertised for variance relief from floor area
3 requirements, lot occupancy and off street parking
4 requirements at 1338 through 1336 Pennsylvania Avenue, SE.

5 CHAIRMAN JORDAN: Good morning. Please introduce
6 yourselves.

7 MS. MOLDENHAUER: Good morning Chairperson and Members
8 of the Board. My name is Meredith Moldenhauer from the law
9 firm of Griffin, Murphy, Moldenhauer & Wiggins on behalf of
10 the Applicant.

11 MR. FUENTES: Good morning, my name is Samuel Fuentes.
12 I am representing the Applicant, LLC here now, so I'm the owner
13 of La Aminta Restaurant.

14 MR. GOINES: I'm Jeff Goines from PGN Architects.

15 MR. ANDRES: Good morning, Chairman Jordan. Erwin
16 Andres with Grove Slade Associates.

17 CHAIRMAN JORDAN: Okay. I don't know how we can make
18 this any easier. Certainly we need to drill down on the need
19 for relief from the FAR as both OP and others have concerns
20 with that level of relief.

21 I don't know too much that we have to drill down on the
22 parking. Does the Board really need to hear something about
23 parking?

24 (No response)

25 CHAIRMAN JORDAN: Yes. Certainly, I think we're going

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1 to spend time, we're going to deal with the FAR issue, please.
2 Okay.

3 MS. MOLDENHAUER: I'm just going to turn to the
4 Applicant to just have -- to go through a little bit of what
5 they did from a community outreach perspective in regards to
6 the overall project.

7 CHAIRMAN JORDAN: I think we're okay. I don't see
8 anybody really pushing back on that from the community
9 standpoint. Do we? Do we have anybody?

10 MS. MOLDENHAUER: No, we just have an extraordinary
11 amount of support for the project. We worked hand in hand with
12 the neighborhood residents on G Street.

13 CHAIRMAN JORDAN: And there's a -- 152 signatures on
14 that. That's why I said, we don't have to drill down --

15 MS. MOLDENHAUER: So what I'll do then, is I'll turn to
16 Jeff Goines to kind of walk through the architectural and
17 limitations on the site.

18 MR. GOINES: Good morning, Board. As we presented a
19 couple of months ago, this is a triangular site. And it's
20 actually at the --

21 CHAIRMAN JORDAN: Excuse me one second.

22 MR. GOINES: Sure.

23 CHAIRMAN JORDAN: I'm sorry. Can we drop that light?
24 I think that's all for -- all right, thank you. Mr. Goines,
25 you can proceed.

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1 MR. GOINES: Thank you. It's actually at the apex, if
2 you're familiar with Southeast or Hill East Potomac Metro stop
3 is half a block or at the end of the block right here. It's
4 kind of the apex of G Street and Pennsylvania Avenue.

5 There's a one story little restaurant here called La
6 Amita. It serves most of this neighborhood. And then the
7 adjacent townhouse is also part of the restaurant.

8 The -- this adjacent right here is owned by the park
9 service. And I think Samuel maintains that for the most part.
10 The metro runs right underneath the site along to Potomac
11 Metro, which you can see right there.

12 It's a difficult site, as with all triangles. Because
13 it's very difficult to locate the core unless the triangle or
14 the lot is a certain size. And in this case, we wanted to
15 provide a really nice contextual building within the
16 neighborhood that would serve.

17 Samuel's restaurant is going back in the restaurant.
18 It's a very -- it's a neighborhood serving restaurant. And
19 also, provide additional residential units.

20 So, the only core location, and I think Steve had
21 mentioned in his staff report as well, the alternative methods.
22 When you look at a site like this, the core cannot be located
23 within the center of the building because the restaurant
24 wouldn't work. Your units up above, your livable spaces
25 wouldn't work.

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1 So, in this condition, we actually have the large
2 triangular lot area is actually located here. Which worked
3 out well for the core.

4 The quarter diagonal works out well from a building code
5 standpoint. And it allows us to have flexibility with the unit
6 designs.

7 The -- I think I'm showing, we're kind of showing there
8 in the landscape there, we're showing some outdoor seating.
9 That was just kind of a graphic for the community. We have
10 not gone to public space or that far forward yet.

11 Throughout the design process I think Meredith had
12 mentioned, we met with Capital Restoration Society. They
13 actually were the ones that actually wanted us to elaborate
14 actually the corner bay there, if you will.

15 We actually had it lower. They actually wanted
16 something a little more substantial. We worked a lot with the
17 community on the materials of this project. But I think we'll
18 fast forwards and get to the FAR here if we can.

19 Here's basically a typical floor. We have ten units.
20 One unit will be designated for inclusionary zoning. We are
21 utilizing the bonus studio as well as asking for the additional
22 FAR.

23 The core factor on a project of --

24 CHAIRMAN JORDAN: One unit for IZ?

25 MR. GOINES: I think it -- I think the calculation will

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1 be, these are actually pretty large units. Much larger than
2 you see. These are almost on average of about 900 square foot
3 per unit.

4 These are large units. These are not small units. And
5 we actually have a duplex in there that makes up what we think
6 will be the IZ unit.

7 So, the core factor on a project like this, even though
8 we try to be as efficient as we can, the core factor is still
9 about 27 percent for a building of this nature. And I think
10 if you offset the core factor with what we're asking for, it's
11 about 1,000 square foot that we're actually asking for when
12 you reduce the core factor versus your lot occupancy and our
13 building foot print size.

14 CHAIRMAN JORDAN: So you say the core factor is 27
15 percent? I thought it was 22. 27 percent core?

16 MR. GOINES: Yes.

17 CHAIRMAN JORDAN: All right. And the 1,000 square foot
18 does what?

19 MR. GOINES: Well, if you take out the size of the core
20 versus the foot print, and the additional FAR, the 3,979, the
21 lot size, the 1,984 square foot that we're asking for with the
22 additional FAR, minus the exceptional core factor, if we were
23 a normal core factor, it's about 1,000 square foot that we're
24 going to be using of the additional square foot.

25 Does that make sense?

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1 CHAIRMAN JORDAN: Yes.

2 MR. GOINES: This is the penthouse. I think Steven had
3 mentioned this before, and I think -- we met with Steve in the
4 hallway and said, we will make sure that these -- we've already
5 set them back 15 feet and they're eight foot high.

6 But we will make sure through the process that if Matt
7 LaGrant or anyone at DCRA has a problem, we won't -- we'll --
8 I mean our idea is that this is just an access penthouse. There
9 will be no livable space up there.

10 So if we have to pull that back another foot or two, we
11 will. We do have ten bicycle spaces for the ten units as well.

12 And I think the last thing probably is the building
13 efficiency. Looking at the different options. I mean, once
14 you start -- I mean, this is the most efficient option.
15 Ultimately is what this is showing. And that's with the
16 additional square footage that we're requesting.

17 If you pull the building back in the front, your core
18 factor and all of those scenarios --

19 CHAIRMAN JORDAN: Is that in our Exhibits?

20 MR. GOINES: Yes, it is.

21 CHAIRMAN JORDAN: What's the Exhibit Number?

22 MS. MOLDENHAUER: One moment. It's Exhibit 37A-2.

23 CHAIRMAN JORDAN: 37 --

24 MS. MOLDENHAUER: 37A-2. And it's the last Exhibit
25 under that subsection.

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1 CHAIRMAN JORDAN: Okay. There it is. All right,
2 that's what I -- okay.

3 MR. GOINES: So what we're showing there, with the
4 setback along Pennsylvania Avenue, your core factor would go
5 from 73 percent efficiency to 68 percent. If we were to
6 conform and not ask for the additional square footage.

7 So, and then the lot occu -- or number two show that we
8 -- and in those two scenarios we're at 68 percent. And so in
9 all of those, we go from 73 to 68 or 67 percent in our
10 efficiency.

11 MS. MOLDENHAUER: Can you describe or explain the
12 inability to provide any flexibility due to this unique lot
13 size in any other area other than zoning in regards to the DC
14 Building Codes and how that limits the alternative options that
15 are provided based on the shape of the lot?

16 MR. GOINES: Well, the core is the core. You have an
17 elevator, 200 square foot. Another -- I mean, two stairs and
18 an elevator. They make up the core. 900 square foot. That
19 doesn't change without -- whether depending on the shape of
20 or the lot here.

21 The core would be the same. Now, if we had a square lot,
22 we would divide that a little differently. Or if we had a
23 rectangular lot. But in this scenario, the core is the core
24 and there's nothing we can do about it.

25 The lot actually tapers towards the west to 16 feet. So

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1 there's no ability to recapture the loss of efficiency of the
2 shape of the lot.

3 MS. MOLDENHAUER: Is there any flexibility under the
4 Building Code to possibly shrink the stairs or to provide less,
5 not having two stairs that would then possibly reduce the
6 practical difficulty here rather than seeking relief by this
7 Board?

8 MR. GOINES: No. Not with this current design.

9 MS. MOLDENHAUER: Any design? Would there be any
10 flexibility with Building Code or stairs?

11 MR. GOINES: No. Once you go over three stories, this
12 core would be this core.

13 CHAIRMAN JORDAN: What about reducing the number of
14 units? Would that change any thing?

15 MR. GOINES: No. At three stories, we would be
16 required to do this core. It would be this size.

17 CHAIRMAN JORDAN: Okay. Proceed on. Mr. Turnbull?

18 MR. TURNBULL: Well, I'm -- you're saying there's 27
19 percent. I don't see that as 27 percent. I don't see any
20 calculation that showing it.

21 In fact, when I look at the plan, if I look at the
22 stairwells and the elevator, that does not look like 27
23 percent. That looks a lot less.

24 MR. GOINES: Oh, well that -- the 27 percent would
25 include the corridors as well.

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1 MR. TURNBULL: But still, it's still -- that's got to
2 be -- you need to show me something. That I don't really see
3 that, looking at the floor plan that that's 27 percent.

4 If it's 20 percent, you're lucky.

5 MR. GOINES: Yes, I think on sheet 4, A-4-2. We're
6 showing the square footage as 3,541 with the core factor being
7 953. It's the diagram number 4.

8 MR. TURNBULL: All right, I need to look at that.

9 And is it true, you've actually tried -- you're actually
10 bumping into the public space in four bays?

11 MR. GOINES: We have two bays on Pennsylvania and two
12 bays on G Street. That is correct.

13 MR. TURNBULL: Maybe you're a little aggressive with
14 this floor plan. But please continue on with your.

15 MS. MOLDENHAUER: That's actually our presentation in
16 regards to the core factor and walking through the
17 alternatives. If the Board has any other questions, we can
18 walk through questions on that specific issue.

19 CHAIRMAN JORDAN: So initially, I thought your argument
20 was a financial argument in regards to the core. But you're
21 saying now that the -- no matter whatever configuration you're
22 doing, it is just the function of how the building has to be
23 based upon the lot.

24 MS. MOLDENHAUER: Yes.

25 CHAIRMAN JORDAN: Okay. And as far as -- so, no matter

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1 what the layout would be, there's no way to move this in such
2 a way that it gives a higher deficiency or reduce the effect
3 of the core.

4 So the core is there no matter what. Is that what you're
5 saying? As this design is?

6 MS. MOLDENHAUER: Any design. So, what I believe Jeff
7 and Jeff can kind of talk to again, is we've -- the options
8 that have been reviewed, in other words, any option, any lay
9 out, unless you want to locate as he said earlier, unless you
10 want to locate the core in the middle of the structure and not
11 provide a retail on the ground floor, which has been there for
12 since the -- what is it? 19 --

13 MR. FUENTES: 1987.

14 MS. MOLDENHAUER: 1987. And it's obviously one of the
15 goals of the community is bring back this restaurant in a
16 revamped version. The only location for the core is where it's
17 being proposed.

18 And then due to that, the inability to change the
19 required building code for the stair dimensions or the corridor
20 with, all of those have been, you know, pulled back as much
21 as possible.

22 And that this is the based core, which is substantially
23 greater than other residential buildings and creates a
24 practical difficulty due to the shape of the lot and the
25 inability to provide any alternative designs or alternative

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1 layouts.

2 CHAIRMAN JORDAN: Can we have the lights back on,
3 please? Okay. Board, any further questions on -- well, we
4 can always come back to it. I say that we go to our OP.

5 Certainly it's not for us to sit here and try to redesign
6 it ourselves. But -- so anything else we need to hear from
7 the Applicant on this issue or any other issue before I go to
8 the Office of Planning?

9 As I said before, I think I'm -- I don't think we need
10 to hear anything in regards to parking. I have -- is there
11 -- does anyone have an issue with that?

12 (No response)

13 CHAIRMAN JORDAN: So, let's do this. Ms. Heath, Mr.
14 Turnbull, I would go to the Office of Planning. We can come
15 back with any other questions after we get a full look at it.

16 If there's -- if that's okay with you.

17 MR. TURNBULL: That's fine.

18 CHAIRMAN JORDAN: Ms. Moldenhauer?

19 MS. MOLDENHAUER: Yes, thank you. We'll reserve any
20 other comments for response to the Office of Planning. I
21 appreciate it. Thank you.

22 CHAIRMAN JORDAN: Thank you.

23 MR. COCHRAN: Thanks Mr. Chair. First off, I just
24 wanted to say that my colleagues tell me this is a very good
25 restaurant.

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1 CHAIRMAN JORDAN: First you need to tell us who you are.

2 MR. COCHRAN: Oh, sorry, I thought -- okay. For the
3 record, Steve Cochran, DC Office of Planning.

4 CHAIRMAN JORDAN: I know who you are. But for the
5 thousand of -- the millions of people who are watching this,
6 they don't know.

7 MR. COCHRAN: Sometimes we like to keep it that way.

8 CHAIRMAN JORDAN: Right.

9 MR. COCHRAN: It's a good looking design. No question
10 about it. My colleagues who live on the Hill, one of them whom
11 was here earlier today, say the restaurant is very good. So
12 nothing against either of those.

13 The main problem we have is, that the Applicant is asking
14 for a 16.6 percent increase in FAR based on faith. There may
15 well be an exceptional condition on this site. It certainly
16 is probably with respect to lot occupancy.

17 But that's not the test. The test is to demonstrate a
18 link between an exceptional condition and a practical
19 difficulty in developing the lot within what's allowed by the
20 zoning regulations by right.

21 And OP does not think that the Applicant has made that
22 link between -- they haven't established the nexus between what
23 they're saying is the exceptional condition and the practical
24 difficulty.

25 You know, they've done it for the parking. They've

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1 demonstrated through turning movements and things like that,
2 that okay, the parking isn't going to work.

3 But, a core factor isn't destiny necessarily. And that
4 is sort of what they're asking us to accept as a matter of faith.

5 We haven't seen any demonstration of alternative
6 layouts. Fewer floors and looked at those against whether the
7 building could be built with less square footage.

8 The core factor is listed as being about 27 percent.
9 That doesn't take into account the roughly 175 feet on each
10 floor that is in the bays. So that would probably bring the
11 core factor down somewhat.

12 CHAIRMAN JORDAN: How many set in bays? 175?

13 MR. COCHRAN: The architect told me it was 175 feet. I
14 believe that was per floor in the bays. So, you know, at most,
15 that's going to bring it down to about 26 percent core factor.

16 But even then, you're looking at a -- okay, the core
17 factor is going to be about 6 percent greater than what we're
18 looking at with other apartment buildings. But the increase
19 in the density is 16.6 percent.

20 So there's kind of a disjunction there between the
21 percent of the higher core factor and the percent of the higher
22 amount of square footage that would be in the building. We
23 just don't have that zone that goes to 3.5 percent.

24 It's not a planned unit development. It's -- there's
25 even some question about whether a 3. -- yes, 3.5 FAR would

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1 even be consistent with the comprehensive plan designation for
2 moderate density in the neighborhood.

3 But again, it's BZA, so we're not quite looking at that.
4 But the Applicant did bring it up in the Application.

5 So that's basically our concern. Is that there would
6 be a substantial impairment to the zoning, or the integrity
7 of the zoning regulations if the case were approved based on
8 the information we have available to us.

9 CHAIRMAN JORDAN: Board, questions?

10 MS. HEATH: In your -- in Exhibit, I think it was 37-A-2,
11 I think you have a plan that's labeled wrong. Is sheet A-1-6,
12 it says roof plan, is that -- that's not actually the roof?

13 MR. GOINES: That's the basement.

14 MS. HEATH: Okay. Got it. That was what was throwing
15 me off. Okay. Okay, all right.

16 CHAIRMAN JORDAN: Mr. Turnbull, please?

17 MR. TURNBULL: Yes, Mr. Cochran, when I look at this
18 plan, I feel like the restaurant is driving the layout of this
19 building. And that bothers me with the whole set up then of
20 the core, the units, and how we get to this FAR.

21 Which, and I agree with you, I think this is excessive.
22 I think this is -- and I don't -- I think you even mentioned,
23 we haven't seen any other plans.

24 We've seen this one plan and this is what makes or breaks
25 those projects supposedly. And I'm troubled by that. I'm

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1 troubled by the lack of creativity.

2 I mean, I understand it's a tight site. But I don't know
3 if the zoning supports this kind of development. I mean, when
4 you've got to go into the public space also to make your plan
5 work, it's just troubling.

6 That then when you look at the overall FAR, it's just
7 like -- it's a combination of things that I -- and then when
8 I hear comments that, oh, well and if OP or somebody wants us
9 to do something on the roof with setbacks and everything we
10 can do that.

11 I don't think this thing is ripe for prime time. I mean,
12 I don't -- I think this thing needs more work.

13 I think the Applicant needs to go back and really come
14 back with a plan that they want to present to us that's going
15 to make sense. And to you and to OP.

16 I'm just making some comments. I'm not necessarily a
17 question directly to you. But I mean, it just seems like the
18 restaurant has become the driving impetus for this plan.
19 Which is driving up this rather strange FAR situation.

20 And that's troubling. I guess I -- and I think there
21 is in the more comprehensive look at this on how to really
22 develop this parcel of land.

23 CHAIRMAN JORDAN: Yes. So I guess it goes back and begs
24 the initial question about alternative designs. And if
25 they're financially feasible alternative designs. Is that

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1 what you're getting at Mr. Cochran?

2 MR. COCHRAN: Yes. There's a restaurant there now.
3 It's my understanding that the restaurant either owns the land
4 or has a substantial interest in the land.

5 So it's logical that the restaurant would want to
6 develop it for restaurant use in the future. But there's
7 nothing that necessarily requires that the restaurant have
8 residential above it.

9 Although we like mixed use projects as you well know.
10 Especially mixed use projects that include -- that have
11 inclusionary zoning.

12 But there are -- the integrity of the -- of the zoning
13 regulations is perhaps more important than any of those when
14 we look at a city wide perspective.

15 So we just haven't seen that there is an inability to
16 redevelop this site. Even to redevelop the site for a
17 restaurant without it having to ask for relief on FAR. And
18 going to basically a different zoning category without asking
19 for a zone change.

20 CHAIRMAN JORDAN: Board, any other questions?

21 (No response)

22 CHAIRMAN JORDAN: The Applicant any questions of OP?

23 MS. MOLDENHAUER: No questions of OP.

24 CHAIRMAN JORDAN: I got one, but I haven't formulated
25 it. I was trying to get it straight in my brain. Something

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1 that you said Mr. Cochran.

2 Well, I guess that goes back to the Applicant. Okay.
3 So, no questions from the Applicant to the Office of Planning.

4 We have a letter of no objection from the Department of
5 Transportation. I don't think there's anyone here from the
6 Department of Transportation in this case.

7 Anyone here from ANC 6B? ANC 6B? We do have a letter
8 recommending approval from ANC 6B. We have a letter of support
9 from the Capital Hill restoration society in support as well
10 as a petition from 154 people.

11 Where are those -- are all those people in the immediate
12 area? Or where do they come from, the 154?

13 MR. FUENTES: They are from locals, yes. In the areas.

14 CHAIRMAN JORDAN: Within how far?

15 MR. FUENTES: Zone Six.

16 CHAIRMAN JORDAN: Within two blocks? Three blocks?

17 MR. FUENTES: I would say, yes, around ten blocks.

18 CHAIRMAN JORDAN: How did you get the signatures?

19 MR. FUENTES: How we get the signature? We were
20 knocking the doors all.

21 CHAIRMAN JORDAN: Okay. Good. All right. I didn't
22 know if you were holding up so you can't eat here unless you?

23 (Laughter)

24 MR. FUENTES: No, no, no.

25 CHAIRMAN JORDAN: No, I understand.

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1 MR. FUENTES: No, not regular customers, yes, sir.

2 CHAIRMAN JORDAN: Is there anyone here wishing to speak
3 in support? Anyone in support?

4 (No response)

5 CHAIRMAN JORDAN: Anyone in opposition? Anyone in
6 opposition?

7 (No response)

8 CHAIRMAN JORDAN: Let's turn back to the Applicant for
9 rebuttal and certainly provide us the information which would
10 include any alternative designs, any economics that shows that
11 this is the only economics that work. This layout is the only
12 economics that work.

13 Those are the two things that came to my mind. And why
14 any other design, why we need three floors instead of two
15 floors, et cetera? Why do we have to have the bay windows as
16 they are?

17 Unit size, et cetera? And then --

18 MR. TURNBULL: And why the roof is not meeting the
19 setback requirements?

20 MS. MOLDENHAUER: Let me -- let me just kind of address
21 the one question of the roof. The roof meets all the setback
22 requirements. We're not asking for any relief.

23 All we were saying was that based on Matt LaGrant's
24 analysis of the size of the penthouse, whether it's a permitted
25 penthouse is a matter of right. If Matt indicates that it

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1 needs to be reduced slightly, we're talking about maybe by a
2 foot. It would then be reduced from the proposed plans
3 presented here.

4 We have not met with Matt on that specific issue. So
5 we were just informing the Board. Because the Office of
6 Planning had mentioned it possibly because there's -- so that
7 was the only issue.

8 So, no matter what the penthouse already has a
9 substantial setback. And so that issue is pretty much
10 resolved. It's just a question of making sure that the Board
11 is aware that if we reduce it to some degree, it only would
12 be based on the Zoning Administrator's request during the
13 permitting process.

14 MR. TURNBULL: Yes. And Mr. Cochran, could you comment
15 on that?

16 MR. COCHRAN: Yes. I would be happy to. For the most
17 part, it's just a case of -- in terms of FAR, it's just a case
18 of not having shown some dotted lines that indicate how much
19 of the space within the mezzanine is actually occupied by the
20 path to get from -- the three-foot wide path to get from the
21 circular stair to the actual deck.

22 So it could be seen as square footage. That's a minor
23 clarification.

24 What we were more concerned about was the height. And
25 that's something where if this case does proceed, perhaps there

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1 could be something in the order that would allow alternatives.
2 One of the bays has space that goes up above what the height
3 limit is.

4 We're not sure that that qualifies as an architectural
5 embellishment. It is volume within the unit. It might be
6 possible to bring the roof down and have something above that
7 is an enclosed space that would not have to be measured in
8 height.

9 We don't know that, that's a Zoning Administrator
10 determination. And we were simply calling that to the
11 Applicant's and the Board's attention.

12 But while I have the microphone, I did want to mention
13 that the Applicant is not doing anything outside of what the
14 regulations for either zoning or public space permit by using
15 the bays. It comes only into the square footage.

16 MR. TURNBULL: My only feeling is that --

17 MR. COCHRAN: They use it but they don't count it in the
18 core factor determination.

19 MR. TURNBULL: It accentuates there, the overall FAR
20 issue.

21 MR. COCHRAN: Exactly. Well, implicitly because it
22 doesn't count towards FAR. But it does count towards core
23 factor, but it hasn't been included in the determination of
24 core factor.

25 So that's the kind of discrepancy I was trying to point

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1 out.

2 MR. TURNBULL: Right.

3 CHAIRMAN JORDAN: Okay. I think we're back to you.

4 MR. GOINES: Can I say something?

5 MS. MOLDENHAUER: Let me just -- well, I'm going to just
6 put Mr. Goines on as the architectural expert to kind of explain
7 the issues and refer to the industry's measurement of core
8 factor.

9 And then in that regard, then I'll also answer some of
10 the other questions that were brought up.

11 MR. GOINES: Well, one clarification on the penthouse
12 as well. Right now we're showing the penthouse at the minimum
13 height requirement. They're access penthouses only.

14 They're not meant to be -- they're not mezzanines.
15 They're just access penthouses. And they're over 15 feet from
16 the parapet, from the face of the penthouse, which is eight
17 feet tall.

18 So, they're meant to be minimal penthouses. We worked
19 very extensively with the community on that. So, they're
20 access only.

21 MS. MOLDENHAUER: Can you just explain?

22 MR. GOINES: Oh, the core factor though, the way the
23 core factor is measured for brokers and everyone out there,
24 is the method, you measure from the exterior wall to the
25 interior face of the corridor to the center line of your

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1 demising wall.

2 That is the determination that we used here. We did not
3 include the bays in that core factor. I did a calculation.
4 It adds about two and a half percent to the efficiency.

5 Yes, we're still -- we would still be considerably
6 below. I mean, we're doing, I think we testified a couple of
7 weeks ago. We're doing about four or five hundred units in
8 the city.

9 This is considerably the smaller the project goes, the
10 greater your core factor needs to be or should be in your
11 efficiency. A larger project can absorb the inefficiencies
12 because it's spread out over many units.

13 In this case where we only have ten units, one being an
14 inclusionary zoning as well, that core factor is a very
15 important determination and sets the goals for the whole
16 project from all the aspects from beginning to end on what we
17 can and cannot build.

18 MS. MOLDENHAUER: I have just put an Exhibit up in
19 regards to comparable projects and core factors. Can you just
20 -- one of the things Office of Planning was the nexus between
21 the unique condition of the size and the shape of the lot to
22 the practical difficulty.

23 And the standard here is practical difficulty. It's
24 not a self create -- it's not a use variance where you have
25 to show that no other alternative is viable. This question

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1 is practical difficulty.

2 And so, can you walk through other comparable projects.
3 And then how this project relates to those in regards to core
4 factors and efficiencies?

5 MR. GOINES: Sure. I'm looking at this slide here. As
6 you can see, most of these are 28 -- I mean, the largest is
7 28 to I guess 84 units on Maryland Avenue.

8 And they range and you can see that the smaller units
9 have the smaller core factors around 15 to 14 percent. The
10 larger units generally have around a 13 to 15 percent core
11 factor. And this is kind of the determination factor on the
12 success of a residential project.

13 MS. MOLDENHAUER: When a project is a condominium, does
14 the core factor also equate for some common shared costs in
15 regards to what then the common condominium fees would be based
16 on in regards to maintenance and overall cost associated with
17 that -- their units?

18 MR. GOINES: Yes. The greater the core factor, the
19 greater the common elements, the greater condo fee that's
20 divided between the residents.

21 MS. MOLDENHAUER: Just in regards to alternatives,
22 based on the limitations of, you know, the desires of the
23 client, which I think the Board of Zoning has recognized, did
24 you though look at alternative designs and options for this
25 project?

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1 MR. GOINES: Yes. We looked at many alternatives from
2 the beginning. I think the first thing that we did though,
3 was we determined the core location because it kind of directs
4 you in the direction.

5 Looking at the core factor obviously in the center of
6 the building doesn't really work well for a restaurant. You
7 can't put it at the tapered end of the site. It has to go
8 against the longest party wall condition.

9 So that kind of drove the design forward. It doesn't
10 mean that we didn't look at other alternatives and we weren't
11 trying to be creative. We were being as diligent as we could.
12 And the building literally just grew out of that with the core
13 factor.

14 MS. MOLDENHAUER: The -- if you were to build a project
15 or design a project as a matter of right with a half possible
16 -- a half FAR on one floor, what would that do in regard to
17 the design or efficiency? Or would you recommend that someone
18 pursue a project in regards to moving forward on something like
19 that?

20 CHAIRMAN JORDAN: That's the issue. And it's not what
21 you said before, but that is the issue. What can be done within
22 the Zoning Regulations? And why the Zoning Regulations
23 present a practical difficulty.

24 So that's the test. It's not that any other test of
25 hardship and et cetera, et cetera, et cetera. It's what can

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1 be done. And do we have -- so that's the question.

2 What can be done without the zoning relief? And that's
3 where I think the question from both OP and the Board has kind
4 of raised. So I didn't want to -- it was -- when you said that
5 initially, I was like what? And then -- okay.

6 MR. GOINES: Well, I think the practical difficulty
7 with a half story on a project of this nature is that you would
8 be building 50 percent core on that floor if you did a half
9 a floor, it would --

10 CHAIRMAN JORDAN: And what's that effect upon you doing
11 the project?

12 MR. GOINES: Your efficiency would go way up. I mean
13 --

14 CHAIRMAN JORDAN: And how does that equate? What does
15 that mean?

16 MR. GOINES: You would be building a stair and an
17 elevator as opposed to livable space.

18 CHAIRMAN JORDAN: So it has an economic impact, right?

19 MR. GOINES: I think there would be a lot of --

20 MS. MOLDENHAUER: We'll let Mr. Fuentes obviously
21 answer that question.

22 CHAIRMAN JORDAN: I'm just trying to help you get the
23 record where it should get to. Because that becomes -- it
24 becomes --

25 MR. GOINES: Well, your structural costs and everything

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1 would go -- they would skyrocket. Because you would be adding
2 beams.

3 We have a very -- if you've looked, we have a very
4 stacking efficient way of designing the building now. And I
5 think you would be removing that with an already high core
6 factor.

7 You're entering into a project that we're to so sure as
8 architects we'd recommend that process.

9 CHAIRMAN JORDAN: So within the zoning regs, if you were
10 to stay within the zoning regs, then you have a 50 percent core
11 factor. Which would have an economic impact and make it
12 impractical to do the project?

13 MR. GOINES: Well, if you're only doing the restaurant,
14 you don't have a core factor. Because you don't have rest --
15 you don't have the elevator or the stairs.

16 MS. MOLDENHAUER: Could I -- It might be a point, but
17 right now the project is actually nonconforming in its current
18 condition. It has all commercial use.

19 So it's actually a nonconforming as to having all
20 commercial use. So there's no residential use on the project.

21 So, by doing a mixed use development, which Office of
22 Planning even indicated as something they'd like to see here,
23 you're actually bringing the property into conformity with the
24 zone intentions rather than actually having all commercial
25 facilities. Right now Allstate rents the top floors and the

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1 side portion of the building.

2 So when we -- and this is part of our initial application
3 as well as in our prehearing statement, that right now, by
4 making it a mixed use residential and commercial --

5 MR. TURNBULL: That's fine. That's fine. But adding
6 the density to it is just bonus material or gravy onto the
7 original project. Which is building the restaurant.

8 So in order to come into compliance, you could build a
9 lot less building and still meet the needs of what the comp
10 plan would like. And what the zone plan would like.

11 I mean, you're really going overboard by trying to get
12 this FAR and this density in this project.

13 MS. MOLDENHAUER: Well, let me let Mr. Fuentes answer
14 that.

15 MR. FUENTES: Yes. I'm not a big development. I'm a
16 small business. And without all this relief request, this
17 case would not be able to pursue this project.

18 MR. TURNBULL: With all what?

19 MR. FUENTES: Without the relief we are requesting,
20 this project would not proceed.

21 MR. TURNBULL: So you can't build this without less than
22 what you're asking for?

23 MR. FUENTES: Correct.

24 MR. TURNBULL: So, regardless of what the zoning law
25 said or does, you feel you're entitled to do what you want to

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1 do?

2 MS. MOLDENHAUER: I don't believe that's what he was
3 saying.

4 MR. FUENTES: No, not what I said that.

5 MR. TURNBULL: I think -- I don't think you've done
6 enough exploring to make this project come into what the
7 regulations are and what FAR is. I really think some tweaking
8 architecturally, you can get this plan to work.

9 CHAIRMAN JORDAN: Yes, I might have missed it, and
10 that's what I was trying to get to, the financials. Did you
11 have any financials with this?

12 MS. MOLDENHAUER: No, we did not. The Applicant, Mr.
13 Fuentes, can kind of respond to that in regard to the
14 construction. But he has not pursued that yet.

15 I mean, if you want that to be on the record, he can
16 answer that question.

17 CHAIRMAN JORDAN: Let me do this, because I think it
18 might be helpful all around. I think we're going to need that
19 in order to be fair. Unless we can, you know, we can proceed
20 on.

21 But -- so, does the Board need to see anything else from
22 this Applicant that would help them to weigh better the
23 decision in this case? Mr. Turnbull?

24 MR. TURNBULL: Yes, a new set of plans.

25 CHAIRMAN JORDAN: A new set --

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1 MR. TURNBULL: I can't accept this right now. I'm
2 sorry. I can't go on with the egregious FAR. I think Mr.
3 Cochran's presented a good case.

4 CHAIRMAN JORDAN: Um-hum. So, initially was going to
5 -- I mean, because I would feel more comfortable with the
6 financials. I'm hearing what you're saying and I'm just
7 trying to get a feel from the Board here where we may be.

8 Did you -- or you can proceed on. Whichever way you want
9 to handle it. I certainly go with it.

10 MS. MOLDENHAUER: I mean, let me just address one issue
11 in regards to the FAR. I mean, this is just a chart on the
12 board that illustrates other cases that the Board has reviewed,
13 without having financial -- specific financials.

14 The Applicant, this is a threshold question for him. As
15 he said, he's not a developer. He's a restaurateur that's
16 looking to, you know, stay in the neighborhood. There is a
17 substantial amount of community support for this.

18 And you know, in this diagram, you can see that there
19 are other cases that the Board has supported in regards to the
20 degrees of relief. And, you know, this case in regards if you
21 look at the --

22 CHAIRMAN JORDAN: But Ms. Moldenhauer, as you know,
23 these are each one stand on their own bottom. You can do it
24 if you want.

25 And I'm just trying to get you -- at least trying to make

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1 -- I'm drilling -- I'm supportive, but I'm getting the feeling
2 we're all not supportive. And I don't know if you're going
3 to pass the muster as we sit here.

4 So I was just trying to -- really trying to throw you
5 a bone. And as you know, you can go through all the cases
6 through -- historically. Each one of these stand on their own
7 bottom as you know.

8 MS. MOLDENHAUER: Absolutely. And I think if the Board
9 is indicating that, you know, they will obviously look at
10 alternatives, but believe we've looked at those. And we think
11 the record is full in that regard.

12 We can provide possibly some additional financial
13 hardship documentation and supplement the record in that
14 regard.

15 CHAIRMAN JORDAN: Well, the hardship, just the
16 alternative of what it shows financially. Yes. And I mean,
17 I think that would certainly, may help to some extent getting
18 you a majority vote here.

19 I'm just --

20 MS. MOLDENHAUER: We will look for, I guess, a
21 continuation date for an additional hearing. Or however the
22 Board would like to proceed on that. But we'll supplement the
23 record.

24 CHAIRMAN JORDAN: If you can, you know, show some -- we
25 just talked about the 50 percent, the effect upon the zoning

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1 regulations within -- has another even further increase into
2 the impact on this building. I think those things might help
3 the record and get you where you need to be.

4 So, Mr. Moy, how long do you think it will take you?
5 Between two weeks, three weeks, two weeks, a day?

6 MS. MOLDENHAUER: I think two weeks. So we can
7 supplement the record in two weeks. The 28th, is that not?

8 CHAIRMAN JORDAN: Yes, I was trying to see when Mr.
9 Turnbull's next date was?

10 MR. MOY: Mr. Chairman, it seems like the docket can
11 accommodate a continued -- this continued case on the 28th of
12 April. Hoping that the Applicant can file the --

13 CHAIRMAN JORDAN: The end of April was it?

14 MR. MOY: Yes. The 28th of April. Providing the
15 Applicant can submit the supplemental information by the --
16 by April the --

17 CHAIRMAN JORDAN: 21st?

18 MR. MOY: By April 21.

19 MS. MOLDENHAUER: Yes. We can provide supplemental
20 information by that date.

21 CHAIRMAN JORDAN: And that's all we're going to include
22 in the record. There is nothing else that we -- and the OP
23 can certainly weigh in anything else in the record.

24 But as far as anybody else, the record is closed. It's
25 sealed, it's you name it, submitted. Because invariably,

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1 we've done this before and we get a hundred different documents
2 from everybody and their mother's in the record. And that
3 wasn't what our intent was.

4 Okay. This is going to be a continuation of the
5 hearing. All right. Good Board? Everyone? Thank you.

6 MS. MOLDENHAUER: Thank you very much.

7 CHAIRMAN JORDAN: Do you want to call the next case?
8 Let me go back to my notes.

9 MR. MOY: Yes, sir. The last and final case before the
10 Board today is Application Number 18927 of Nicholas Rodriguez.
11 The Board will recall, this was first heard on March 3.

12 And the Board continued the hearing to gain additional
13 information from the Applicant including revised plan, a
14 shadow study. And the Applicant provided a summation under
15 Exhibits 43, 44 and 45.

16 CHAIRMAN JORDAN: Okay. Yes. Okay. I'm up on it
17 now. I was a little lost. Sometimes I think I look at these
18 things too far in advance. It takes a moment for my brain to
19 catch up.

20 Okay, please identify yourselves.

21 MR. FOWLER: I'm Mike Fowler from Fowler Architects.

22 MR. RODRIGUEZ: I'm Nick Rodriguez. I'm the
23 Applicant.

24 CHAIRMAN JORDAN: Okay. We had a lot of opposition to
25 this case, didn't we? Yes. I think we did. And then we

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1 continued to get additional responses from others regarding
2 this.

3 Have you had a chance to meet with your neighbors since
4 this?

5 MR. RODRIGUEZ: Yes. The letters are from the same
6 neighbors who opposed before. And I met with each neighbor
7 who submitted a letter of opposition.

8 And you know, every single one of them I think
9 appreciated the changes we made. And one of them changed their
10 mind.

11 But, most of them as you can see, they all indicated,
12 the ones who remained in opposition indicated that really, no
13 version of this project was going to be acceptable to them.
14 And so that's how we ended up where we are now.

15 CHAIRMAN JORDAN: We didn't have party status in this
16 case with anyone did they? No. Just opposition. We had a
17 lot of opposition.

18 You know, I think the shadow study helped me a bit from
19 where I was before. Because I didn't understand a shadow study
20 before. And did you revise the plans?

21 MR. RODRIGUEZ: We did. We reduced the height of the
22 addition on the north side by three and a half feet. About
23 a 39 percent reduction from the original plan.

24 We reduced the height of the addition on the south side,
25 which is farther away from the objecting neighbors by one and

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1 a half feet. And the total volume of the proposed addition
2 went down by about 28 percent.

3 Overall it represents now the addition of about 54
4 percent of volume to the existing structure. Really more like
5 a half story then like two stories.

6 CHAIRMAN JORDAN: And you removed the window?

7 MR. RODRIGUEZ: Yes. We -- so, we reduced the number
8 of windows facing -- well, so there was never going to be a
9 window facing westward towards 817 8th Street. There's a
10 window facing our property directly.

11 There were two north windows in the bedroom. We
12 couldn't have no windows. So we reduced that to one. And we
13 moved it as far east as possible away from our neighbor's
14 property. Actually at the request of David Sanok, who was the
15 person who raised that objection.

16 There were also windows facing east. In order to reduce
17 their impact on the neighbors to the east, we reduced the height
18 of one window so that really, it would be impossible to see
19 over the privacy fences.

20 And for the other window, we actually increased its
21 height so that it wasn't a window that you would typically look
22 out. So the window lets in light, but it doesn't let out light.

23 It was actually those changes that caused Christine at
24 809 9th Street, to change her position.

25 CHAIRMAN JORDAN: And then, if I remember right, there

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1 was a -- wasn't there a trellis?

2 MR. RODRIGUEZ: Yes. We fixed the -- well, Mike, do you
3 want to speak to that?

4 MR. FOWLER: Yes. The drawings were revised to show
5 the trellis connecting to both the existing structure and the
6 --

7 CHAIRMAN JORDAN: What does it connect to and what does
8 it do?

9 MR. FOWLER: The connection? We're establishing a
10 meaningful connection between the proposed addition and the
11 existing structure.

12 CHAIRMAN JORDAN: How is that being used?

13 MR. FOWLER: The addition? Is a --

14 CHAIRMAN JORDAN: But what is -- so the trellis is --
15 there's a doorway from --

16 MR. FOWLER: There's a doorway leading from the main
17 house to the garage. There's a door at both ends of the
18 trellis.

19 CHAIRMAN JORDAN: Is the trellis opened or is it
20 covered?

21 MR. FOWLER: It's covered 51 percent.

22 MR. TURNBULL: Mr. Chair, the new regulations will
23 require an enclosed connection. But currently it does not.

24 CHAIRMAN JORDAN: Yes. I know. I know we've been
25 skirting in the conversation we've had previously on trellises

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1 and that's why I've been, you know, trying to really drill on
2 these trellises.

3 As well as having a real -- well, you know, I did that
4 whole research on what it meant by meaningful connection. But
5 a real connection and not just one to get past zoning
6 regulations.

7 That's where we, you know, people have been throwing up
8 a piece of wood between -- what do you call it when you hang
9 up your clothes? You know, the wood thing to hang up, like
10 you're hanging up your clothes. And say okay, there's a
11 connection. It's a -- all right.

12 Board, anything else we want to drill down on this? I
13 think this shadow helped -- actually was better and helped.
14 Mr. Turnbull?

15 MR. TURNBULL: I just had a -- I mean, basically based
16 upon the changes, what's the worst condition that exists then
17 that's objectionable?

18 MR. FOWLER: From a sun and shadow standpoint?

19 MR. TURNBULL: Architectural. I mean, is there --
20 you've relocated the windows. I mean with the window now on
21 the one side, which is moved more toward the closet.

22 MR. FOWLER: Correct.

23 MR. TURNBULL: Satisfies the neighbor on that side.
24 He's happy with that.

25 MR. RODRIGUEZ: It doesn't satisfy him. We did it out

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1 of his request. But he remains opposed.

2 MR. TURNBULL: Well, what if it faced directly into your
3 backyard?

4 MR. FOWLER: It would also face directly towards the
5 neighbor at 815 --

6 MR. RODRIGUEZ: No, 817.

7 MR. FOWLER: 817, sorry. So the idea was to keep the
8 window facing east towards the rear of the property. With more
9 review kind of along the alley. And not directly towards the
10 houses.

11 MR. TURNBULL: Okay. All right. Okay. Thank you.

12 CHAIRMAN JORDAN: Anybody else? Any other questions
13 that we have with the Applicant on this?

14 (No response)

15 CHAIRMAN JORDAN: Is there anything else that you want
16 to present to the Board?

17 MR. RODRIGUEZ: I guess I would just want to note that
18 the -- while there are neighbors who continue to oppose the
19 project, we maintain the support of neighbors directly to the
20 east of us. Since it's a double-wide lot, it's two neighbors
21 to the east at 806 and 808 8th Street.

22 We also maintain the support of the adjacent neighbor
23 immediately to the south. It's neighbors to the north who are
24 objecting.

25 CHAIRMAN JORDAN: Okay. Let's turn to the Office of

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1 Planning and see if there is anything in addition since the
2 updated file and records.

3 MR. JESSICK: Thank you Mr. Chairman and Members of the
4 Board. My name is Matt Jessick.

5 The Office of Planning reviewed the updated materials.
6 And continue to recommend approval of the Application. It
7 meets the standards for Section 223, special exceptions. And
8 I'd be happy to take any questions.

9 CHAIRMAN JORDAN: Okay. Board, questions of the
10 Office of Planning?

11 (No response)

12 CHAIRMAN JORDAN: Applicant, any questions of the
13 Office of Planning?

14 MR. RODRIGUEZ: No, none.

15 CHAIRMAN JORDAN: ANC 6A? We already have in the
16 record a letter from ANC 6A who opposes. And basically their
17 opposition is about the connection and the separate buildings.

18 And I think the Board has addressed that with the
19 Applicant during the first hearing. And there's been
20 revisions of the plans. Because the Board was concerned about
21 there not being a meaningful connection and the purpose of what
22 the connection was supposed to do when it -- and we just kind
23 of had that dialog.

24 So I think that that has been taken care of with the
25 updated revisions. That the connection is now meaningful

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1 within the definition. And as the Board has interpreted and
2 used meaningful connections in that regard.

3 Department of Transportation, we already had no
4 objection. Anyone -- we already went through this, didn't we?
5 We already had anyone speaking in support. Anyone speaking
6 in support?

7 (No response)

8 CHAIRMAN JORDAN: Let's, I -- anyone in opposition? We
9 already had that, but I'm going to give you an opportunity again
10 if you want to come forward to tell us something new. Not that
11 we've already heard in regards to the changes that were made.

12 We normally don't do this. We've already been down this
13 route. But we're going to -- because you've been sitting here
14 all morning. And I just -- so identify yourselves please?

15 MR. SANOK: David Sanok. 821 8th Street, owner.

16 CHAIRMAN JORDAN: And you've got three minutes Mr.
17 Sanok. And go ahead.

18 MR. SANOK: Sure. I'd just like to state again, the
19 size of the property which Mr. Rodriguez has, as you can see
20 from the plot land, is again as deep as ours. And actually
21 takes over the property next door, the back half of it.

22 As you see from the pictures, and some of them sent by
23 Mr. and Mrs. Arno yesterday, they are the neighboring property
24 that doesn't go all the way back. If you take a look at that
25 third picture, you actually notice, even though Mr. Rodriguez

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1 is going to build a second floor, it's going to be looking like
2 a brick wall for them when they look out that window.

3 And if you look to the side, you will also notice too
4 --

5 CHAIRMAN JORDAN: Yes, but they don't own that part of
6 the property, do they?

7 MR. SANOK: No. But you will see how it encloses them.
8 And how deep his property currently already is. The house was
9 flipped two years ago when he bought it.

10 It was already and it already is 11 percent over the size
11 and the property is even larger than our ground property. And
12 it's already 11 percent over.

13 This is being raised and not being rebuilt as the same
14 garage. This is now asking to really be built as a two bedroom,
15 one car garage house.

16 This is building for all intensive purposes a garage
17 one, and mainly a house in the back. And it's only connected
18 by a trellis as a loophole.

19 To the north for that window, I actually initially was
20 yes, we'd have it there. But once we had this meeting as of
21 last week, or as of last month, I want it completely removed
22 because that does look directly down on my property.

23 And to go back to Mr. Turnbull's --

24 CHAIRMAN JORDAN: Which one looks down into your
25 property?

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1 MR. SANOK: The north window. All the neighbors that
2 are opposing are the ones that are affected by this most. The
3 Arnos, which are the 800 section of the zoning, or the 817
4 property, the one that's enclosed and don't have access to the
5 back.

6 Again, they are now trapped by two sides, south and east,
7 by this two-story building. And already, the deep extension,
8 if you take a look at the pictures --

9 CHAIRMAN JORDAN: Aren't they trapped by the fence?

10 MR. SANOK: We'll they're trapped by the fence, but as
11 far as being --

12 CHAIRMAN JORDAN: Behind 817?

13 MR. SANOK: blocked in. Yes. They actually do have
14 one that Mr. Rodriguez allows them to go out the back gate off
15 the side.

16 CHAIRMAN JORDAN: It seems like there's a gate on the
17 side from what's proposed, correct?

18 MR. SANOK: Yes. But as far as when you look out,
19 they're looking at a wall and will be looking at a wall. And
20 again, this is an exception to make a property that's already
21 11 percent over code even larger.

22 I mean, this isn't just taking what they have and saying
23 okay, we're going to redo it. We're building a two bedroom,
24 one car house in our backyard.

25 I would hope that the zoning for 223.2 it states,

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1 substantially adversely affect or use or enjoyment of anything
2 abutting. It's doing that. Mr. and Mrs. Cruce, the property
3 next door will discuss that.

4 I'm 18 feet away. It will affect. Not to mention, Mr.
5 Rodriguez already, this is not just an extra rental property,
6 he has the ability and has in the past rented his basement out
7 to other people.

8 So now it's just a double property to rent. This is an
9 extra grab that it takes away from all the neighbors up top.
10 It also affects our sight lines.

11 CHAIRMAN JORDAN: You're going to wrap up please,
12 you're already over.

13 MR. SANOK: Sure. As a citizen, 223.5, the structure
14 not getting -- or should not be used to permit or induce or
15 expand on nonconforming use. This is getting larger then it
16 is.

17 Maybe in the footprint it might go back a foot to make
18 it 70 percent versus 71 percent. But it's going up.

19 And it's going up regardless of whether it's five feet,
20 ten feet, it is going up substantially to have an effect on
21 our backyards and our property and our views. And the sight
22 lines of the alley, which is stated over in your 223.2.

23 Visually intruding upon the character, scale and
24 patterns of the house. Nobody else -- this is not your
25 standard carriage house right behind a property. This is a

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1 two spanned house. And it's a garage that was built a long
2 time ago.

3 And again is -- you have to understand the size of this
4 project. It is a two bedroom, one car garage house that's
5 being built back there.

6 Thank you.

7 CHAIRMAN JORDAN: Okay. Thank you. Board, any
8 questions of this witness?

9 (No response)

10 CHAIRMAN JORDAN: Applicant, any questions of this
11 witness?

12 MR. RODRIGUEZ: No.

13 CHAIRMAN JORDAN: Okay. Next, please?

14 MR. SANOK: Before I go, can I ask a question of Mr.
15 Jessick?

16 CHAIRMAN JORDAN: No, you can't. You got three minutes
17 to talk to us.

18 MR. SANOK: Okay.

19 CHAIRMAN JORDAN: Three minutes on the board please?
20 And I need you to identify yourself.

21 MR. CRUCE: My name is Mark Cruce. I own the property
22 at 819 8th Street. And essentially, my opposition is in the
23 form of its impact on my ability to enjoy my property.

24 And I've submitted several pictures. And if you look
25 at the pictures, you see that by -- when that property is there,

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1 if he builds this, it's going to completely dominate my
2 backyard.

3 It's going to be a huge looming albatross sitting on top
4 of my property. And I'm going to have the issues of I'm going
5 to have to be quite back there. There will be people living
6 in the alley now where there aren't before.

7 Now there is a, you know, I won't be able to get as much
8 sun. I mean, I saw the shadow study. But I don't necessarily
9 believe it.

10 I saw -- it's just going to generally create a closed
11 in feeling. And it's just going to -- it will dramatically
12 diminish my ability to enjoy my backyard.

13 And that's the whole reason I bought that house in the
14 first place. Is because it had a yard. And it had some common
15 space.

16 And it's -- I treasure that common -- that open space.
17 And this is just going to close it in. It's going to diminish
18 my ability to enjoy it.

19 And then, I know that from my conversation before with
20 other people that this probably doesn't stand muster for saying
21 no, but just the whole notion of demolishing 120 year old brick,
22 solid building like that. Tearing it down and building a brand
23 new free standing house.

24 And I know you say there's a trellis. But let's all call
25 a spade a spade. It's not a meaningful use -- it's a loophole

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1 to get through the zoning thing.

2 They're going to -- it's a separate free standing house
3 he's building in my backyard. And I don't see how anybody in
4 their right mind would want -- would go for that willingly.

5 I mean, it's going to cause complete confusion. I mean,
6 I don't know how he's going to do -- there's no place to stage
7 the construction.

8 If you look at the plot, where are they going to put all
9 this equipment and all this? How are they going to build this
10 thing back there without closing off my alley for six months?

11 I mean, can you -- if -- you know, and if it does goes
12 forward, can you put a codicil in there that says that if they
13 do this construction, they cannot block off the alley and
14 eliminate my ability to ingress and egress from my property?

15 I spent a lot of money on a door for, you know, for my
16 alley so I can use my parking area. I don't want to -- I mean
17 so for six to nine months am I going to be unable to use that
18 while he's building this big, huge house in my backyard?

19 I mean, the whole thing to me just seems on the face,
20 just seems like, you know, with all due respect to my neigh
21 --

22 CHAIRMAN JORDAN: Excuse me, which unit is yours again?

23 MR. CRUCE: Pardon me?

24 CHAIRMAN JORDAN: Which unit is yours again?

25 MR. CRUCE: 819.

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1 CHAIRMAN JORDAN: 819, okay. Um-hum.

2 MR. CRUCE: And I have submitted several pictures.
3 Several pictures and I think that if you look at the pictures
4 and I don't know if you're set up to review those pictures now
5 or to put them up.

6 But I mean, it's pretty clear that you know, it would
7 have a pretty major impact on me. And I mean, it just seems
8 to me that it's just an unfair proposition to basically build
9 a second rental unit.

10 He's already got an occupant -- a rental unit in the
11 house. He's basically building a second rental unit on top
12 of my backyard. On top -- in my garage.

13 In my backyard. It's going to be looming down on me.
14 Causing all kinds of confusion. God knows what it's going to
15 do, all this construction stuff.

16 My house is 120 years old. When my good friend here Dave
17 Sanok did a remodeling job, he ended up flooding my basement
18 because of the changes to the foundation.

19 I mean, what's going to happen when they start
20 demolishing and doing all this stuff right in my backyard? I
21 just don't see where it's their -- I mean, I can understand
22 why he wants to do it.

23 But it just does not on the face of it make any sense.
24 I mean, even if you look at the alley, the alley is like ten
25 feet wide.

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1 CHAIRMAN JORDAN: You can take another five seconds or
2 so to wrap up because we're running over.

3 MR. CRUCE: All right. Well, that's just mine. And I
4 don't have -- and I'm not an attorney. I didn't go chapter
5 and verse by the code.

6 CHAIRMAN JORDAN: Well, let me ask you, you still have
7 a backyard? You still have access from your -- the back of
8 your house through your yard. You still have your yard through
9 to the alley, correct?

10 MR. CRUCE: Yes. I would still have my yard. I would
11 still have it. But I would -- but it would basically be --
12 I would be hemmed in by this huge building on my side that's,
13 you know, that it -- and I don't think, you know, it doesn't
14 take a lot of imagination --

15 CHAIRMAN JORDAN: How big a -- how wide or what's the
16 length of your backyard from the back of your house to the
17 alley? To the fence?

18 MR. CRUCE: It's the full width of a --

19 CHAIRMAN JORDAN: At least 25 feet isn't it?

20 MR. CRUCE: Oh, I'm not sure about the actual distance.

21 CHAIRMAN JORDAN: At least 25 feet?

22 MR. SANOK: Yes, we all have the same exact depth.

23 CHAIRMAN JORDAN: It might be more even.

24 MR. SANOK: And we have -- normally we have 18 to 20 feet
25 width on each property.

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1 CHAIRMAN JORDAN: Except for his. His is a little
2 shorter because he's got --

3 MR. SANOK: Except for his. No, his is much longer.
4 He has more like 30 --

5 CHAIRMAN JORDAN: I mean, without the structure. Yes.
6 Um-hum.

7 MR. SANOK: Right. Regardless of structure, he has an
8 extra additional 18, 20 feet.

9 CHAIRMAN JORDAN: And so there's a court between your
10 unit and 821, correct?

11 MR. CRUCE: It's about -- it's a walkway. It's about
12 two to three feet wide. It's only about that much space.
13 About that big a -- about that big?

14 MR. SANOK: But you abut next to his property.

15 MR. CRUCE: Yes. I abut right directly next to him.
16 And there's like a -- there's like a gate. There is -- his
17 structure ends, his current garage ends. And then there's a
18 little metal gate. And there's a walkway that backs around
19 his garage.

20 MR. SANOK: And I would say this also affects our
21 property value potentially. Especially the Arnos. Where
22 they are now looking at a wall and where before you could see
23 sky.

24 And again, on a -- something that is truly over the top,
25 unnecessary, much like what we heard before on the restaurant.

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1 CHAIRMAN JORDAN: All right. Next, did you want to
2 speak? And your name please?

3 MS. CRUCE: Sure. My name is Geocinda Eustaquin Cruce.
4 I live at 819. So, you know, --

5 CHAIRMAN JORDAN: We've kind of already heard from 819.

6 MS. CRUCE: Everything's been said. Yes.

7 CHAIRMAN JORDAN: Thank you.

8 MS. CRUCE: Okay.

9 CHAIRMAN JORDAN: Okay. Oh, sorry, Board, questions?

10 MR. TURNBULL: I thought you lived at 821? Who lives
11 at 821? Oh, that's right, you live at 821.

12 CHAIRMAN JORDAN: It's at the other end. He's at the
13 third house to the --

14 MR. SANOK: To the north.

15 MR. TURNBULL: So the three homes to the north, it's --
16 you're all --

17 CHAIRMAN JORDAN: 817 is not here.

18 MR. SANOK: Right. 817, Ms. Arno, she was here last
19 time.

20 MR. TURNBULL: All right. But she's got a letter in
21 opposition.

22 MR. SANOK: She has a letter and they submitted
23 pictures.

24 MR. TURNBULL: So the only one that rescinded is 813?

25 MR. SANOK: Which is on 9th Street across the other --

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1 the back end of the alley, behind them.

2 CHAIRMAN JORDAN: Yes. Behind them.

3 MR. SANOK: So they don't have -- it's more looking
4 directly at it across the alley versus being connected to it.

5 MR. TURNBULL: Well, who's directly to the south?

6 CHAIRMAN JORDAN: That's the one who withdrew.

7 MR. TURNBULL: Is that -- that's the one, okay.

8 MR. SANOK: Right. And that property is a land --
9 there's tenants that just --

10 CHAIRMAN JORDAN: Hang on. Oh, no, to the south, I'm
11 sorry, to the South, no, no, that's not who withdraw.

12 MS. CRUCE: Those are renters.

13 MR. SANOK: Those are -- yes, they're renters that live
14 there. There's --

15 MS. CRUCE: We got the owners' support.

16 MR. SANOK: Right.

17 MS. CRUCE: And the renters' support actually.

18 MR. TURNBULL: Okay.

19 CHAIRMAN JORDAN: Yes. The person to the east
20 withdrew. Yes. So we -- but we don't know -- is there -- is
21 there an adjoining unit -- is 813 adjoined?

22 MR. RODRIGUEZ: Yes.

23 MR. SANOK: It shows a party wall, that's all. Would
24 you like to see the plot or the zoning?

25 CHAIRMAN JORDAN: No, we got it. Okay. Any other

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1 questions Board?

2 (No response)

3 CHAIRMAN JORDAN: The Applicant, any questions of
4 either of these witnesses?

5 MR. RODRIGUEZ: No. Only to say that as you can tell,
6 they're fairly committed in their opposition. I tried to
7 negotiate, but there really wasn't negotiation to do.

8 CHAIRMAN JORDAN: Okay. Well, now where are we in the
9 world of all this? Okay. So is there anything you want to
10 say in closing?

11 MR. RODRIGUEZ: Only to say that for many of the
12 objections raised that had to do with things like construction,
13 as you all know, it was the type of thing where I said, well,
14 it's certainly in my best interest to be as conscientious as
15 I can be about it.

16 But, this process doesn't really cover me making a
17 guarantee around that. But of course it's my intention.

18 CHAIRMAN JORDAN: The construction is not before us.

19 MR. RODRIGUEZ: Yes.

20 CHAIRMAN JORDAN: We have no control over construction

21 --

22 MR. RODRIGUEZ: Yes. So --

23 CHAIRMAN JORDAN: And construction scheduling. What
24 the impact of construction, the process thereof.

25 MR. RODRIGUEZ: Yes.

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1 CHAIRMAN JORDAN: And that's just how -- not even
2 bifurcated.

3 MR. RODRIGUEZ: Yes, sorry.

4 CHAIRMAN JORDAN: How separate and as opposed to the
5 various agencies are. And even historic nature of the
6 property itself as somebody else, I think at some point all
7 those things should come into the same house in regards to being
8 able to look at the rendering of it.

9 MR. RODRIGUEZ: Yes. So, the only thing I would want
10 to say in closing then, and Mike can add anything he wants,
11 is that we've tried to meet them half way. We originally
12 proposed a larger structure.

13 At the direction of this Board, and from neighbor
14 feedback, we significantly reduced the size of that structure.
15 We think it's a reasonable compromise.

16 And we would like to be able to move forward with it.

17 CHAIRMAN JORDAN: What's the floor height? Of the two
18 floors, what's the height?

19 MR. FOWLER: The interior ceiling height? We reduced
20 it to 7 foot 3 in the sleeping areas. And it's 8 foot 6 in
21 the living areas and 8 foot in the garage.

22 So the side of the structure that's closest to the
23 neighbors in opposition is where the sleeping units are, or
24 sleeping rooms. So we reduced those thinking that most of the
25 time people will be spending the time in the living areas and

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1 they can have a little more height there.

2 But we really did reduce the heights of the ceiling
3 really close to what the minimum for a habitable dwelling is
4 in order to keep the overall height of the structure as low
5 as possible.

6 CHAIRMAN JORDAN: And 8'17, 8'19, as well as 8'15, those
7 are two story dwellings?

8 MR. FOWLER: Correct.

9 CHAIRMAN JORDAN: Okay. All right, then we'll close
10 the hearing based upon the record which we have before us.
11 Board, do you want to deliberate or do you -- are you ready
12 to deliberate or you want to take some time with this? Or what
13 do you need?

14 You're not ready yet? Oh, you're not doing it? You
15 were sitting here all this time, you were on it.

16 Anybody, Mr. Turnbull? Mr. Hinkle? Any thoughts, you
17 want to take more time on this? You want to go forward? Yes,
18 Mr. Turnbull?

19 MR. TURNBULL: I'm struggling with this.

20 MR. HINKLE: Yes, I am too.

21 CHAIRMAN JORDAN: All right. So we're going to take
22 some -- put it on a hearing date. Put this for a hearing date.
23 Are you -- you're 28th Mr. Turnbull?

24 MR. TURNBULL: Yes.

25 CHAIRMAN JORDAN: Okay. April 28. Put it on the

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1 hearing date.

2 MR. RODRIGUEZ: All right, thank you.

3 CHAIRMAN JORDAN: The record's closed in this however.

4 MR. RODRIGUEZ: Thank you.

5 MS. CRUCE: Thank you.

6 CHAIRMAN JORDAN: Thank you all. I know this is not an
7 easy thing. But at the end of the day, I'm glad you guys shook
8 hands. Because this happens all the time and it's just --

9 All right. Very good. Thank you all. Any other
10 business coming before the Board today?

11 MR. MOY: Not from the staff, sir.

12 CHAIRMAN JORDAN: Enough. All right, then if it's okay
13 with the Board, then we're adjourned.

14 (Whereupon, the above-entitled matter went off the
15 record at 12:09 p.m.)

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