

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

SEPTEMBER 22, 2015

+ + + + +

The Regular Public Hearing 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 9:39 a.m., Lloyd Jordan, Chair, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
MARNIQUE HEATH, Vice-Chairperson  
MARCEL ACOSTA, (NCPC)  
FREDERICK HILL, Board Member  
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LAWRENCE FERRIS, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

KAREN THOMAS  
ELISE VITALE  
MEGAN RAPPOLT

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STEPHEN MORDFIN

The transcript constitutes the minutes from the  
Public Hearing held on September 22, 2015.

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

9:39 A.M.

CHAIR JORDAN: Good morning. Will we please come to order? Today's date is September 22, 2015 and we're here for the meeting of the Board of Zoning Adjustment of the District of Columbia. We're located at the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W.

My name is Lloyd Jordan, chairperson. To my right is Fred Hill, a member of the Board. To his right is Marcel Acosta, sitting in today in regards to National Capital Planning Commission. To my left is Marnique Heath, newlywed, vice chair of the Board. And to her left is Peter May from the Zoning Commission sitting in today as a member of the Board.

Please be advised that today's proceeding is being webcast live and also being recorded by a court reporter, so therefore I'm going to ask you to refrain from any disruptive noises here in the hearing room today. A good time to make sure that you silence any devices that you have that may cause a disruption in the hearing room.

The Board's procedures are contained in the document to the door to my left in the back. So if you're not accustomed to how we proceed at the Board, please feel free to get that document.

What else is there? I think that's it. Mr. Moy, is there any announcement? Oh, I knew there was something I

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1 forgot. If you're going to provide any testimony or address  
2 the Board in any manner today, I'm going to need you to do two  
3 things. If you're going to address the Board, read a  
4 statement, take a seat at this table, I'm going to need you  
5 to do two things, the first of which is to complete two witness  
6 cards per person. I think they're gray or they're white, two  
7 little witness cards. Complete two of those per person. And  
8 prior to taking a seat at the table -- they're white, okay.  
9 Prior to taking a seat at the table, please give those cards  
10 to the court reporter who is seated to my right. Two witness  
11 cards per person prior to sitting, give those cards to the court  
12 reporter.

13 The second thing I'm going to need you to do is to  
14 now stand and take the oath or affirmation which will be  
15 given by Mr. Moy, our secretary for the Board.

16 MR. MOY: Good morning. Do you solemnly swear or  
17 affirm that the testimony you're about to present in this  
18 proceeding is the truth, the whole truth, and nothing but the  
19 truth? Ladies and gentlemen, you may consider yourselves  
20 under oath.

21 (All present sworn.)

22 CHAIR JORDAN: Very good. Mr. Moy, are there any  
23 announcements today?

24 MR. MOY: Yes. Good morning, Mr. Chairman, and  
25 members of the Board. I do have a few, if I could have your

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1 patience. The cases originally scheduled on the docket have  
2 been postponed and rescheduled. First and foremost,  
3 Application of 19071 of Morton Street Mews LLC has been  
4 withdrawn by the applicant. Appeal Case 19067 of ANC 4C has  
5 been rescheduled to September 29, 2015. Application No. 19068  
6 of Old Pentecost Church Temple of Truth has been rescheduled  
7 to October 6, 2015. 19066 of Gabriel and Stephanie Klein has  
8 been rescheduled to October 6, 2015. Application No. 18983  
9 of Carrie Trieu, I think that's how you pronounce it,  
10 T-R-I-E-U, has been rescheduled to October 27, 2015. And  
11 finally, Mr. Chairman, Application No. 19057 of Hollow Creek  
12 Investment Group has been rescheduled to October 6th. And  
13 that completes the staff's statements.

14 CHAIR JORDAN: Great. Thank you. So then let's  
15 call our -- just so everyone knows we're going to handle  
16 decisions by the Board, the public meeting portion at the  
17 latter part of today's meeting of the Board of Zoning  
18 Adjustment. So a decision on 18114A and 19047 will be handled  
19 at the end of the docket. We're handling the hearings first.

20 So would you call 19091, please?

21 MR. MOY: Yes, sir. Thank you. Thank you. This is  
22 for a mission case. This is Application No. 19091 of the  
23 Embassy of the Kyrgyz Republic. This is before the Board to  
24 allow the construction of a rear deck at premises 2360  
25 Massachusetts Avenue, N.W.

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1 CHAIR JORDAN: Thank you. Would the parties or  
2 persons for that case please come to the table, please? Will  
3 you please introduce yourselves?

4 MR. ERALIEV: Good morning, Mr. Chairman. Good  
5 morning, members of the Board. My name is Zhanybek Eraliev.  
6 I am the First Secretary here at the Embassy of Kyrgyz.

7 MR. AKMATBEKOV: Good morning. My name is Talant  
8 Akmatbekov. I'm the Administrative and Technical Officer at  
9 the embassy.

10 MS. EDISON: Good morning. My name is Cheryl  
11 Edison. I'm with the Department of State, Office of Foreign  
12 Missions.

13 CHAIR JORDAN: Okay. This is a case which I mean I  
14 don't know where the Board is in regards to questions except  
15 there's one thing and know we need to get a response from.  
16 Everybody in the record to me would support the relief.  
17 There's a question though, we saw nothing in the record  
18 regarding historic preservation aspect of its approval process  
19 or what HPRB has had. So that would be one question. And I  
20 don't know if there are any other questions of board members.

21 Mr. May, please.

22 COMMISSIONER MAY: There were several references in  
23 the case materials to review by the Commission of Fine Arts  
24 at its September 21st meeting which was not on September 21st  
25 because they don't meet on September 21st. So I assume it was

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1 last week. And I'm just curious about what the result of that  
2 meeting was.

3 CHAIR JORDAN: So if you could inform us what  
4 happened at the Commission of Fine Arts? I don't think it's  
5 been to HPRB. Commission of Fines Arts, yes. We at least need  
6 to see the impact historically from any aspect and HPRB  
7 sometimes is rock -- cart before the horse. I don't know about  
8 the rock scenario, but so let's hear where we are.

9 MR. ERALIEV: Yes. Regarding the first question of  
10 the Historic Preservation Office. We were indeed recommended  
11 by the Office of the -- Board of Zoning Adjustment to contact  
12 ANC and the Historic Preservation Office and we did. We sent  
13 an email. I was in touch. I sent an email to Mr. Calcut, I  
14 think, from the Historic Preservation Office. I received a  
15 reply that -- I have a copy of the email by the way. I received  
16 a reply that the embassy needs to send application not to the  
17 Historic Preservation, but to the Commission of Fine Arts.  
18 And then we submitted all the documents and application  
19 required by the CFA by September 3rd. That was the deadline  
20 so we submitted that. I believe the hearing was -- or  
21 consideration by the CFA was planned for September 21st, but  
22 we haven't heard anything or we were not invited for that  
23 meeting.

24 CHAIR JORDAN: I thought there was some information  
25 or something happened in regard to that application or maybe

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1 the staff report from CFA.

2 MR. ERALIEV: We don't know because we didn't receive  
3 anything from the CFA. They know our contacts and emails.  
4 We haven't received anything.

5 MEMBER ACOSTA: Mr. Chairman?

6 CHAIR JORDAN: Yes, please.

7 MEMBER ACOSTA: Just to clarify, it is our  
8 understanding though that this is going to be heard before the  
9 Historic Preservation Board that case.

10 MS. THOMAS: Good morning, Mr. Chairman, members of  
11 the Board. This is Karen Thomas with the Office of Planning.  
12 It is our understanding that it would not have had to go before  
13 the Board, just CFA's review, and pending CFA's review, HP  
14 would sign off on it.

15 CHAIR JORDAN: Do we know if there's been at least  
16 a staff report from CFA, Commission of Fine Arts?

17 COMMISSIONER MAY: Sorry, CFA doesn't have anything  
18 to do with staff reports, but they might if it were on the  
19 consent calendar. There might be something on their consent  
20 calendar.

21 CHAIR JORDAN: Okay.

22 COMMISSIONER MAY: I'm sorry. Ms. Thomas, do you  
23 know something?

24 MS. THOMAS: No. It was also OP's understanding  
25 that it was to be adjudicated on September 21st and that was

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1 the date that we had in mind. So if it changed, we did not  
2 have any information to any changes.

3 CHAIR JORDAN: Okay. All right. Any other  
4 questions from the Board or how do you want to deal with this?  
5 Is this catastrophic for anybody on the Board? Any other  
6 questions?

7 Yes, please, Mr. May.

8 COMMISSIONER MAY: If you can just give me a minute.

9 CHAIR JORDAN: Sure. Anybody else with questions  
10 who would like to drill down with the applicant? Because the  
11 record is clear and certainly we got off of the planning, but  
12 they are recommending that do not disapprove. And I always  
13 think that's kind of backwards, that we not disapprove it and  
14 we do have ANC in support.

15 COMMISSIONER MAY: So due to the wonders of the  
16 internet, I was able to check to see if there was a consent  
17 calendar report from the Commission of Fine Arts and I suggest  
18 that for the purposes of the record of this case that somebody  
19 print out this page and enter it into the record, but I will  
20 read what it says.

21 So it was on the consent calendar for lasts Thursday.  
22 They meet the third Thursday of the month. It would have been  
23 last Thursday. I happen to know because I was there for a Park  
24 Service project. I am usually there when they have meetings.

25 Anyway, so location 2360 Massachusetts Avenue

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1 property, Embassy of Kyrgyz Republic, new retaining wall in  
2 rear yard. Review type was permit. Recommendation from the  
3 staff, no objection to the issuance of a permit for the  
4 construction of a new retaining wall in the rear of an existing  
5 building as shown in the materials received and dated September  
6 4th. Refer to DCHPO. Note, any subsequent modifications to  
7 the approved design, including those made during the DCRA  
8 technical review must be resubmitted to the Commission for  
9 approval.

10 So they had no objection on substance and I know from  
11 when they -- I watched them approve the consent calendar.  
12 Nobody raised an issue.

13 CHAIR JORDAN: Thank you. I thought there was  
14 something there because Mr. Hinkle indicated he thought he saw  
15 something also. So we need that printed and submitted to the  
16 record before we will issue an order on that so that we can  
17 make that part of the record. And we'll accept that as an  
18 exhibit, Mr. Moy, whatever point that is.

19 Any other questions from anybody on the Board that  
20 we believe we need to hear from the applicant?

21 Then let's proceed to the -- excuse me. Normally  
22 what we do, you have a right to do a presentation to the Board.  
23 But the Board is in the posture as we sit that the application  
24 meets the standards. And so we can proceed on with the  
25 hearing. If you think you really need to say something, then

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1 you certainly have the opportunity to do it now, but I think  
2 right now everything is okay. So we can always answer  
3 questions in rebuttal.

4 MR. ERALIEV: If I may just thank the State  
5 Department and also the staff on the Office of Planning because  
6 we're a really small nation, but we received great help from  
7 the staff on guiding how to do this because this is my first  
8 experience in doing such a thing. So thank you very much.

9 CHAIR JORDAN: Thank you. Then we will turn to the  
10 Office of Planning, please.

11 MS. THOMAS: Mr. Chair, Karen Thomas for the Office  
12 of Planning again. We will rest on the record of our report  
13 and recommend the Board not disapprove the request for variance  
14 relief.

15 CHAIR JORDAN: Not disapprove.

16 MS. THOMAS: Not disapprove, yes.

17 CHAIR JORDAN: I know. It always throws me also.  
18 Any questions for Office of Planning, Board? Do we have anyone  
19 here from the Department of Transportation? Did we get  
20 anything from Transportation on this?

21 MS. THOMAS: No objection.

22 CHAIR JORDAN: There was no objection from the  
23 Department of Transportation. Is there anyone here from ANC  
24 2D? ANC 2D? We do have a letter in support from ANC 2D which  
25 supports the relief requested. And we do have the State

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1 Department's report. But if you want to say something in  
2 regards to this application?

3 MS. EDISON: I don't have anything to add. Our  
4 letter is in support of this project. Thank you.

5 CHAIR JORDAN: Okay. Is anyone here wishing to  
6 speak in support of this application? Anyone in support?  
7 Anyone in opposition? Anyone in opposition? Then we will  
8 close the record on this matter with the exception of the late  
9 entry that we will allow for the Commission of Fine Arts staff  
10 recommendation for this matter.

11 Is the Board ready to deliberate on this case? All  
12 those in favor of approving the relief requested, aye?

13 (Chorus of ayes.)

14 Those opposed nay? The motion carries.

15 Mr. Moy?

16 MR. MOY: I'm sorry, Mr. Chairman, who seconded your  
17 motion? Did I miss the second?

18 CHAIR JORDAN: Okay, I didn't? I move it. Who  
19 wants to second it? I'm having a day with folks.

20 MEMBER HILL: I'll second.

21 CHAIR JORDAN: All right, so the motion is made and  
22 seconded. Let's go back to the vote. All in favor, aye.

23 (Chorus of ayes.)

24 Those opposed nay? The motion carries.

25 Mr. Moy?

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1 MR. MOY: Staff would record the vote of five to zero  
2 this on the motion of Chairman Jordan; second the motion of  
3 Mr. Hill; also in support Mr. Peter May, Vice Chairperson  
4 Heath, and Mr. Acosta. Motion carries to not disapprove, Mr.  
5 Chairman.

6 COMMISSIONER MAY: So Mr. Chairman, I just want to  
7 clarify, your motion was to approve which technically should  
8 be a vote to not disapprove.

9 CHAIR JORDAN: Yes, right. This thing is always  
10 backwards. So we're not going to not disapprove it. Let the  
11 record reflect the corrected language. Whoever wrote this?

12 COMMISSIONER MAY: That was the Foreign Missions  
13 Act. It was not the Zoning Commission.

14 CHAIR JORDAN: All right, okay, somebody needs to go  
15 to English classes. Anyway, we appreciate it. Thank you.  
16 Be sure to supplement the record with that document that's on  
17 line from the Commission of Fine Arts.

18 Let's go to the next hearing case, I believe. Well,  
19 let's do that and then we can bring them back. So we're going  
20 to do one of those sidesteps. I was remiss again. I'm having  
21 a procedural day here.

22 Can we have a representative of the applicant in Case  
23 19044 to come to the table. And also the person who requested  
24 party status, I think it's Julia Nanay. Please come to the  
25 table. No, just one party that requested party status. I

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1 need that person at the table.

2 Will you please introduce yourselves?

3 MR. SULLIVAN: Good morning, Mr. Chairman. My name  
4 is Marty Sullivan with the law firm of Sullivan & Barros here  
5 on behalf of the applicant. Thank you.

6 MS. NANAY: I'm Julia Nanay --

7 COURT REPORTER: I'm sorry, ma'am, can you turn on  
8 the microphone?

9 MS. NANAY: I'm Julia Nanay and I am an opponent. I  
10 am the direct neighbor of the property that is under question  
11 for Case 19044.

12 CHAIR JORDAN: Thank you. What we do here and I  
13 don't have -- unless the Board has any opposition, I will grant  
14 the party status to the person, to Ms. Nanay, who is seeking  
15 party status.

16 Do you understand what party status means?

17 MS. NANAY: Can you explain?

18 CHAIR JORDAN: That's what I want to be sure what  
19 party status means. Party status -- let me go back.  
20 Everybody has the opportunity to come forward and talk about  
21 an application. Normally, that person gets three minutes to  
22 talk about what they want to talk about regarding either  
23 support or opposition. You get that like automatically.  
24 Party status raises the bar. Party status is where a person  
25 intends to cross examine witnesses, present evidence, do

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1 rebuttal, etcetera in defending or prosecuting a case. So  
2 it's a party status. That means you actually move into the  
3 place of an active party and you have the opportunity to cross  
4 examine witnesses, put on exhibits. And if we ask for findings  
5 of facts and conclusions of law, you would be required to submit  
6 those things.

7 So I don't know if you plan on putting on evidence  
8 other than just talking to the Board. If you're just going  
9 to talk to the Board, I can grant you more time just to read  
10 a statement or to talk to the Board. But if you feel as though  
11 that you want to drill down and ask questions and submit  
12 evidence, then party status would be the route.

13 MS. NANAY: Well, I would like to talk to the Board.

14 CHAIR JORDAN: Okay. And not necessarily present  
15 evidence other than -- you want to talk to us and tell us how  
16 this application is affecting you?

17 MS. NANAY: Yes.

18 CHAIR JORDAN: Got you. So then we will do this. In  
19 lieu of having a party status, we will give you extended time  
20 to talk to the Board, up to five minutes. We normally do three.  
21 And believe me five is generally a lot of time. People sit  
22 there and twiddle their thumbs figuring out what else can I  
23 say? But we take seriously what you will say to the Board.

24 Normally what we do is we have party status, we send  
25 the parties out of the room and have you talk about how you

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1 can resolve any issues.

2 Have you had an opportunity to talk to Mr. Sullivan  
3 about this or his client regarding this?

4 Mr. Sullivan, have you guys spoken about any  
5 concerns?

6 MR. SULLIVAN: The architect has met with Ms. Nanay.

7 CHAIR JORDAN: Okay, I'm going to do this before we  
8 call the case. I'm going to ask the two of you to still have  
9 some conversation outside to see if there's something that can  
10 be resolved here prior to calling this case, if we can. So  
11 we'll call the case back up. Thank you.

12 And as I always tell people, it always works -- well,  
13 not always. I guess it's about 80 percent of the time we get  
14 resolution? Maybe that's a high number, but yes. Thank you.

15 MR. MOY: Mr. Chairman, forgive me. I'm assuming  
16 that she withdrew her party status?

17 CHAIR JORDAN: Yes.

18 MR. MOY: Thank you. I just wanted that for the  
19 record. All right, next application for public hearing is  
20 Application No. 18979 of Tiblez Adal.

21 Mr. Chairman, this is a request for a variance relief  
22 at property 400 K Street, N.E.

23 CHAIR JORDAN: Would the parties for that case please  
24 come forward? Please identify yourselves?

25 MR. BELLO: Good morning, Mr. Chair. My name is Toye

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1 Bello, representing the applicant.

2 MR. B. ADAL: Good morning, everybody. My name is  
3 Berhane Adal.

4 CHAIR JORDAN: Adal?

5 MR. B. ADAL: Yes, sir. Berhane Adal.

6 CHAIR JORDAN: Okay. Procedurally, we have a slight  
7 procedural problem, but I think we can get around it, Mr. Bello  
8 by your affirmation or your client's affirmation about the  
9 posting. We have an affidavit of posting that did not have  
10 a picture submitted that it was posted in the affidavit.

11 MR. BELLO: If you'll look in the records there's a  
12 picture that actually shows the posting. It's just not  
13 attached to the Form 135.

14 CHAIR JORDAN: Got it. So it's there. Okay. So  
15 the vice chair showed me that it is there. But procedurally,  
16 it's just not there and it causes a red flag as you know.

17 MR. BELLO: Thank you.

18 CHAIR JORDAN: All right, are you aware that the ANC  
19 has voted to oppose this application and as well as the Office  
20 of Planning, so we need to hear, at least hear in that regard  
21 your concerns, your reply about how those concerns the Board  
22 shouldn't address, but it's up to you to go ahead and proceed.

23 I don't know, do we need to hear full presentation,  
24 Board? Yes. Go ahead.

25 MR. BELLO: I can just basically dive into the basis

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1 of the ANC opposition which really hinges on two things: one,  
2 the opposition to the carriage house having a kitchen and  
3 opposition to the parking space that is provided in public  
4 space. Those two elements have been eliminated from the  
5 application.

6 CHAIR JORDAN: They've been eliminated?

7 MR. BELLO: Eliminated. The most current floor  
8 plans do not reflect a kitchen and the parking space has been  
9 removed from public space.

10 VICE CHAIRPERSON HEATH: Did you submit the current  
11 plans? Because what I see in the records still shows a  
12 kitchen. Do you happen to know what --

13 MR. BELLO: The most current floor plans are Exhibit  
14 --

15 VICE CHAIRPERSON HEATH: Is it 34?

16 MR. BELLO: That will be 34.

17 VICE CHAIRPERSON HEATH: So it just shows a sink now?

18 MR. BELLO: It just shows a sink in the plan. The  
19 parking, the known parking in the public spaces is reflective  
20 in the plat. And that new plat will be Exhibit 41.

21 CHAIR JORDAN: The plan is 34?

22 MR. BELLO: The revised plan is 34. The plat is 41.

23 COMMISSIONER MAY: So on 41, I'm seeing the parking  
24 pad. It just does not have the label parking pad. So was the  
25 pad actually removed or the label removed?

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1 MR. BELLO: The label is removed. The contention of  
2 the ANC --

3 COMMISSIONER MAY: No, can you answer my question?  
4 Was the parking pad itself removed?

5 MR. BELLO: The concrete paving is not removed.

6 COMMISSIONER MAY: Okay, that's what I was seeking.

7 MR. BELLO: It's no longer identified as a parking  
8 pad.

9 COMMISSIONER MAY: That's the question I was asking.

10 CHAIR JORDAN: So what is it going to be used for?

11 MR. BELLO: Well, it's not going to be used for  
12 anything. If you look at one of the submissions, we have  
13 pictures where the applicant actually posted a no parking sign,  
14 a permanent no parking sign in front of that pad. That pad  
15 was permitted by public space permit. It was not illegally  
16 constructed.

17 CHAIR JORDAN: Okay, so public space.

18 COMMISSIONER MAY: So that actually went to the  
19 public space committee and they approved it?

20 MR. BELLO: It didn't have to go to committee. It  
21 was approved --

22 COMMISSIONER MAY: No, actually, I think it does.  
23 Maybe we can find out from the Office of Planning, but my  
24 understanding is that anything other than a lead walk which  
25 is the path from the sidewalk to the door would require public

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1 space review by the committee. Now maybe I'm incorrect about  
2 that. We'll ask the Office of Planning that. But you're  
3 saying that it did not actually go to the committee because  
4 it wasn't required.

5 MR. BELLO: We actually submitted a copy of the DDOT  
6 permit that they approved.

7 COMMISSIONER MAY: I saw the permit and the permit  
8 refers to a lead walk. It doesn't refer to the parking pad.

9 MR. BELLO: Well, then maybe we're not representing  
10 -- it is a lead walk.

11 COMMISSIONER MAY: Okay. I don't know if there's  
12 anybody here from DDOT. I'd like to get their opinion on that.

13 CHAIR JORDAN: Good luck. And why do you call it a  
14 lead walk? What is showing is a parking pad you're claiming  
15 is a lead walk. Is that correct?

16 MR. BELLO: If you look at the plat it's part of a  
17 continuous paving around the perimeter of the building. And  
18 this is what DDOT permitted. It was not constructed  
19 illegally.

20 CHAIR JORDAN: Proceed, please. The Board is going  
21 to ask questions as you know.

22 MR. BELLO: Certainly. The opposition to the  
23 application from the Office of Planning essentially states  
24 that the project does not establish uniqueness and our  
25 contention is totally different. If you look at our hearing

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1 statement is the uniqueness of this property is that it's the  
2 only two-story carriage house in its block and that it was  
3 constructed in conjunction with the main building as of 1890.  
4 So the existing building and the carriage house has been in  
5 existence since 1890 in that same condition.

6 CHAIR JORDAN: And no other property on that block  
7 is that way?

8 MR. BELLO: There's no other one.

9 CHAIR JORDAN: Okay, and the practical difficulty?

10 MR. BELLO: Well, the practical difficulty is that  
11 the carriage house does have to be put to certain use. Our  
12 testimony in our submission is that these guys were misled by  
13 an architect who actually indicated on the approved set of  
14 plans that the roof of the carriage house had to be removed.  
15 I don't tend to agree that the removal of a roof with a two-story  
16 wall eliminates that structure from percentage of lot  
17 occupancy, but that's how the permit was issued.

18 CHAIR JORDAN: With that condition.

19 MR. BELLO: I'm sorry?

20 CHAIR JORDAN: With that condition that the roof  
21 would be removed from the carriage house.

22 MR. BELLO: Exactly.

23 CHAIR JORDAN: So what would you have with the roof  
24 being removed?

25 MR. BELLO: A two-story, four walls open to the

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1 elements.

2 CHAIR JORDAN: Really? Okay. But that was what was  
3 instructed to be done, correct?

4 MR. BELLO: That's correct.

5 COMMISSIONER MAY: Do we have that in evidence? Do  
6 we have a permit that says with that condition in evidence?  
7 I mean that's what you've testified to. It's what was stated  
8 in the applicant's statement, but I don't recall seeing a  
9 permit with that condition.

10 MR. BELLO: What we submitted to the records of the  
11 approved set of plans for the third floor including the plat.  
12 I think there's a notation on those approved plans that the  
13 roof of the carriage house was to be removed.

14 CHAIR JORDAN: Where is that in the record? That is  
15 what Mr. May is asking. Am I correct that's what you're  
16 asking?

17 COMMISSIONER MAY: Yes.

18 CHAIR JORDAN: Exhibit 10 maybe?

19 MR. BELLO: I'm looking for it. That will be Exhibit  
20 10.

21 CHAIR JORDAN: And the notation, where is that  
22 located on this, the notation? I see the electrical notes,  
23 plumbing notes. Mr. Bello, do you see it?

24 MR. BELLO: I don't have a copy of it in front of me.  
25 That's my recollection. I think there should be a plat

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1 attached to that and that notation should be on it somewhere.

2 CHAIR JORDAN: But you're testifying that you have  
3 seen it on there?

4 MR. BELLO: Absolutely.

5 CHAIR JORDAN: Testifying to the Board that you've  
6 seen it and you make that representation.

7 COMMISSIONER MAY: Number 10 has a plat, but the plat  
8 is from 2014 and it shows the build out of the carriage house  
9 as finished space. There's no note indicating that it is  
10 required that the roof be eliminated.

11 MR. BELLO: Exhibit 10 here says they approved main  
12 building plan for the third floor. Are we looking at the same  
13 thing?

14 COMMISSIONER MAY: Yes. But it's a full set of plans  
15 and it has the plat at the end and this is from the approval  
16 of -- the plat from the Surveyor's Office is dated from April  
17 17th of 2014 and it shows the building and it shows the carriage  
18 house and the carriage house is showing powder room and utility  
19 closet and so on. So it's clearly not indicated here that the  
20 roof would have to be removed in order to comply with zoning.

21 MR. BELLO: I'm glad to look that over and supplement  
22 the records, but really it would be to the benefit of our  
23 application if the fact was that the roof was not supposed to  
24 be removed.

25 COMMISSIONER MAY: I understand. I mean there are

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1 some very strange things about this permit. It also has a  
2 concrete parking pad shown on this, on the plat, that's part  
3 of this record or part of this exhibit. And the fact that it's  
4 not on a drawing sheet that's part of the drawing set. It's  
5 a plat and for all I know it could have just been copied and  
6 attached to it when it was submitted to the BZA.

7 MR. BELLO: What was copied?

8 COMMISSIONER MAY: The plat.

9 MR. BELLO: The plat showing the parking pad?

10 COMMISSIONER MAY: Yes, but there's not a site plan  
11 within the drawing set which is really what I would be looking  
12 for. I mean if they had done it on the plat and made a note  
13 on the plat, okay, that would support it. But these seem to  
14 be unconnected documents.

15 MR. BELLO: Mr. May, I'm very familiar with DCRA  
16 process.

17 COMMISSIONER MAY: I'm sure you are.

18 MR. BELLO: There are times when the plat is  
19 substituted for site plan and what you see there is the plat  
20 that accompanied the DDOT application.

21 COMMISSIONER MAY: Okay, the drawing set has an  
22 approval on it dated 2004 and the plat is dated 2014. Now maybe  
23 they were both submitted to DDOT at the same time, but again,  
24 what I'm trying to understand is the initial statement that  
25 you got approval for the third floor, based on the assumption

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1 that the carriage house roof would be removed.

2 MR. BELLO: That's correct.

3 COMMISSIONER MAY: And there's no hard evidence of  
4 that other than your statement. So were you involved in this  
5 at that time?

6 MR. BELLO: No, I wasn't involved in it at the time,  
7 but the fact of the matter is that the third floor addition  
8 which has a valid building permit could not have been  
9 constructed without the property being reduced in lot  
10 occupancy.

11 COMMISSIONER MAY: Correct.

12 MR. BELLO: The existing lot occupancy was 75 percent  
13 from 1890. So for the applicant to receive the third floor  
14 addition permit which is still a valid permit as it stands,  
15 there's no other way that they could have gotten that without  
16 some kind of reduction of the percentage of lot occupancy.

17 COMMISSIONER MAY: There's no way that they could  
18 have gotten that without going through the BZA. You can't make  
19 an addition to a nonconforming property without coming to the  
20 BZA and that somehow was done. Now the only alternative is  
21 that you would -- there's some evidence presented to DCRA that  
22 the lot occupancy actually was in conformance. Now the idea  
23 that it was because there would be no roof on the carriage  
24 house, I agree with you. It seems absurd, but it's not  
25 completely outside the realm of possibility that something

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1 would happen, particularly since at one point there was no roof  
2 on top of the carriage house. We have a photo that I've seen  
3 that shows it without a roof on it. But that's neither here  
4 nor there, right? That's separate.

5 The real issue there is that there's no way -- and  
6 as you said, it couldn't have gotten a permit unless it complied  
7 with lot occupancy, right? And it couldn't have complied with  
8 lot occupancy if there was a carriage house with a roof on it.  
9 So somehow that was addressed. And you're saying that the  
10 permit for the third floor was conditioned on the roof being  
11 removed. We don't have hard evidence of that.

12 MR. BELLO: Again, I believe the evidence was  
13 submitted. I can't answer your question here why you don't  
14 see it. But we're glad to supplement the record for that.

15 CHAIR JORDAN: Well, a couple of things. A couple  
16 of things. One, we've been using the word "couldn't happen."  
17 We've seen stranger things happen. And so two, I think, are  
18 you saying your review, when you were zoning administrator,  
19 you would not have approved it this way, is that what you're  
20 indicating because --

21 MR. BELLO: It certainly is an option of an outcome  
22 for DCRA to have granted the third floor permit on the premise  
23 that the roof of a two-story carriage house would be  
24 perpetually left open.

25 CHAIR JORDAN: So it was open at the time of this

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1 third floor permit?

2 MR. BELLO: No, it wasn't. There was some semblance  
3 of a roof.

4 MR. B. ADAL: This actually I have more expertise on  
5 this even though --

6 CHAIR JORDAN: You need to get sworn in and make sure  
7 you give a witness card. Are you sworn in?

8 MR. B. ADAL: I was sworn in and I have a witness card.

9 CHAIR JORDAN: This is your case. Go ahead.

10 MR. BELLO: I think I can have Mr. Kubrom who is  
11 another member of the family who actually did most of the  
12 construction testify to that.

13 CHAIR JORDAN: Okay. I need you to identify  
14 yourselves, please.

15 MR. K. ADAL: My name is Kubrom Adal.

16 CHAIR JORDAN: Go ahead, proceed. So if you  
17 understand the question and we're trying to find out what  
18 happened procedurally in regards to was there a requirement  
19 that the roof of the carriage house be removed and if it was  
20 not, then how do we get to where we are to get the approval?

21 MR. K. ADAL: I don't know what he did, the architect.  
22 I don't know what his intention is, but he had to -- submit  
23 it three times the drawing.

24 CHAIR JORDAN: He had to submit it three times, okay.

25 MR. K. ADAL: He had to do it three times. And then

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1 out of these three times, the last one is the one we started  
2 working on. The first one --

3 CHAIR JORDAN: Let me go back a second and lay some  
4 foundation. So when was the third floor allowed? When was  
5 the approval?

6 MR. K. ADAL: End of 2009.

7 CHAIR JORDAN: 2009. And in 2009, your relationship  
8 with the property was what? What was your relationship? In  
9 2009, you knew about this because why?

10 MR. K. ADAL: We knew, I'm not sure.

11 CHAIR JORDAN: In 2009, in relation to this property,  
12 you were the owner, the architect, the next door neighbor? How  
13 do you know about this property in 2009?

14 MR. K. ADAL: I am a member of the family.

15 MR. BELLO: I believed they owned it since 2003.

16 CHAIR JORDAN: We have to provide in this record  
17 where the foundation is for your knowledge base. That's all  
18 I am asking.

19 MR. B. ADAL: Let me explain. I know English better  
20 than him, so I probably can explain better, even though he knows  
21 about the property more than me. Again, my name is Berhane  
22 Adal. I am also a member of the family. My sister, my oldest  
23 sister initially bought this building with another person in  
24 1989. Then after a few years, the partner wanted to sell the  
25 place, so he pressured her to sell the place. Then I came in

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1 and took the other portion of his.

2 CHAIR JORDAN: Okay, when was that?

3 MR. B. ADAL: That was in 2003. And then the city  
4 told us we have to fix it, we have to do this, we were pressured.  
5 Most of my youngest siblings were in college, so I didn't have  
6 any help except having my sister.

7 CHAIR JORDAN: I'm just trying to find out where this  
8 gentleman got involved. So in 2009, he lived there, he was  
9 a family member, he came by, he helped get the permits, what?

10 MR. B. ADAL: So in 2003 or 2004 --

11 CHAIR JORDAN: I'm at 2009.

12 MR. B. ADAL: In 2009, anyway, we hired an architect  
13 who took all his time and a lot of money. Finally, we had a  
14 permit. We started using the permit in 2010 working on the  
15 house.

16 Last year, just before we were about to complete, the  
17 city came and stopped us because they said you broke the law  
18 or something like that because why did you put a roof on the  
19 carriage house? And my brother said there was a roof on the  
20 carriage house from the day we bought the place.

21 So then they went to the city and found out -- the  
22 architect actually presented his drawings --

23 CHAIR JORDAN: So in 1989 there was a roof on the  
24 carriage house when the property was purchased?

25 MR. B. ADAL: Yes. So somehow the architect --

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1 CHAIR JORDAN: So then in 2009, the roof was still  
2 there?

3 MR. B. ADAL: The roof was still there. We have  
4 never changed the roof.

5 CHAIR JORDAN: Roof still there in 2009. So then you  
6 got a permit to do the work in 2009. You started doing the  
7 work in 2010. So you have the roof on the carriage house in  
8 2010 and you had until recently in 2014 someone from DCRA came  
9 by and said what are you doing? That roof is not supposed to  
10 be on the carriage house. Is that correct?

11 MR. B. ADAL: Yes.

12 CHAIR JORDAN: Okay. So you got cited for a  
13 violation. Did you get an NOI on this?

14 MR. BELLO: There was a stop work order.

15 CHAIR JORDAN: Stop work order?

16 MR. BELLO: Correct.

17 CHAIR JORDAN: Okay, so there was a stop work order.  
18 And do we have a stop work -- we need something in the record.  
19 Mr. May is saying who is saying that the roof had to be removed?  
20 I think that's the whole start, right?

21 COMMISSIONER MAY: Yes, one of the things that you're  
22 stating is that the original permit was granted for that  
23 reason, that there was going to be no roof. And we don't have  
24 any objective evidence that supports that.

25 CHAIR JORDAN: So where it is in the NOI or the stop

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1 work order I think will help supplement the record to show that  
2 -- DCRA thought that there was something --

3 COMMISSIONER MAY: When you went down and researched  
4 it and found out that the architect had stated that the roof  
5 would be removed from the carriage house, however you learned  
6 that, whatever information you received which presumably was  
7 in an original set of plans that were submitted at that time  
8 and noted as such, anything like that, any information like  
9 that that supports that claim you have?

10 MR. BELLO: I can speak to that because I did submit  
11 something, but I'm glad to supplement the record. I saw that  
12 with my own eyes.

13 CHAIR JORDAN: That's what I'm thinking needs to  
14 happen at this hearing because I think the underlying basis  
15 of why you're here and I think --

16 COMMISSIONER MAY: All right, did I understand  
17 correctly you said that the roof, there was a roof on the  
18 carriage house at all times?

19 MR. B. ADAL: As far as we know from 1989.

20 COMMISSIONER MAY: From 1989 there was a roof on the  
21 house?

22 MR. B. ADAL: We did fix it.

23 COMMISSIONER MAY: You fixed it or you replaced it?

24 MR. B. ADAL: The replaced the metal.

25 COMMISSIONER MAY: You replaced the metal on the

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1 roof?

2 MR. B. ADAL: The roof, yes.

3 COMMISSIONER MAY: There was an existing structure.

4 CHAIR JORDAN: Wait, I think you're getting to where  
5 you're trying to get, Peter. So what did you do? When did  
6 you fix it?

7 MR. K. ADAL: 2010.

8 CHAIR JORDAN: So what was there at 2009? What did  
9 you do in 2010? I heard you --

10 MR. K. ADAL: We had three sets of plans. So the work  
11 was going on with trying to fix the structure, to correct the  
12 structure. So we never stopped working even though it was not  
13 every day, we never stopped. Once we started, we never stopped  
14 from 2005 is the plan.

15 COMMISSIONER MAY: I mean you need to submit whatever  
16 documents that you have on the state of this roof just to verify  
17 your depiction of what occurred. I think one of the things  
18 that's a challenge for me is that we almost accidentally have  
19 a photograph, an aerial photograph that shows no roof on the  
20 carriage house or at least that's what it appears. So your  
21 nodding your head. Can you testify to whether there was, in  
22 fact, no roof at some point?

23 MS. A. ADAL: Yes, my name is Arsema Adal. I am part  
24 of the family. We were working on both houses, the carriage  
25 house and the main house, but last year at the beginning of

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1 the year we had a work stop order and we didn't know what was  
2 going on, so we went to DCRA to see someone and we saw Mr. Reid,  
3 Rohan Reid. He's the one who told us we were working on the  
4 carriage house even though we were not supposed to have a roof  
5 on it. We were shocked. I said we always had a roof. And  
6 he didn't believe us. So he said hold on. He went and got  
7 information from the computer. He printed a number of papers.  
8 He looked at it and he said oh, my God, you were right. How  
9 did he manage? This was about the architect, James Killelte.  
10 He somehow submitted -- I don't know how he did it, but he  
11 submitted a picture without a roof. I don't know what he did,  
12 how he did it. I still don't know.

13 COMMISSIONER MAY: Submitted a picture or a plan?

14 MS. A. ADAL: I don't know, either a picture or a  
15 plan. I don't know what that is.

16 CHAIR JORDAN: Let me do this because I think it's  
17 starting to get more convoluted.

18 Mr. Hill, you had a question, then I think we're going  
19 to do something else. Mr. Hill, please.

20 MEMBER HILL: And I was just curious. I just want  
21 to understand. So the third floor -- if there was a roof on  
22 the carriage house, then the third floor would not have been  
23 approved?

24 CHAIR JORDAN: If there was a roof, that's the  
25 question he's asking.

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1           COMMISSIONER MAY: When you're requesting -- I think  
2 if they had requested relief for an addition to a  
3 non-conforming property, they come here first and that is a  
4 relatively matter of fact level of relief. And if the carriage  
5 house remained essentially as a carriage house, I think that  
6 probably wouldn't have been a real hard level of relief to  
7 grant. But it does require relief. There's just no other way  
8 to do it. You can't put a third story on a house --

9           MEMBER HILL: So the way this got approved is that  
10 supposedly the fact that there was no roof on there is how it  
11 got approved.

12           COMMISSIONER MAY: Or the allegation that they were  
13 going --

14           MEMBER HILL: The allegation that there was no roof.

15           COMMISSIONER MAY: Well, that they were going to take  
16 the roof off and leave it open. Maybe he was alleging that  
17 there was no roof at the time. Maybe he was alleging that the  
18 carriage house would be demolished because that's not uncommon  
19 either. People demolish garages in order to build additions  
20 on their houses.

21           CHAIR JORDAN: So now I'm kind of bouncing.  
22 Initially, I was going to continue this and give you  
23 opportunity to supplement the record with all of that, but then  
24 I'm thinking now either way, either the roof had to be removed  
25 or there was no roof. Does that put us back where we are today

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1 and you have to prove up the case why you should not be required  
2 to remove a roof. Whichever -- that makes sense to the Board.

3 COMMISSIONER MAY: No, removing the roof doesn't  
4 make any sense. Demolishing the carriage house doesn't make  
5 any sense, I don't think. But that doesn't mean that the  
6 relief should be granted.

7 CHAIR JORDAN: Right. I'm just saying -- so will the  
8 pictures help? I think we need to supplement the record. I  
9 think we supplement the record so the Board is clear about --  
10 and try to establish if you can submit to the Board a  
11 chronological history about what happened with the backup  
12 documents that you can get from DCRA with the stop work order,  
13 etcetera, then we can kind of look at where we are.

14 There are pictures that we have that indicate that there  
15 was not a roof there. Your testimony is saying there wasn't  
16 a roof there -- well --

17 COMMISSIONER MAY: Can we continue the hearing and  
18 complete everything else and just request that additional  
19 information be submitted and then just take it up at a decision  
20 meeting.

21 CHAIR JORDAN: Okay, that's fair enough. So any  
22 other questions? So you understand what we're going to need  
23 to have in the record?

24 MR. BELLO: That's correct.

25 CHAIR JORDAN: Very good. Thank you, Mr. May. Any

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1 other questions? Or what else do you want to present to the  
2 Board? Let me drill down to something. It's the issue about  
3 whether or not this is going to be an artist's studio or an  
4 artist's residence. What is the comfort zone for the Board,  
5 the community, that this is not going to be an artist's  
6 residence?

7 MR. BELLO: Well, the applicant has responded to the  
8 two concerns expressed by the ANC, vis-a-vis the presence of  
9 a kitchen and again, the other issue with the parking pad and  
10 public space. So those two elements have been eliminated from  
11 the application.

12 We've also been in contact with the Zoning  
13 Administrator because the Office of Planning did contact the  
14 Zoning Administrator. In communication from their office  
15 yesterday, the ZA appears to be uncomfortable with the presence  
16 of a bathroom up on the second floor.

17 CHAIR JORDAN: So you're going to remove the  
18 bathroom?

19 MR. BELLO: Well, we will perhaps want to leave that  
20 to the discretion of the Board.

21 CHAIR JORDAN: I was going to ask the same question,  
22 was there a bathroom there because I'm not really even jumping  
23 up and down about the sink. So there was discussion about  
24 removing that bathroom.

25 MR. BELLO: Exactly. But it's to me not uncommon to

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1 have a shower and a bathroom in an artist's studio or an office  
2 for that matter.

3 CHAIR JORDAN: So you just order food out. You don't  
4 have a kitchen, but you live there and still order food out.  
5 You understand the point?

6 MR. BELLO: Well, I do, but at the same time artists  
7 tend to spend a long time in their space traditionally. So  
8 we've done everything we possibly can to affirm that the  
9 carriage house is to be used as an artist's studio.

10 CHAIR JORDAN: So your argument is that the  
11 exceptional condition is that this is the only property that  
12 has a two-story carriage house and that it was built in 1890.

13 MR. BELLO: 1890.

14 CHAIR JORDAN: You're claiming that to remove the  
15 roof is a practical difficulty for this applicant. Is that  
16 essentially --

17 MR. BELLO: Not only is it impractical, I think it's  
18 detrimental to public good because what you're going to end  
19 up with is having four walls that are two stories that are open  
20 to the sky. There will be a blight in the community. But we  
21 have overwhelming community support. We have well over 40  
22 signatures of support of this application, not one opposition  
23 from the community whatsoever.

24 COMMISSIONER MAY: Except the ANC doesn't support  
25 it.

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1 MR. BELLO: Well, the ANC is an elected entity. They  
2 represent --

3 COMMISSIONER MAY: They're representing a lot of  
4 people, right? We rely on them as a statement of community  
5 support. And you're saying that there's no community  
6 opposition and the ANC voted against it?

7 MR. BELLO: Well, the question is the ANC  
8 representing the true position of the community that it  
9 represents.

10 CHAIR JORDAN: I think that's a whole debate that we  
11 really don't need to get into. I think the facts speak for  
12 itself. We have letters in support from others in the  
13 community, but the body itself which we give great weight to,  
14 the ANC has voted in opposition. So those are facts and don't  
15 need to drill down into the politics of it.

16 We have a lot of times cases where the ANC is on one  
17 side and two or three people in the community are opposed to  
18 what the ANC did or sometimes we have the ANC take a position  
19 and we got 300 or 400 people oppose the ANC. And it just  
20 happens. So they're on the same page. So I think we just have  
21 to take it for the weight that it is.

22 MR. BELLO: I appreciate that, Mr. Chair, but again  
23 the two concerns of the ANC upon which the opposition is based  
24 has been eliminated from the application.

25 CHAIR JORDAN: And you have Office of Planning who

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1 doesn't support the application. And so respond to their  
2 issue.

3 MR. BELLO: Well, the Office of Planning claims that  
4 the property does not show any kind of uniqueness and we  
5 disagree with that, obviously, because the report does not even  
6 speak to what our contention was about the uniqueness of the  
7 property. It was speaking more to the lot size. Our  
8 extraordinary situation of condition of property was not  
9 premised on the lot size. It was premised on the improvements  
10 on the lot.

11 Clearly, the existence of the structure from 1890 is  
12 a practical difficulty in terms of wanting to either leave the  
13 as-is condition based on what DCRA approved and what we intend  
14 to do to establish a use that is permitted in an underlying  
15 zone district. So the use is compatible with the underlying  
16 zoning of the property. There isn't any substantial detriment  
17 to public good or the intent or purpose of the zoning  
18 regulations by establishing a use of the zone permits and  
19 making productive use of a structure that has been in existence  
20 since 1890.

21 COMMISSIONER MAY: We don't have any -- I don't think  
22 we have an approved plan or permitted plans for the carriage  
23 house itself in the record, but that was all done and fully  
24 permitted?

25 MR. BELLO: No, sir. That's why we're here.

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1 COMMISSIONER MAY: The carriage house was never  
2 permitted. None of the construction there was permitted?

3 MR. BELLO: None of the interior operation was,  
4 that's correct.

5 COMMISSIONER MAY: And so how is that being addressed  
6 now? Just the construction itself, they're just trying to  
7 clear the zoning hurdle first and then they'll go back and deal  
8 with the fact that all this work was done illegally?

9 MR. BELLO: The issue of the stop work order has been  
10 resolved with DCRA. DCRA has removed the stop work order from  
11 the property and allowed the applicants to go back and complete  
12 the main building on the premise that we were filing an  
13 application before the BZA which we have. So if the  
14 application gets approved, then a revised permit will be  
15 obtained for the work, to complete the work in the carriage  
16 house.

17 CHAIR JORDAN: So you still have a stop work order  
18 on the carriage house?

19 MR. BELLO: There isn't a stop work order at all on  
20 the property.

21 COMMISSIONER MAY: But there's no permit to work on  
22 the carriage house right now.

23 MR. BELLO: There isn't because we would only be able  
24 to get one if the Board approves.

25 COMMISSIONER MAY: So what's the parking requirement

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1 for this property?

2 MR. BELLO: My position is there isn't a parking  
3 requirement.

4 COMMISSIONER MAY: Because?

5 MR. BELLO: Because the previous use of the premises  
6 as a single family dwelling obviously has a credit, a parking  
7 credit for its use.

8 COMMISSIONER MAY: Parking credit for its use. I've  
9 never heard that term in ten years in Zoning. A parking  
10 credit. Is that a common terminology that I've missed?

11 CHAIR JORDAN: We do parking credits all the time.

12 COMMISSIONER MAY: I don't know what you mean.  
13 Well, then explain what you mean by a parking credit because  
14 that's a term of art that I don't know.

15 MR. BELLO: Well, if a use exists and predates the  
16 adoption of the zoning regulations as of May 12, 1958, that  
17 use is assumed to have complied with the parking requirements.

18 COMMISSIONER MAY: So it's grandfathered. That's  
19 what you mean.

20 MR. BELLO: It is grandfathered. And it does earn  
21 a credit that is usable to us. In this case --

22 COMMISSIONER MAY: I'm not disagreeing with that.  
23 I'm just trying to explain. I mean now it's been converted  
24 from a single unit to flats, right?

25 MR. BELLO: Correct.

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1 COMMISSIONER MAY: And when that happens, there's  
2 still no parking requirement.

3 MR. BELLO: That's correct.

4 COMMISSIONER MAY: I'm still puzzled by the term  
5 parking credit.

6 CHAIR JORDAN: I don't know what the provision is,  
7 but yes, the regulations provide for parking credit. Yes,  
8 please, Mr. Hill.

9 MEMBER HILL: So I just want to make -- just for me  
10 so later I understand and maybe my colleagues can help me, so  
11 there's three stories on the main building and then there's  
12 the carriage house. And you got approval to build everything  
13 with the idea that there wasn't a roof on the carriage house.  
14 So there now is a roof on the carriage house, so therefore the  
15 area variance comes into play. If there wasn't a carriage  
16 house, you wouldn't need an area variance.

17 MR. BELLO: That's correct.

18 MEMBER HILL: And the part that I'm asking my  
19 colleagues of is again the ease -- my problem really is kind  
20 of the ex post facto about getting this after the fact, I guess,  
21 after it's built. If they had come to us for a variance, the  
22 variance would be to get a third floor.

23 CHAIR JORDAN: Yes, because -- well, you mean you're  
24 going back to the 209. Yes, they would have to come here for  
25 relief because they would have been -- there would have been

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1 a nonconformity on the property.

2 MEMBER HILL: Okay, and Board Member May thought that  
3 that might not have been that odd a request?

4 COMMISSIONER MAY: Getting an addition which is  
5 conforming with regard to lot occupancy is not -- that's the  
6 sort of thing where I've seen relief granted on a fairly regular  
7 basis when it's -- it's otherwise nonconforming. If you have  
8 a lot or in this case it's a 75 percent lot occupancy, if you  
9 were to try to put a third story that covered 75 percent of  
10 the lot occupancy or 75 percent of the lot, that addition would  
11 be problematic. But this is an addition which is less than  
12 60 percent, I believe, of a lot, so therefore it's a matter  
13 -- there is relief required for addition to a nonconforming  
14 property. But it's not that hard to grant.

15 Mr. Chairman, don't you agree that=s what we  
16 regularly do?

17 CHAIR JORDAN: We do it all the time.

18 COMMISSIONER MAY: Right.

19 MEMBER HILL: Okay, and then the only other thing for  
20 me is the fact that this is after the fact we're coming to talk  
21 about this. And then the parking pad, like just that there's  
22 a sign there to me doesn't mean that there's not a parking pad  
23 there.

24 MR. BELLO: Okay. Let me just address two things.  
25 The fact that we're here to request a permit after the fact.

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1 I did submit to the records a BZA case and in that case the  
2 determination of the Board was that it wasn't unusual. It  
3 could be even a matter of right for the owner of a property  
4 to change their minds about removing a nonconforming portion  
5 of a structure which is essentially what we have here. I've  
6 provided that BZA number and a copy of the BZA order. So I  
7 think that addresses the first concern that you have.

8 The second issue about the concrete paving in front  
9 of the carriage house, I can ask my clients and deal with it  
10 as a supplemental issue. I don't believe that that's a deal  
11 killer if we have to remove the concrete pad and turn it green,  
12 we'll be glad to do that.

13 MEMBER HILL: Thank you.

14 CHAIR JORDAN: Anything else from the applicant or  
15 from the Board to the applicant? I am trying to remember  
16 parking credit is 2100 where parking credits are created?

17 MR. BELLO: I believe it's 2001.4.

18 CHAIR JORDAN: Board, any other questions of the  
19 applicant?

20 All right, so let's move to the Office of Planning.

21 MS. VITALE: Good morning, Mr. Chair, members of the  
22 Board, Elise Vitale with the Office of Planning. I did have  
23 an opportunity to review the supplemental information that was  
24 submitted and we do agree that at this point removal of the  
25 carriage house roof would be impractical.

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1 I can add that the property information verification  
2 system is available from DCRA, so you can review permit  
3 information there. It did indicate that when the initial  
4 building permit was approved for the third floor addition and  
5 conversion to a flat, that at that point the rear structure  
6 was represented on the plat to have an open roof and therefore  
7 it was not counted towards lot occupancy. And then an  
8 inspection of the property did determine that the rear  
9 structure was an existing carriage house under roof, so that's  
10 a little bit of background.

11 CHAIR JORDAN: So when was it discovered that they  
12 did have a roof?

13 MS. VITALE: It's the PIVS, the property information  
14 verification. For some, there aren't dates. This is just the  
15 information that's tied to this property and that permit, that  
16 permit that was issued. I don't have dates. I think the  
17 applicant indicated that they could submit the stop work order  
18 and that would probably provide a deed for that.

19 I agree with the discussion already that I think had  
20 this application come before us previously, it would have been  
21 -- I think the case could have been made that there was a  
22 practical difficulty in that there was the existing carriage  
23 house structure that is something that was unique for  
24 properties in this square that would have increased the lot  
25 occupancy on the lot. I think we would have supported that

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1 third floor addition. I think we're in a bit of a loop here  
2 though. It's a bit difficult because now we're forced with  
3 the existing carriage house and the third floor addition. I  
4 don't know that enough information has been submitted to prove  
5 that the test has been met.

6 I can't speak for DDOT. I did review the public space  
7 permit. It does indicate that just the lead walk was approved,  
8 so I do think it would be important to remove the parking pad  
9 that is located in public space should the Board grant the  
10 requested relief.

11 I can say that the Zoning Administrator did indicate  
12 that the kitchen and the shower would need to be removed in  
13 order for the carriage house not to be considered a third  
14 dwelling unit on the property.

15 And then I would also note since the applicant  
16 indicated that they would be going back retroactively to pull  
17 the permits for the work to the carriage house, I just want  
18 to be sure that all the necessary relief in the case has been  
19 requested by the applicants. I know they're requesting 2001.3  
20 for lot occupancy. The existing carriage house building would  
21 exceed the one story and 15 foot height limit for accessory  
22 buildings and it also doesn't meet the required 12 foot setback  
23 from the center line of an alley. So I would just want to make  
24 sure that all the relief that's required to clean up the  
25 property is being requested by the applicant.

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1 COMMISSIONER MAY: So do you agree with their  
2 assessment about parking?

3 MS. VITALE: I do understand that the Zoning  
4 Administrator does grant parking credits. And if the carriage  
5 house is used strictly as an artist's studio, I believe the  
6 applicant is correct and that no additional parking would be  
7 required.

8 COMMISSIONER MAY: So you take an existing  
9 single-family dwelling that had a parking space in the carriage  
10 house and they can eliminate that parking space and capture  
11 that space and not replace the parking space and create flats  
12 and not create a need for a parking space? Because that's  
13 effectively what's happened, right?

14 MS. VITALE: That's correct. I can't speak  
15 specifically to how the Zoning Administrator implements the  
16 parking credit.

17 COMMISSIONER MAY: Okay. I think we need a clearer  
18 argument from the applicant on that because I'm --  
19 understanding how -- what the thinking was behind R-4 parking  
20 requirements and the one space per two units and the fact that  
21 we have had extensive discussions about the Zoning  
22 Commission's effort to rewrite the zoning regulations, I'm  
23 failing to understand that connection. I mean there was an  
24 existing single-family home with an existing parking space in  
25 the carriage house and now what we have is flats and they've

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1 eliminated the parking space. I would think that that would  
2 require relief, but maybe there is some other reason why that's  
3 not required, but I don't understand. That's certainly  
4 possible.

5 CHAIR JORDAN: Yes, I think 2100.4 is not -- you've  
6 misplaced your 1. It's not 2001. It's 2100.4.

7 Any additional questions from Office of Planning?  
8 Anyone, Board? Does the applicant have any questions for  
9 Office of Planning?

10 MR. BELLO: No questions, thank you.

11 CHAIR JORDAN: Is anyone here from the Department of  
12 Transportation on this case? We do have a letter of no  
13 objection to requested relief from the Department of  
14 Transportation.

15 Anyone here from ANC 6C? ANC 6C? We do have a letter  
16 of support from -- opposition, unanimous opposition from ANC  
17 6C as we discussed during the testimony of the applicant's case  
18 that they opposed this relief.

19 Does anyone here wish to testify in support? Anyone  
20 in support? We do have in the record some letters of support.

21 Anyone here wishing to testify in opposition? In  
22 opposition? Great.

23 Then we would go back to the applicant for any  
24 rebuttal that you may wish to submit.

25 MR. BELLO: We'll just rest on the record.

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1 CHAIR JORDAN: Well, the record is incomplete.  
2 We're going to have to supplement the record. You rest on what  
3 we've done here today?

4 MR. BELLO: Today, that's correct.

5 CHAIR JORDAN: Mr. May?

6 COMMISSIONER MAY: I've read 2100.4 again and I'm  
7 still not seeing that there's -- that a credit can be granted.  
8 First of all, the word credit doesn't appear in 2100.4.

9 CHAIR JORDAN: You said it doesn't?

10 COMMISSIONER MAY: It does not. Now I mean that may  
11 be the way it's administered, but this seems to indicate that  
12 when you've changed the use from one use that doesn't require  
13 parking to use that does require, the higher requirement is  
14 needed so I think we need something in the record that explains  
15 why that's needed.

16 There was something else I had, too. Hold on. Yes,  
17 I think we should leave the record open for the applicant to  
18 modify their submission because I think if we are to grant any  
19 relief in this circumstance it has to be on the basis that the  
20 built out space in the carriage house will not be a habitable  
21 unit. And if the Zoning Administrator has suggested that both  
22 the kitchen and the shower need to be removed to effect that,  
23 then I think the applicant, if you want to resubmit your  
24 application indicating or rather submit new drawings  
25 indicating that the shower and anything that approximates a

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1 kitchen is removed, then it's possible you might get more  
2 favorable consideration. So I'll leave that up to you.

3 CHAIR JORDAN: That takes me back to where I was  
4 initially about carrying this over, a continuance, so we can  
5 get the records supplemented so we can make a possible  
6 decision. So Board, what I have here is that for supplement  
7 to the record and that we carry over to another day is for the  
8 applicant to submit modified relief in light of the comments  
9 from Office of Planning, present proof that on the roof issue  
10 from DCRA records that one, either there was or was not a roof  
11 there, and then the requirement that the roof was not to be  
12 in place, and revised plans showing that the removal of those  
13 items discussed with the Zoning Administrator -- anything  
14 else, anybody?

15 MR. BELLO: If I may?

16 COMMISSIONER MAY: Parking relief argument.

17 CHAIR JORDAN: Okay, parking. Did you want to say  
18 something?

19 MR. BELLO: I just wanted to make one more point.  
20 Perhaps I should have asked Office of Planning in the form of  
21 a question. The condition of the carriage house is existent  
22 and that's grandfathered in. The carriage house is not being  
23 moved. It's not being added to, so the fact that it's not 12  
24 feet from the center line of the alley or that it's two story  
25 is a condition that predates the zoning regulations, so relief

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1 in my experience is not required for those elements.

2 CHAIR JORDAN: All right, so let's do this. That's  
3 another --

4 COMMISSIONER MAY: You're free to request a relief  
5 that you think that you need. And if you make a case, you'll  
6 succeed. If you don't, you don't. Make sure that the Office  
7 of Planning is in agreement with your argument.

8 CHAIR JORDAN: Better safe than sorry.

9 COMMISSIONER MAY: I think we should leave the record  
10 open for supplemental report if OP deems it necessary.

11 CHAIR JORDAN: That's why I was initially putting the  
12 breaks on this earlier on. And I think we need a supplemental  
13 statement from the applicant that addresses the issue that we  
14 raised. Anybody else from the Board think there's anything  
15 else you'd like to add?

16 So let's do this -- yes.

17 MEMBER HILL: Actually, Mr. Chair, I was just going  
18 to mention also the removal of the parking pad.

19 MR. BELLO: Correct.

20 CHAIR JORDAN: Yes, I think that parking relief  
21 adjustment, all right. I think we need to put this on for  
22 another hearing date, not just on a decision date, because  
23 there may be questions regarding this. So where are we?

24 MR. MOY: I have, according to my records, Mr. May  
25 returns to the BZA on November 10th.

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1 CHAIR JORDAN: Can you get that to us by then? So  
2 the date is backing ourselves up. So the information would  
3 be in by November 3rd. Right, Mr. Moy?

4 MR. MOY: Let me check for a second, Mr. Chairman?

5 CHAIR JORDAN: I have to fight not to do my May Moy  
6 today.

7 MR. MOY: The third would be right, I'm assuming it's  
8 the same date for the OP supplemental report?

9 CHAIR JORDAN: Yes, that's fine.

10 MR. MOY: So filings from the applicant, Office of  
11 Planning, November 3rd. Back for a continued hearing,  
12 November 10th.

13 CHAIR JORDAN: Thank you. This day is going slower  
14 than I thought. So that will be the order of the Board. Thank  
15 you. We'll take our five minute 10:30 break and come right  
16 back at 11. Thank you.

17 (Whereupon, the above-entitled matter went off the  
18 record at 10:55 a.m. and resumed at 11:01 a.m.)

19 CHAIR JORDAN: Mr. Moy, let's keep rocking. Let's  
20 go 19044, please.

21 MR. MOY: All right, applicants to the table and  
22 Application No. 19044. This is Gerald West. Mr. Chairman,  
23 as advertised, request for special exception under 223, not  
24 meeting the lot occupancy, side yard, and open court  
25 requirements at property 1508 Caroline Street, N.W.

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1 CHAIR JORDAN: It looks pretty straight forward.  
2 Please identify yourselves again, please?

3 MR. BEIDLER: I'm Michael Beidler. We're the  
4 architects for the project from Trout Design Studio.

5 MR. SULLIVAN: Marty Sullivan on behalf of the  
6 applicant.

7 MS. NANAY: Julia Nanay. I'm the owner of the  
8 property and that neighbor is directly on 1508.

9 MS. SUM: June-Wei Sum. I'm the tenant at 1510.

10 CHAIR JORDAN: What's your last name again?

11 MS. SUM: June-Wei Sum. Sum, S-U-M.

12 CHAIR JORDAN: All right, Mr. Sullivan, we have --  
13 a couple of things I want to discuss. Did you see OP's  
14 recommendation that relief from 2001.3 is necessary?

15 MR. SULLIVAN: We did and I have a revised Form 135.  
16 And if you'd like me to I could go through to clarify the exact  
17 relief that we're asking for if you want me to do that.

18 CHAIR JORDAN: So when did you supplement the  
19 self-certification?

20 MR. SULLIVAN: I have it with me now to submit now.

21 CHAIR JORDAN: It has not been.

22 MR. SULLIVAN: It has not been submitted yet. The  
23 revised plans were submitted, but the revised Form 135 I have  
24 with me.

25 CHAIR JORDAN: So what is the relief?

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1 MR. SULLIVAN: So it's still just all falls within  
2 the Section 223, special exception. Originally, we were  
3 asking for lot occupancy to go to 70 percent. That request  
4 is still there for lot occupancy relief. However, it's been  
5 reduced to 66 percent.

6 We originally asked for relief under 223 for 405.8  
7 for a reduction in a non-conforming side yard. Later  
8 determined that there is no side yard because the existing  
9 addition on the building reaches the lot line. So in  
10 place of that relief, because it's now a court, it's a  
11 nonconforming court and we're expanding the nonconforming  
12 court, that's the relief that essentially replaces the  
13 side yard.

14 And so that relief, because we're expanding a  
15 nonconforming situation, leads to 2001.3 as well. So that's  
16 tied into the court. So there's three areas.

17 CHAIR JORDAN: Okay. So we still need lot occupancy  
18 under 403. Okay, got it.

19 MR. SULLIVAN: Correct.

20 CHAIR JORDAN: So this is special exception relief.  
21 I don't think we need a whole presentation from you on this.  
22 I think what we need to hear -- let me go back a second. What  
23 was your involvement with the ANC? Was it ANC 7C is it?

24 MR. SULLIVAN: It's 2B, I believe. It's Dupont  
25 Circle.

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1 CHAIR JORDAN: Did we get a letter from them? Yes,  
2 they support the project. Okay. Got that.

3 MR. SULLIVAN: They requested sun studies and we have  
4 those today.

5 CHAIR JORDAN: Will you distribute that to the Board  
6 because I think that's part of the contention.

7 MR. SULLIVAN: Sure, we have them showing before and  
8 after with trees and without trees.

9 CHAIR JORDAN: What's the with trees, without trees?

10 MR. SULLIVAN: There's existing trees there now.  
11 And it was requested by the neighbor that we show it without  
12 trees which is fine because the impact without trees considered  
13 in the sun study is minimal as well. But the trees have been  
14 there for some time and they do most of the -- they present  
15 a lot of shade already. So I would say the addition has no  
16 impact if you consider the trees there, and slight impact  
17 during the year if there are no trees there.

18 CHAIR JORDAN: I don't know if there are any  
19 particular questions the Board needs to drill down on this with  
20 -- I didn't have any issues and concern other than the response  
21 to the light and air contention from the neighbor. Board,  
22 anything in particular you want to hear from the applicant?

23 Mr. May?

24 COMMISSIONER MAY: So did HPRB review the revised  
25 plans as they are shown to us now and did they issue an approval

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1 of that?

2 MR. BEIDLER: Yes. We've been working with Anne  
3 Brockett since the beginning of the project and the project  
4 was -- we reached a compromise in the ANC meeting where we took  
5 the one corner to the west back three and a half feet and we've  
6 been working with Anne on the fenestration and they put us on  
7 the consent calendar with support for the meeting on Thursday.

8 COMMISSIONER MAY: And that includes the portal to  
9 the roof and the high parapet protecting the roof terrace?

10 MR. BEIDLER: Yes, sir.

11 COMMISSIONER MAY: Because that was an issue that  
12 they had raised in the first report.

13 MR. BEIDLER: Yes. Anne and I have gone over those  
14 and because they're not visible anywhere from public space,  
15 the parapet on the side is visible, but that hides the railing  
16 that would otherwise be visible from Caroline Street. So Anne  
17 agreed that the higher parapet on the --

18 COMMISSIONER MAY: You have the staff  
19 recommendation?

20 MR. BEIDLER: Yes, sir. Would you like it?

21 COMMISSIONER MAY: I think we need to see that for  
22 the record.

23 MR. BEIDLER: You'll see on that we're on the consent  
24 calendar and the second sheet is the report from Anne Brockett.

25 COMMISSIONER MAY: So there was reference to the

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1 parapet wall being sloped in some manner. Is that shown on  
2 a drawing that we have in the record?

3 MR. BEIDLER: It shows on the elevations that are in  
4 the drawings that you do have. Let me get to the page where  
5 that would show. If you look at Sheet A03 it shows the existing  
6 condition where the side wall is more or less flat and then  
7 if you look at the A06, you can see that it's sloping up slightly  
8 toward the rear.

9 The interesting thing about this is that because of  
10 the way that you see from Caroline Street, the perspective,  
11 makes that line almost seem flat again because as you know,  
12 when the line slopes up in perspective it actually goes down.  
13 So the presumption from Caroline Street is that the line is  
14 level there, but the reason it goes up on the side is to hide  
15 the deck and what would otherwise be a wire railing of some  
16 kind. The design intent is to make it as less visible as  
17 possible so the increase in the masonry would hide what would  
18 otherwise be a visible deck.

19 COMMISSIONER MAY: Okay, so I had trouble following  
20 you there. I'm looking at the proposed front elevation on A05  
21 and it shows a new cat parapet and the parapet looks like it's  
22 straight up and then you've got a roof access to the left of  
23 that.

24 MR. BEIDLER: Right. Realize those are back 50  
25 feet. COMMISSIONER MAY: I understand, but I was

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1 trying to understand the statement in the HP report saying that  
2 the parapet actually slopes. How is it sloping? In what  
3 direction is it sloping?

4 MR. BEIDLER: Sir, if you look at that same sheet and  
5 you look at the side elevation, you can see that the brick  
6 masonry wall of the house slopes up toward the back.

7 COMMISSIONER MAY: I see.

8 MR. BEIDLER: That's the slope.

9 COMMISSIONER MAY: Got it. Now I understand. And  
10 so what's that other line?

11 MR. BEIDLER: The heavy line that's below that is a  
12 drafting error. The horizontal really represents where the  
13 roof is now so you can see how much it goes up.

14 COMMISSIONER MAY: All right, moving from the top of  
15 that proposed west elevation, we have the brick of the  
16 neighboring property and then the siding of your roof portal.

17 MR. BEIDLER: Yes.

18 COMMISSIONER MAY: And then the roof portal ends at  
19 a certain height?

20 MR. BEIDLER: Yes.

21 COMMISSIONER MAY: And what is that line showing?  
22 What does that represent? Is it brick up to a certain height  
23 or is it obscured by something else?

24 MR. BEIDLER: What you're seeing there, I believe  
25 what you're referring -- I'm sorry, I'm going to have to point

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1 to it on the drawing. Are you talking about this wall? These  
2 walls here?

3 COMMISSIONER MAY: We have a different drawing than  
4 you do.

5 MR. BEIDLER: Okay, hold on one second.

6 COMMISSIONER MAY: Or at least I'm looking at a  
7 different drawing than you have.

8 CHAIR JORDAN: 31A, Exhibit 31A?

9 COMMISSIONER MAY: I'm looking at 31A. Is there a  
10 more recent?

11 CHAIR JORDAN: I would think 31A was the most recent.

12 MR. BEIDLER: The drawings are the same. The only  
13 thing that's changed on the one that I have in front of me was  
14 the fenestration on the rear which just simplifies that which  
15 is something I worked on with Anne, but the rest of the set  
16 should be exactly the same.

17 COMMISSIONER MAY: Yes, but it's not. I looked at  
18 your drawing. I looked at my drawing. It's not the same  
19 drawing.

20 MR. BEIDLER: Would you mind?

21 COMMISSIONER MAY: That's mine. And you see how the  
22 bottom line of the roof portal is parallel to the ground. It  
23 does not follow the slope of the side wall, the way your drawing  
24 does. And there's another weird line there.

25 MR. BEIDLER: That dark line that's above that,

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1 that's not part of the -- I don't know what that is. That must  
2 be a drafting error.

3 COMMISSIONER MAY: I think there's something  
4 strange.

5 MR. BEIDLER: The angled line that you're seeing is  
6 the line of the top of the parapet wall.

7 COMMISSIONER MAY: Right, so can you show us that  
8 drawing again? Because that -- so we have revised sets for  
9 everyone.

10 CHAIR JORDAN: Are you still on A05?

11 MR. BEIDLER: It's A06.

12 CHAIR JORDAN: A06?

13 MR. BEIDLER: Yes. So you'll see the sloped line of  
14 that parapet wall, yes.

15 COMMISSIONER MAY: Okay. Now I understand what's  
16 going on.

17 MR. BEIDLER: I apologize.

18 COMMISSIONER MAY: That's okay.

19 CHAIR JORDAN: More importantly, this needs to be in  
20 the record.

21 COMMISSIONER MAY: It is.

22 CHAIR JORDAN: It is? It's on another page?

23 COMMISSIONER MAY: Now it is.

24 CHAIR JORDAN: We've got to give it an exhibit  
25 number, but it needs to be uplifted, too, to --

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1 MR. BEIDLER: So the change in the sets, the one that  
2 you had in the back really should only have really is the back  
3 wall fenestration. We were working with Anne to simplify the  
4 mullion layout of the curtain wall.

5 COMMISSIONER MAY: I think that's a welcome change  
6 as well.

7 CHAIR JORDAN: Do you want to walk us through the  
8 shadow studies?

9 MR. BEIDLER: There are two sets before you and  
10 they're identical except the one set has green on it which are  
11 the trees and other set doesn't. Otherwise, they're the same.  
12 The reason we did the one set without the trees is because the  
13 trees really create shadow in the yard on both sides all day  
14 long. They're very dense, as you can see, in the photographs  
15 that we provided.

16 CHAIR JORDAN: Which property is Ms. Nanay's?

17 MR. BEIDLER: Sorry?

18 CHAIR JORDAN: Which property is the neighbor's?

19 MR. BEIDLER: If you see our -- let's go to the one  
20 that has trees on it, you can see -- or either one, Ms. Nanay's  
21 property is the one to the left.

22 CHAIR JORDAN: Okay. So step me through the shadow  
23 study so I can understand it.

24 MR. BEIDLER: Okay. I'll go through the shadow  
25 studies without the trees because that's the one where you can

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1 see the --

2 CHAIR JORDAN: The impact.

3 MR. BEIDLER: The impact. So the first date is the  
4 June 22nd at 9 a.m. and you can see there is some shadow on  
5 the very bottom of the house addition. The images that you're  
6 seeing on the right side is the existing condition. The left  
7 side, of course, is our addition.

8 The next page is June --

9 CHAIR JORDAN: Wait a minute, don't go. So there is  
10 an increase, a slight increase.

11 MR. BEIDLER: At 9 o'clock in the morning, yes. And  
12 as you know, the sun goes from the right side to the left, so  
13 after 9 o'clock in the morning it's in full sun because the  
14 back of these houses face south.

15 CHAIR JORDAN: All right, next.

16 MR. BEIDLER: The next one is June 22nd at noon. You  
17 can see there's no shadow. The next is June 22nd at 5 p.m.  
18 There are shadows actually coming from the west side.

19 The next sheet is September 23rd at 9 a.m. There's  
20 no impact.

21 The next sheet is September 23rd at 12. There's no  
22 impact.

23 The next sheet is September 23rd at 5 o'clock p.m.  
24 There's no impact.

25 CHAIR JORDAN: September 23rd?

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1 MR. BEIDLER: September 23rd at 5 p.m.

2 CHAIR JORDAN: Hold up a second.

3 MR. BEIDLER: The light is coming from the west.

4 CHAIR JORDAN: Wait a second.

5 MR. BEIDLER: So its casting shadow from her property  
6 on to ours.

7 The next sheet is December 22nd at 9 a.m. There's  
8 no impact.

9 The next study is December 22nd at 12 p.m. There's  
10 no impact.

11 The next sheet is December 22nd at 5 p.m. Again, the  
12 sun is coming from the west so the shadow falls the other way.

13 And then the other set that you have shows the trees  
14 and --

15 CHAIR JORDAN: The trees are the trees right there.  
16 They're not going, coming, adding anything new are we?

17 MR. BEIDLER: No. they're just -- no.

18 CHAIR JORDAN: I don't think the Board wants to step  
19 through the tree set. I don't think so.

20 And what about the arborist? Is that someone who is  
21 being retained about maintaining these trees, the arborist?

22 MR. BEIDLER: Yes, as part of the agreement that we  
23 reached with the ANC, we have agreed to retain an arborist to  
24 do a report on the trees and the impact that the construction  
25 will have on them and my client tends to keep them on board

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1 during the process so that we make sure that whatever trees  
2 remain will stay as healthy as they possibly can by it.

3 The trees that are impacted by this are mostly crepe  
4 myrtles. There's also one pine tree that's on the neighbor's  
5 property. Crepe myrtles, as you know, can handle really heavy  
6 pruning, top and bottom. The pine tree has a tap root, so we're  
7 anticipating that the impact to the trees on the neighbor's  
8 property will be -- they will be affected. There's no question,  
9 but it will be minimal. And we will do everything we can to  
10 maintain the health of those trees.

11 The other good thing about this is that the  
12 construction --

13 CHAIR JORDAN: How will they be impacted?

14 MR. BEIDLER: Any of the roots that come over across  
15 the property line will be affected obviously by our  
16 construction. The construction, assuming we get support  
17 here, will happen over the winter when the trees are dormant  
18 which was the best time to do pruning above and below grade.  
19 So that plays in our favor, I think. And then when the spring  
20 comes if we hyper fertilize, the trees should do pretty well.

21 CHAIR JORDAN: Board, is there anything else you need  
22 to hear from this applicant?

23 All right, let's turn now to Office of Planning.

24 MS. RAPPOLT: Good morning, chairman and members of  
25 the Board. Megan Rappolt for the record. And we continue to

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1 support the applicant's request and appreciate the arborist  
2 and the sun/shadow studies that we discussed with them leading  
3 up to this hearing.

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

6 Does the applicant have any questions of the Office  
7 of Planning?

8 MR. SULLIVAN: No, thank you.

9 CHAIR JORDAN: Then anyone here from ANC 2B? ANC 2B?  
10 We do have a letter of support from ANC 2B. Again, we talked  
11 about the arborist regarding the trees which you've already  
12 responded to.

13 Anyone here from Department of Transportation? Did  
14 I ask that? We have a letter of no objection from Department  
15 of Transportation.

16 Anyone here wishing to testify in support? In  
17 support?

18 Opposition? Ms. Nanay, you have five minutes,  
19 please, for you to provide the Board --

20 MS. NANAY: So I know you have the statement that I  
21 provided last week. The issue that I would like to still raise  
22 is that a concrete retaining wall at 1508 Caroline Street, N.W.  
23 will be built and it requires pouring concrete four feet down  
24 along the property line of 1510 Caroline Street, my property.  
25 And I really think that once you do that, you are going to

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1 endanger the tree roots. These are important trees because  
2 they've been there for more than 25 years and I hope that they  
3 stay healthy and survive the construction. We had asked  
4 basically, and my tenant is here, to have a root study of the  
5 tree roots before the construction begins, to make sure the  
6 trees will survive.

7           The one story side addition will come back along the  
8 fence and again, in our discussions just before this hearing,  
9 I had said that what I would like to see is that that one story  
10 side extension not extend back to where it will impact the  
11 trees, but that it basically mimics the shed because basically  
12 there is a shed. If you look at the attachments with the  
13 statement I submitted which you must have gotten last Friday,  
14 they show that basically this is just a shed that was there  
15 from the 1950s that's now being turned into a construction  
16 project for a one story side addition that's going to go back  
17 along my property line. And be at a much -- well, it will be  
18 higher than the shed that is there now. So essentially it will  
19 create also the light and air issues that I think will still  
20 exist. I think it could potentially damage the trees.

21           Also, I think it's important that I have a chance to  
22 register this. I know there are letters --

23           CHAIR JORDAN: There are trees on the side between  
24 the properties?

25           MS. NANAY: Yes. Attachment 1 should have that.

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1 And I think most of the attachments and the pictures that you  
2 have show the trees.

3 COMMISSIONER MAY: They're just towards the back  
4 yard, right?

5 MS. NANAY: Yes. So essentially once you --

6 CHAIR JORDAN: They're towards the back yard, but not  
7 on the -- that's what I was asking. Thank you.

8 MS. NANAY: Yes. Well, they're in the back, so where  
9 the one story side attachment will go in is where the trees  
10 already exist.

11 CHAIR JORDAN: Will go in? No, they're not removing  
12 trees.

13 MS. NANAY: No, but essentially once you start  
14 constructing this one story side attachment and Attachment 2  
15 shows what is there now, it's essentially a shed that's being  
16 reconstructed into a major one story side attachment that's  
17 going to extend back to across my property line and that's where  
18 the tree root damage could come in.

19 CHAIR JORDAN: Okay. And have you had a study or  
20 anyone come in and take a look at that to advise you as to what  
21 may happen with the roots of the trees?

22 MS. NANAY: Well, that's what we were asking. You  
23 have now the idea that an arborist will come during  
24 construction, but essentially it would be important I think  
25 before construction begins to see what the impact will be on

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1 these trees.

2 CHAIR JORDAN: Yes, I think that's what they mean.  
3 They're going to have someone come in and look at it and advise  
4 properly before they do anything.

5 MS. NANAY: And then what if the advice from the  
6 arborist is that essentially the trees will be damaged or could  
7 die as a result of the construction? Then what is the result  
8 of the construction going forward?

9 CHAIR JORDAN: Well, the Board hasn't rendered a  
10 decision here, but I think what we typically do is require the  
11 applicant to minimize any impact as much as possible.

12 MS. NANAY: Now originally, our ANC chairman, Noah  
13 Smith, he had suggested that the side yard elimination with  
14 this construction would provide a precedent for Caroline  
15 Street and that he had suggested that this not go forward. But  
16 when the full ANC discussed it, and I don't know how Office  
17 of Planning came down on it, I guess the decision was made that  
18 the construction can go ahead. But I think that there was some  
19 concern expressed about this side construction by our ANC Board  
20 chairman and it may be in his statement.  
21 Caroline Street is part of the Historic District.

22 CHAIR JORDAN: Continue, please.

23 MS. NANAY: Essentially, I guess, those are most of  
24 my points. I really would welcome having more transparency.  
25 I think as you saw with the plans we never really got updated

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1 plans about the construction as we were going alone. When we  
2 met with Noah Smith on June 20th, that was my first meeting  
3 as the owner of the property. We had looked at the website  
4 and we found that the current plans were not there and it wasn't  
5 until really later that we saw anything of the new plans by  
6 Trout Design. And then today, yet again, new plans. So it's  
7 very helpful to have more transparency in this whole process.

8 CHAIR JORDAN: Do you have second story, second floor  
9 windows on the shared side?

10 MS. NANAY: Yes, we do.

11 CHAIR JORDAN: You have first floor windows which are  
12 essentially going to be affected the same, generally, right?

13 MS. NANAY: Yes.

14 CHAIR JORDAN: Anything else you want to present to  
15 the Board? We do have your Exhibit 35, pictures for the  
16 record.

17 MS. NANAY: Yes, I think all the points that I had  
18 wanted to make are in that statement that I presented on Friday  
19 which you all have. So yes, thank you very much. And I really  
20 appreciate the Board of Zoning has been extremely helpful and  
21 I appreciate the fact that as someone that didn't have a lawyer  
22 with me and we're just representing ourselves, that we got as  
23 much assistance from the Board of Zoning as we have so far.

24 CHAIR JORDAN: Thank you. Board any questions for  
25 Ms. Nanay? Yes, please.

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1 MEMBER HILL: Just a quick question. I'm looking at  
2 Attachment 1, the photographs. So those two trees that are  
3 -- one is on your neighbor's property and one is on your  
4 property?

5 MS. NANAY: No, they're both on my property. The way  
6 the fence has been constructed to go around the tree, this tree  
7 is on my property. In fact, the wire fence that you see there  
8 extends over to my property. It was for some reason built  
9 across the property line.

10 MEMBER HILL: Okay, and to the right of those, that's  
11 where the crepe myrtle is?

12 MS. NANAY: Yes.

13 MEMBER HILL: Thank you.

14 MS. NANAY: Thank you.

15 CHAIR JORDAN: Mr. Sullivan, any questions of this  
16 witness?

17 MR. SULLIVAN: No, thank you, Mr. Chairman.

18 CHAIR JORDAN: Any other testimony is opposition?  
19 Yes, please.

20 MS. SUM: Yes, again, I'm June-Wei Sum. I'm the  
21 current tenant of 1510 Caroline Street. And I just wanted to  
22 add some points that as the tenant things I've witnessed.

23 So in terms of the one story extension, if you look  
24 at Attachment 2, there are several photographs of the existing  
25 side shed. As you can see, it really is just a small covered

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1 entryway and as the tenant, I have been in the neighboring house  
2 several times when the previous tenants were there. And it  
3 was just a small entry way. I don't see how this can be the  
4 basis for much larger brick construction. In fact, the screen  
5 door that you see there was never even locked. That was not  
6 their main doorway. It was just like a screen door. You go  
7 in, wipe your feet, and then go in through the locked door.  
8 So on that alone I feel that such a large extension of this  
9 small shed, that shouldn't have been there. I mean it predated  
10 the zoning regulations, but it's not part of the main house.  
11 And this says that the main house was built in the 1870s and  
12 this was obviously constructed much later.

13 In terms of the light and how that affects the house  
14 because I live there so I see the light every day. So a sun  
15 and shadow study, if you look at Attachment 3, you'll see a  
16 picture --

17 CHAIR JORDAN: Attachment 3 of what?

18 MS. SUM: Sorry, the --

19 MS. NANAY: The submission from Friday, the  
20 opposition statement from Friday. There were pictures with  
21 it.

22 MS. SUM: Yes. Pictures, so Attachment 3. So there  
23 are two photographs from the inside of the house. As you can  
24 see, the side shed there already blocks a significant amount  
25 of light from the first floor window facing -- east or west,

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1 I'm confused now. But it faces the shed. And I was just told  
2 by the architect in our meeting just now that that shed now  
3 will go up from 9 feet to a brick extension of 12 feet in height.  
4 So it will be from this height, it will now be an additional  
5 three feet in height, plus much deeper and longer. So I don't  
6 see how that will not block light. And it will, in fact, extend  
7 all the way -- the shed will extend all the way to the corner  
8 of the glass wall that you see in attachment 3.

9           You see at the back we have a glass wall. And they  
10 will extend existing length of the side extension across --  
11 along the property line, across and meeting up to the corner  
12 of that side glass wall. So imagine just a 12 foot brick wall  
13 being there blocking the light from that window.

14           CHAIR JORDAN: Have you taken a look at the shadow  
15 study and looked what the actual movement of the sun and its  
16 impact?

17           MS. SUM: Well, we've just only just gone through it  
18 just the same as you have. So honestly that was very quick  
19 and as a lay person, I don't quite get it. But I understand  
20 that they say that it doesn't affect it, but you know, aside  
21 from that if you just imagine a 12 foot brick wall in front  
22 of your window, how can that not block light?

23           CHAIR JORDAN: Well, that's why we have shadow  
24 studies done because sometimes our perception doesn't turn out  
25 to be the reality once we have studies done. So that's kind

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1 of why we have these things.

2 MS. SUM: Okay. And then just in terms of the  
3 privacy issue also, I'm concerned about the deck on the second  
4 floor. And in terms of transparency communication, as  
5 tenants, we were never directly contacted by the owner. This  
6 has been a long process and unfortunately, yes, I do hope that  
7 even as construction goes forward that there will be better  
8 communication.

9 CHAIR JORDAN: Where that deck is, is there a window  
10 there to your property where the deck is?

11 MS. SUM: There is no window because it goes beyond  
12 our existing property. The deck is going to be further back  
13 than our property, so there is no window.

14 VICE CHAIRPERSON HEATH: Are you talking about --  
15 because there's a roof area on the side of their property.  
16 Looks like it abuts your property line. But it doesn't look  
17 like that's accessible. It's just a roof.

18 MS. SUM: No, they will put a roof deck.

19 MR. BEIDLER: There are no windows, new windows on  
20 our side. There's no roof deck or no access to that lower roof  
21 at all.

22 VICE CHAIRPERSON HEATH: Right, it's just a roof.

23 COMMISSIONER MAY: When you second floor deck, you  
24 meant the roof deck?

25 MS. SUM: I meant the roof deck. Because it's on the

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1 top of their two-story extension which would look over our yard  
2 at least.

3 CHAIR JORDAN: Okay. All right, Board, any  
4 questions of this witness?

5 COMMISSIONER MAY: Yes, I had a question actually and  
6 this goes for the owner of the property as well. You talked  
7 about not receiving notice. Did somebody receive notice of  
8 this of the case being filed?

9 MS. NANAY: I honestly received no notices at all  
10 along the way, despite -- I know my address is registered where  
11 I live, but I received nothing. We would occasionally hear  
12 about something because June-Wei was aware. She'd see  
13 something or a neighbor would tell her, but really my first  
14 contact to discuss this was on June 20th.

15 COMMISSIONER MAY: That was three months ago, right?

16 MS. NANAY: Yes.

17 COMMISSIONER MAY: There are multiple ways in which  
18 notice is provided. There are mailers that go directly to  
19 owners of property, not necessary to tenants, but owners of  
20 properties.

21 MS. NANAY: I didn't get those.

22 COMMISSIONER MAY: Okay, well, maybe Mr. Sullivan  
23 can attest to whether they were actually mailed. And then the  
24 property itself gets posted in advance of any hearing. And  
25 then, of course, things appear on the ANC agenda and so on.

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1 I mean the fact that you actually were aware of it  
2 three months ago, means that the notification system actually  
3 did work. You may not have received in a piece of mail  
4 directly, but that's why there are multiple forms of  
5 notification.

6 MS. NANAY: But even when we were made aware and did  
7 meet with Noah Smith who's been really trying to be very  
8 helpful, I commend him on that, you know, we were surprised  
9 in going through the website that the current plans were not  
10 posted. And he knew there were new plans. So we were just  
11 not aware of the process.

12 COMMISSIONER MAY: The record of the case itself, I  
13 mean there are deadlines by which things have to be posted,  
14 and as far as I know, they were all posted in a timely manner.  
15 It's not three months in advance, it's not as new plans are  
16 developed. It really is there are specific deadlines that are  
17 tied to when the hearing date is.

18 MS. NANAY: Okay, thank you.

19 CHAIR JORDAN: Board, any additional questions of  
20 the witness?

21 Mr. Sullivan, any questions of this witness?

22 MR. SULLIVAN: No, thank you.

23 CHAIR JORDAN: Okay, then let's turn to the --

24 COMMISSIONER MAY: Mr. Sullivan, can you -- was  
25 notice mailed to the owner of the property?

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1 MR. SULLIVAN: We don't mail the notice, but we do  
2 the labels.

3 COMMISSIONER MAY: You did the labels. And you  
4 provided them. Right.

5 MR. SULLIVAN: They were provided to the Office of  
6 Zoning. I can go into more detail in my closing, too, on that.

7 CHAIR JORDAN: Let's move into rebuttal. Mr. Hill  
8 has a question for the applicant.

9 MEMBER HILL: I just have a question. If you look  
10 at Attachment 1, the photograph of the objection. There's a  
11 tree right after the end of the building and then there's  
12 another one and then there's like the crepe myrtle that's in  
13 the back, right? So do you think that that -- it looks like  
14 that first tree would probably not survive. There's going to  
15 be an arborist there and they might help, what have you. Do  
16 you think the second one might survive? Can you give me an  
17 opinion if you think the second one might survive?

18 MR. BEIDLER: Well, I'm not an arborist, but we deal  
19 a lot with trees and the trees will undoubtedly be impacted,  
20 but given the nature of those trees and the main tap root won't  
21 be affected by it. And all the root system that's on her side  
22 of the fence will not be affected at all by our work.

23 Yes, the trees are going to be impacted, but whether  
24 they'll survive or not I like to think they will be because  
25 we do these kinds of things all the time and trees always

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1 survive. And typically, in a project like this, if there is  
2 any dispute about the survival of a tree or even if a tree has  
3 to be taken down for some reason, there's always a plan to  
4 replace trees. So we haven't even been approached by the  
5 neighbor about replacing trees.

6 MEMBER HILL: She can't because she hasn't seen the  
7 report.

8 MR. BEIDLER: Well, we haven't either. But my  
9 client would certainly be amenable to replacing any trees at  
10 all.

11 MEMBER HILL: And the crepe myrtle, you guys are just  
12 going to cut it back quite a bit. Is that what --

13 MR. BEIDLER: Yes, but those are really beyond the  
14 construction zone. So those -- they'll be pruned no doubt on  
15 our side, but how they're affected, we just don't know.

16 MEMBER HILL: Thank you.

17 CHAIR JORDAN: Additional questions for the  
18 applicant, Board?

19 Mr. Sullivan, do you want to --

20 MR. SULLIVAN: Thank you, just briefly. I should  
21 have mentioned this at the beginning. The applicant was  
22 unexpectedly hospitalized this week and so he was unavailable  
23 or he would have been here. He actually lives in and has owned  
24 the home to the east for the last 20 years. So he's a member  
25 of the neighborhood and I think you can tell from the ten

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1 support letters in the record that he actually did quite a lot  
2 of outreach in the neighborhood including with Ms. Nanay and  
3 her tenants.

4 And Ms. Nanay mentioned a meeting that she had with  
5 Noah Smith and she neglects to mention that the architect was  
6 at that meeting as well. And that was several months ago to  
7 explain the entire project.

8 Other than that, I would just point out that under  
9 the 223 test as the sun studies show, there's no or very minimal  
10 impact on light and air and there's no windows on that side  
11 so no impact on privacy as well.

12 The lot occupancy, as revised at the suggestion of  
13 the ANC, is down to 66 percent. The real lot occupancy is  
14 actually 57 because there's an area of court that's less than  
15 5 feet that's counted in that. If that side yard was more than  
16 five feet, then we wouldn't need lot occupancy relief. If it  
17 was more than six feet, we wouldn't even need court relief,  
18 and it would be a matter of right, just to point out the minor  
19 nature of the relief requested.

20 CHAIR JORDAN: Say that again? If it was what?

21 MR. SULLIVAN: So if the court was six feet, we  
22 wouldn't need relief for extending the court. If it was  
23 another foot and two inches wider, and if it was a couple of  
24 inches wider, we wouldn't need the lot occupancy relief because  
25 we have a section of court area that's less than five feet in

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1 width. And as you know, that counts in our lot occupancy. So  
2 that took the lot occupancy from the real lot occupancy of 57,  
3 takes it up to 66 percent. That's officially what we're  
4 requesting. I have nothing further. Thank you.

5 CHAIR JORDAN: Board, additional questions? Then  
6 we will conclude this hearing based upon the record which we  
7 have before us. Is the Board ready to deliberate? I asked  
8 for support and I asked for opposition. I'm sorry if you  
9 missed it. No, we're moving on. I'm sorry.

10 Is the Board ready to deliberate? Does anyone want  
11 to begin? Any thoughts about this project? Mr. May.

12 COMMISSIONER MAY: Yes. I appreciate the concern of  
13 the next door neighbor in terms of the impact of this  
14 construction, potentially the impact on the trees. But it is  
15 a pretty straight-forward case and the relief requested I think  
16 has certainly been the balance of what we would normally grant.  
17 I don't have any great troubles with it.

18 You know, I do think that there's a pretty good chance  
19 that one or more of the trees may be severely affected by the  
20 construction given that you're talking about building  
21 retaining walls on the property line. But there's not really  
22 anything in the zoning regulations that says that you have to  
23 protect the neighbor's trees. And this is something that  
24 happens all over the place. I mean the root zone for a tree  
25 generally, a good rule of thumb is allowing an inch of -- I'm

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1     sorry, a foot of distance for each inch of diameter at breast  
2     height and I can't really tell exactly how big these trees are,  
3     but they've got to have a ten foot zone that you would  
4     ordinarily try to stay out of.

5             That being said, it certainly is possible to build  
6     right up very close to them and have them survive. I think  
7     the real truth is that as soon as you get into a tree of any  
8     substance, it's going to have roots that are on the neighboring  
9     property. And there's no requirement under the zoning  
10    regulations for us to allow for that.

11            The real question is is there a substantial impact  
12    on light and air and I just don't see it. This is the way the  
13    project has been modified. It's, I think, certainly within  
14    the realm of what we would normally accept. So I have no  
15    problem with proceeding.

16            CHAIR JORDAN: Anyone else for discussion? Seeing  
17    none, I would agree with the assessment of Mr. May. I would  
18    think that we would make the requirement -- add the requirement  
19    that the arborist's report should be presented and filed just  
20    for the record and provided to the neighbor and that the  
21    property, certainly any construction attempts, any minimal  
22    intrusion upon the trees. With that --

23            VICE CHAIRPERSON HEATH: Is that a motion?

24            CHAIR JORDAN: Yes, I move what I just said that we  
25    approve this special exception with the conditions I just

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1 defined.

2 VICE CHAIRPERSON HEATH: All right, second.

3 CHAIR JORDAN: Motion made and seconded.

4 Additional discussion? All those in favor of the motion, aye?

5 (Chorus of ayes.)

6 Those opposed, nay. The motion carries. Mr. Moy?

7 MR. MOY: The staff would record the vote as five to  
8 zero. This is on the motion of Chairman Jordan to approve the  
9 minute relief as requested as was the additional conditions  
10 statement; seconded the motion of Vice Chairperson Health;  
11 also in support, Mr. Peter May, Mr. Fred Hill, and Mr. Jeff  
12 Hinkle. Motion carries.

13 CHAIR JORDAN: Summary, please? Thank you all.  
14 Thank you for coming. Appreciate it.

15 19040, please.

16 MR. MOY: The next application before the Board is  
17 Application 19040, District Properties.com. Mr. Chairman, as  
18 captioned and advertised, this is a request for a variance  
19 relief on the lot area. And with requirements under Section  
20 401, side yard requirements under Section 405, at property 6002  
21 Clay Street, N.E.

22 CHAIR JORDAN: Good morning.

23 MR. SECK: Good morning.

24 CHAIR JORDAN: Make sure your mic is on and please  
25 introduce yourself.

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1 MR. SECK: Good morning, Mr. Chairman. Good  
2 morning, board members. My name is Oumar Seck. I work for  
3 District Properties.

4 CHAIR JORDAN: This matter was previously set and we  
5 continued it to allow conversation with the ANC. Did you meet  
6 with the ANC? Is that ANC 7C?

7 MR. SECK: Yes, sir.

8 CHAIR JORDAN: What happened during that meeting?

9 MR. SECK: I met with them quite a few times. I think  
10 two or three times. And one of them I wrote it on the letter,  
11 an explanation that I uploaded and Mr. Holmes, who I believe  
12 is the chairman for the many commissioners, on the last meeting  
13 decided that he was going to request to postpone this hearing  
14 again which he has done on the previous one that was set, I  
15 believe, in July.

16 CHAIR JORDAN: In July, they made a request for  
17 postponement. And there's another request for postponement.

18 MR. SECK: Then he made another request because they  
19 didn't seem to come to a decision and this actually concerned  
20 two properties, the 6002 we're discussing now and Case No.  
21 19041 which is on Foote Street.

22 CHAIR JORDAN: We're staying -- you've discussed 40,  
23 41, and 42 with them?

24 MR. SECK: 4040 and 4041.

25 CHAIR JORDAN: 40 and 41?

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1 MR. SECK: I'm sorry, 19040 and 19041.

2 CHAIR JORDAN: Now did you request to get placed on  
3 their docket and their agenda?

4 MR. SECK: On which one?

5 CHAIR JORDAN: ANC 7C for 19040 and 19041?

6 MR. SECK: No. What happened, when I reached out to  
7 all of them they said that they meet together and that's how  
8 I was added on all those agendas, if I answered the question.

9 CHAIR JORDAN: Did you get a copy of this letter from  
10 -- who is Ms. Myers? From Antawan Holmes. This is not even  
11 dated. When did we get this thing?

12 MR. MOY: My understanding, Mr. Chairman, this  
13 either came in yesterday or this morning.

14 CHAIR JORDAN: But what is it? There's no  
15 signature. It purports to be from Antawan Holmes from ANC --  
16 it's in the record? 32. They're saying that you have not  
17 complied with any request for -- did you give them the plans?

18 MR. SECK: Yes. I did a presentation twice in their  
19 meetings and the last one actually I was called in the last  
20 minute and I did give the plan to the neighbors that were there  
21 and presented the property and the case.

22 And also if I may add, Mr. Chairman, the Commissioner,  
23 Dr. Gaffney, who is in charge of that particular area where  
24 this property is, requested another meeting after the last one  
25 I had with the multiple commissioners about the area. And I

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1 went there and met with her and her constituents.

2 CHAIR JORDAN: Okay, this is what the letter says.  
3 "The applicant has not complied with ANC 7C's variance request  
4 review process to which he agreed. District Properties has  
5 not conducted a proper and detailed presentation with ANC 7C  
6 at either our executive meeting or general body. In addition,  
7 District Properties was in attendance at the September  
8 Northeast Boundary Civic Association meeting where Single  
9 District Member Mary Gaffney and Civic Association voted down  
10 the request for variance at 6002 Clay Street, N.W. With these  
11 issues before the District Properties on the variance, we seek  
12 to postpone the hearing and put it on their October 8th docket."

13 Board, any thoughts about this? Anybody? I need  
14 some input.

15 COMMISSIONER MAY: I mean this has been going on for  
16 a long time, right? We've postponed this case twice. Haven't  
17 we?

18 CHAIR JORDAN: At least once.

19 MR. SECK: One time and there was a second request  
20 for a postponement again.

21 CHAIR JORDAN: So have we postponed it twice, Mr.  
22 Moy, do you know?

23 MR. MOY: According to the records, the last time it  
24 was before the Board was July 14.

25 COMMISSIONER MAY: So it was just the one.

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1 MR. SECK: Just a request --

2 CHAIR JORDAN: So this would be the second request.  
3 Others' input, Board? I need to know what you want to do. Do  
4 we roll it? But you have not met -- you've asked to meet.  
5 You've given them the plans and they have not scheduled.  
6 They're indicating that you're going to be scheduled for  
7 October 8th.

8 MR. SECK: Well, actually, Mr. Chairman, I attended  
9 the July -- I think I wrote it down, the June 11th meeting.  
10 I attended that and also --

11 CHAIR JORDAN: Did you give a presentation at the  
12 June 11th meeting?

13 MR. SECK: Yes. I did a presentation. And when I met  
14 them again, they asked me to present again and I gave them  
15 copies. The last one was August -- excuse me one second,  
16 September 10th.

17 CHAIR JORDAN: Is anyone here from ANC 7C?

18 COMMISSIONER MAY: And these were full meetings of  
19 the ANC?

20 MR. SECK: Yes, it was full meetings of the ANC. Now  
21 one thing that there was other builders in the area that had  
22 this screen presentation and so forth and I remember when I  
23 got up to present my case one of them was saying do you have  
24 this thing? I said I'm not as big as them.

25 CHAIR JORDAN: So you actually did a presentation in

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1 front of the full ANC?

2 MR. SECK: Oh, yes, sir. I did.

3 VICE CHAIRPERSON HEATH: Did you present drawings?

4 MR. SECK: Yes, copies of drawings which I made  
5 duplicates and passed it on. The neighbors looked at it,  
6 questioned me, and I answered questions as well.

7 COMMISSIONER MAY: So I think there's something in  
8 the record indicating that they had -- you had generally gotten  
9 support, but that there was not enough -- there wasn't a quorum  
10 to take a vote, is that what I understood?

11 MR. SECK: The first one, that is correct. The first  
12 one, Mr. Holmes had only two other commissioners with him and  
13 he needed a fourth one to get a vote. And there was no  
14 opposition then presented to the neighbors and Mr. Holmes said  
15 that he would look into the matter and get back to me.

16 And I sent an exhibit, I believe, A or B, all the  
17 correspondence of the emails. And then he asked me to come  
18 back again to present the case. The day that he called me was  
19 one hour prior to the meeting. And I was sick at home, so that  
20 was their executive meeting. They met and he was supposed to  
21 come up with a decision which he didn't and he asked me to come  
22 back on the -- I believe September 10th meeting.

23 COMMISSIONER MAY: And did you present again on the  
24 10th?

25 MR. SECK: That's the meeting where I presented last

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1 with all the other commissioners. Then there was another  
2 meeting after that.

3 COMMISSIONER MAY: I'm sorry, but on September 10th  
4 did they not take a vote at that time?

5 MR. SECK: They didn't take a vote, no. They asked  
6 to postpone it and you see, there were two cases going on. One  
7 of the commissioners of the other case decided automatically  
8 in which we're going to be the next case to approve the case.  
9 The one which we're discussing now, Dr. Gaffney is in charge  
10 of that particular commission. She asked me to come and meet  
11 with her immediate constituents which I did on Monday, the  
12 14th.

13 CHAIR JORDAN: What is the -- Exhibit 31, do you have  
14 that? Okay.

15 MR. SECK: And there at the September 14th meeting  
16 with Dr. Gaffney being the only commissioner, she asked the  
17 neighbors to vote and they voted it down. Then she said she  
18 will issue a letter to the Board of Zoning.

19 CHAIR JORDAN: Which meeting was that?

20 MR. SECK: That was the last meeting that I had with  
21 Ms. Gaffney and her constituents.

22 COMMISSIONER MAY: But that was just a meeting with  
23 a single SMD commissioner and some of her constituents.

24 MR. SECK: Right, I'm sorry, September 14th.

25 CHAIR JORDAN: I think unless the Board has a

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1 different frame of mind, I think there's been an attempt by  
2 this applicant to reach out from the ANC and I understand the  
3 ANC, certainly like us, this is not our job to do, but this  
4 has been in conversation at least since June.

5           You did at least two presentations before them. I  
6 think you've shown some diligence. I'm in the posture of  
7 denying the additional postponement requested by ANC 7C.  
8 Unless I hear anything to the contrary, anyone? No. So that  
9 will be the order of the Board. So let's move to the hearing  
10 on this case.

11           I don't have any questions. I don't know if the Board  
12 has any questions. I don't believe we necessarily need any  
13 huge presentation on this property. I think it's pretty  
14 straight forward, understanding why you need the relief.

15           Board, is there anything you need to drill down with  
16 this applicant on or hear from this applicant, any questions?

17           Then let's -- I think you've got almost the exact  
18 situation in 41, but we'll call that later.

19           So then the Board appears to be accepting with the  
20 file as existing and that we believe at this point that the  
21 relief requested probably should be granted. You have the  
22 opportunity to do a presentation or we can proceed on and we  
23 can come back to you if there's any questions at the end.

24           MR. SECK: We can proceed.

25           CHAIR JORDAN: Okay, then let's go to the Office of

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1 Planning and see what we have there.

2 MR. MORDFIN: Good morning, Chair, and members of the  
3 Board. I'm Stephen Mordfin and the Office of Planning  
4 continues to recommend approval of this case and stands on the  
5 record.

6 CHAIR JORDAN: Board, questions of Office of  
7 Planning?

8 Applicant, any questions of Office of Planning?

9 MR. SECK: No, thank you.

10 CHAIR JORDAN: Is anyone here from the Department of  
11 Transportation on this case? We do have a letter of no  
12 objection to the relief being offered by the Department of  
13 Transportation.

14 We asked earlier if anyone is here from ANC 7C. We  
15 don't have a recommendation. They've made a request for  
16 postponement. This matter, as we found, the Board has  
17 indicated that there's been some diligence by the applicant  
18 in trying to get this resolved by the ANC and we've denied that  
19 request for continuance.

20 Anyone here wishing to speak in support of the  
21 application? Anyone in support?

22 Anyone in opposition? Please, come forward. Did  
23 you give a witness card to the court reporter and have you been  
24 sworn in? Okay, let's do this. Let's get you sworn. Stand  
25 and raise your right hand. We can do that in a minute. Just

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1 stand where you are, and he's going to swear you in.

2 MR. MOY: Do you solemnly swear or affirm the  
3 testimony you're about to present in this proceeding is the  
4 truth, the whole truth, and nothing but the truth.

5 (The witness was sworn.)

6 MR. MOY: Be seated. Thank you.

7 CHAIR JORDAN: I need you to quickly write that card  
8 out with your name. Do you have a pen handy? Let me just give  
9 your first card to the court reporter now and then we can  
10 complete the rest of it later.

11 Please state your name for the record?

12 MS. OUARID: My name is Tiffany Ouarid. I am a  
13 resident at 6000 Clay Street which is the property next to where  
14 Mr. Seck, the company is proposing to build.

15 CHAIR JORDAN: You have three minutes to tell us  
16 what's on your mind.

17 MS. OUARID: I spoke with Mr. Seck and I told him that  
18 I'm opposed to the building of a new structure beside my house  
19 because of the structural integrity of my home being disturbed.

20 The lot is very small and the amount of space between  
21 the two structures I have concerns with. That being should  
22 anything happen with that property, my property will be  
23 directly affected.

24 CHAIR JORDAN: All right, Mr. Seck, have you  
25 investigated the structural integrity of her property and any

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1 effects the construction is going to have?

2 MR. SECK: Yes, Chairman. I met with her and her  
3 husband. I wasn't offered to go in and look at it, but I did  
4 ask the husband if he has any structural issues with the  
5 foundation. He said yes, I'm having structural issues, but  
6 I couldn't see any physical damages on the outside any fissures  
7 or cracks or anything. What I did tell to both of them is that  
8 we are three feet away from their line. Their building is  
9 actually on the right side of it is built on property line and  
10 I know that his intention is to try to get windows and so forth  
11 and I told him that's a different story. But when we built  
12 our house, we're three feet away from that line. And I can  
13 reassure you or in writing that after we assessed what the  
14 condition of your property is, if there's any additional  
15 damages, cracks whatsoever we will be responsible to remedy  
16 it. And he said well, I'm not against your thing, but I'm  
17 concerned about my house. And that's a matter that he and his  
18 wife were supposed to discuss, but he didn't want to proceed.

19 CHAIR JORDAN: It's not really a zoning issue for us,  
20 that it doesn't affect the zoning regulations. However,  
21 there's remedies for you if there is structural damage caused  
22 by his property as a matter of law. But I still wanted him  
23 to respond to you while you were here so the Board could hear  
24 what the response would be. But these things happen all the  
25 time when there's buildings next to folks and people trying

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1 to watch what's going on, especially when there's huge  
2 buildings being done, the potential effect, and that's what  
3 the insurance is about. That's what the liability aspect that  
4 would attach and if they do some damage to your house, and one  
5 thing that you both might want to do is certainly work together  
6 to get that pre-evaluation done before you do work so you'll  
7 know where the line is drawn and you'll know how much additional  
8 damage, if any, is caused by this property and I think it's  
9 the insurance that need to do. I mean that's just my offer,  
10 but we appreciate you coming down and telling us.

11 Is there anything else you want to say to us?

12 MS. OUARID: There is actually some -- I do have some  
13 cracks in my foundation, in the foundation of my home.

14 CHAIR JORDAN: Already?

15 MS. OUARID: Already. And the lot that they're  
16 proposing to build on is -- it floods heavily when we have heavy  
17 rain. We also have been having issues with the creek that is  
18 adjacent across the street from my property with flooding  
19 issues from my neighbors that live across the street from me.  
20 So the main issue that I have was the structural integrity of  
21 my home and the flooding, whether or not that could be handled  
22 appropriately should they proceed with building.

23 CHAIR JORDAN: Yes, that's outside the purview of  
24 this particular board and that's something that will have to  
25 come on its own, something that's just not within our purview

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1 to deal with. And it sounds like it's an ongoing, probably  
2 has been an ongoing problem that you need to have conversations  
3 with other folks in government about if they can. I just don't  
4 know.

5 MS. OUARID: Okay.

6 CHAIR JORDAN: Anyone else wishing to speak in  
7 opposition? Anyone else in opposition? Seeing none, does  
8 the Board have any additional questions of the applicant?  
9 Then we'll close the hearing based upon the record in which  
10 we have before us. I believe the applicant's -- the record  
11 and file and evidence are already submitted by this Board  
12 supports the relief requested by this applicant and I would  
13 move that we grant relief as requested.

14 VICE CHAIRPERSON HEATH: Second.

15 CHAIR JORDAN: Made and seconded. Additional  
16 discussion? All those in favor of the motion, aye?

17 (Chorus of ayes.)

18 Those opposed, nay. The motion carries. Mr. Moy?

19 MR. MOY: Staff would record the vote as five to zero.  
20 This is all on the motion of Chairman Jordan to approve the  
21 request for variance relief as requested. Seconding the  
22 motion was by Vice Chairperson Heath; also in support, Mr.  
23 Peter May, Mr. Fred Hill, and Mr. Hinkle. The motion carries,  
24 sir.

25 CHAIR JORDAN: All right, summary, please.

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1 MR. MOY: Thank you.

2 CHAIR JORDAN: And we thank you for coming down,  
3 appreciate it.

4 MS. OUARID: Thank you.

5 CHAIR JORDAN: Thank you very much. 41.

6 MR. MOY: Application No. 19041 of District  
7 Properties.com. Again, Mr. Chairman, this is a request for  
8 a variance relief on lot area and width requirements, side yard  
9 requirements at premises 4926 Foote Street, N.E.

10 CHAIR JORDAN: For the record, please identify  
11 yourself?

12 MR. SECK: Yes, Chairman. My name is Oumar Seck and  
13 I represent District Properties.

14 CHAIR JORDAN: We have the same similar request from  
15 ANC 7C, the same one we just had to postpone and I think the  
16 Board will enter an order similar that we deny the request for  
17 postponing, the reason that the applicant has been diligent  
18 in trying to meet with the ANC. In fact, met with the ANC at  
19 least twice, but in the formal decision from the ANC has not  
20 been forthcoming at this point.

21 With this, then we will move into the hearing on this  
22 case and similar to the one we just had on 40, I think the record  
23 supports the requested relief. I don't have any questions,  
24 but I don't know if the Board needs to drill down and I see  
25 by the shake of the heads that there isn't any additional

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1 questions and I take it that you would like to operate  
2 similarly. You would proceed on. If there's something you  
3 need to talk about, you do it in rebuttal.

4 MR. SECK: Just if for the record Exhibit A that I  
5 sent didn't come through which is a strong letter of support  
6 for the adjacent neighbor on the right side. I did submit it.  
7 That's all.

8 CHAIR JORDAN: Yes, Mr. May?

9 COMMISSIONER MAY: Yes, I have made a note in DDOT's  
10 report there's statements about it's only a sidewalk and making  
11 the unimproved alley accessible. If you could address that?

12 MR. SECK: Yes.

13 CHAIR JORDAN: He said address it.

14 COMMISSIONER MAY: Can you address it?

15 MR. SECK: Oh, can we address it? Yes, we built the  
16 house on the right side of this property and we did provide  
17 the sidewalk and we will be providing sidewalk for this new  
18 structure.

19 COMMISSIONER MAY: And what about the unimproved  
20 alley?

21 MR. SECK: The unimproved alley actually -- we plan  
22 to have parking from the rear and that's what shows on the plat  
23 as well.

24 COMMISSIONER MAY: Right, parking for the rear, but  
25 what seems to be an unimproved alley. So how are you going

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1 to get to the parking space if the alley is unimproved?

2 MR. SECK: We have cases where the alley has actually  
3 this one here, I'm not very certain the condition right now  
4 of the alley which I apologize. Usually, in paved alleys we  
5 have spread out 21A which is some kind of compactible gravel  
6 to provide access for our clients' their parking spaces and  
7 that's what we intend to do.

8 CHAIR JORDAN: Any other questions, Board, on this?  
9 Office of Planning?

10 MR. MORDFIN: Good afternoon, chair and members of  
11 the Board. For the record, I'm Stephen Mordfin. And the  
12 Office of Planning recommends approval of this application and  
13 stands on the record. Thank you.

14 CHAIR JORDAN: Board, questions for Planning?

15 COMMISSIONER MAY: I don't mean to put you on the spot  
16 for a DDOT question, but are you aware of the unimproved alley  
17 situation and do you have thoughts on whether -- how concerned  
18 that would be?

19 MR. MORDFIN: I did discuss this with DDOT and DDOT  
20 did indicate to me that you can, even though it's not improved,  
21 the alley system is improved north of the site and DDOT told  
22 me that they did drive there to the site on the ground there  
23 and said that it is accessible. You can't come in from the  
24 side street. I think it's 49th or -- but you can come from  
25 the north.

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1 COMMISSIONER MAY: Okay, thanks.

2 CHAIR JORDAN: Applicant, any questions of Office of  
3 Planning?

4 MR. SECK: No, sir.

5 CHAIR JORDAN: Anyone here from the Department of  
6 Transportation? Anyone from the Department of  
7 Transportation? We do have a letter of no objection as Mr.  
8 May has talked about any other issues that was in their letter.  
9 And we spoke about ANC 7C which is not here and they requested  
10 to continue.

11 Anyone here wishing to speak in support of this  
12 application? Anyone in support?

13 Anyone in opposition? Anyone in opposition? Then  
14 we will close the record on this case and is the Board ready  
15 to deliberate on it?

16 I would move we grant the relief requested in Case  
17 No. 19041. Second?

18 MEMBER HILL: I'll second.

19 CHAIR JORDAN: Motion made and seconded.  
20 Additional discussion? All those in favor, aye?

21 (Chorus of ayes.)

22 Those opposed, nay. The motion carries. Mr. Moy?

23 MR. MOY: Staff would record the vote as five to zero.  
24 This is on the motion of Chairman Jordan to approve the  
25 application for the variance relief requested; seconding the

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1 motion, Mr. Hill; also in support, Mr. May, Vice Chairperson  
2 Heath and Mr. Hinkle.

3 CHAIR JORDAN: Summary, please?

4 MR. MOY: Thank you, sir.

5 CHAIR JORDAN: Let's call 42.

6 MR. MOY: Application No. 19042 of District  
7 Properties.com again requesting variance relief from light,  
8 area and lot width requirements and side yard requirements at  
9 4275 6th Street, S.E.

10 Do you just want to put up a card and say who you are?  
11 No. Just provide your name for the record, please?

12 MR. SECK: My name is Oumar Seck and I represent  
13 District Properties.

14 CHAIR JORDAN: I think we heard that before.  
15 Procedurally, we have an affidavit of posting, but we don't  
16 have a picture on it. You can supplement the record with that  
17 and I think we know you have attested that it was posted.

18 MR. SECK: Yes.

19 CHAIR JORDAN: This has a little quirk in it. Do we  
20 have a letter from this ANC?

21 MR. SECK: Yes.

22 CHAIR JORDAN: ANC 8D?

23 MR. SECK: Yes, I submitted it. But I have a copy  
24 here.

25 COMMISSIONER MAY: It was submitted, but it doesn't

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1 quite meet the standards for great weight because there's  
2 something in there that states the vote. It doesn't state that  
3 it was duly noticed or that there was a quorum, but it was a  
4 five to two vote.

5 CHAIR JORDAN: Got it, thanks. I just wanted to make  
6 sure there had been a presentation to the ANC. So there's a  
7 recommendation from the Office of Planning that you didn't need  
8 a lot width relief. Did you make a request for lot width?

9 What relief are you requesting here, making sure  
10 we're on the same page?

11 MR. SECK: This is the lot is 80 feet and it's going  
12 to have setbacks of 7 feet each side. And basically --

13 CHAIR JORDAN: Let me do this. Ms. Thomas, so  
14 relief, you're saying there's no area or lot width necessary?  
15 Is that what -- on this property?

16 MS. THOMAS: On the R-5-A? Because it's R-5-A, I  
17 believe. Just the side yard relief is before us.

18 CHAIR JORDAN: Just the side yard relief is before  
19 us. That's what is being indicated. Are you following, Mr.  
20 Seck?

21 MR. SECK: Yes.

22 CHAIR JORDAN: Okay, and that's your request from the  
23 Board? Are you amending your relief or are you still going  
24 with the -- I think this doesn't make a lot of sense, either  
25 way, we can just do it.

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1           The Office of Planning has recommended that you  
2           landscape this property, provide privacy screening in shade  
3           trees. Have you agreed to do that?

4           MR. SECK: Yes.

5           CHAIR JORDAN: Board, anything on this case? Mr.  
6           Hill?

7           MEMBER HILL: Mr. Seck, I didn't ask on the last two  
8           designs, but I think that -- I don't remember if Mr. May had  
9           asked once before, but how come there's not a kitchen window  
10          in the back?

11          MR. SECK: For this particular property?

12          MEMBER HILL: They're all the same.

13          CHAIR JORDAN: That's right.

14          MEMBER HILL: I mean is it really a lot, is it very  
15          expensive to throw in a kitchen window there?

16          MR. SECK: No, sir. No, sir. And I'll definitely  
17          --

18          MEMBER HILL: It would be nice to have a kitchen  
19          window.

20          MR. SECK: Yes, I will definitely recommend that with  
21          my designer and our goal always is to put out some beautiful  
22          homes.

23          MEMBER HILL: It looks nice.

24          MR. SECK: I agree with you.

25          CHAIR JORDAN: Are there any questions of the

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1 applicant on this, Mr. May?

2 COMMISSIONER MAY: No, I just appreciate, Mr. Hill  
3 mentioned in my comments from when we had first taken up this  
4 case I just decided I wasn't going to raise the issue again,  
5 but I'm glad you did. Thank you.

6 CHAIR JORDAN: Very good. Any other questions of  
7 this applicant, anyone? Then we will turn to Office of  
8 Planning.

9 MS. THOMAS: Good afternoon, Mr. Chair. Karen  
10 Thomas with the Office of Planning and we'll rest on the record  
11 of our report. Thank you.

12 CHAIR JORDAN: Any questions for Ms. Thomas?  
13 Applicant, any questions of Office of Planning?

14 MR. SECK: No, Chairman.

15 CHAIR JORDAN: Department of Transportation, anyone  
16 here from there? We have a letter of no objection from  
17 Department of Transportation.

18 Is anyone here from ANC 8D? We have a letter of  
19 support provided from ANC 8D that didn't make the weight --  
20 didn't meet the qualifications for great weight, but we accept  
21 that in the record of the vote in support.

22 Anyone here wishing to testify in support? Anyone  
23 in support?

24 Anyone in opposition? Anyone in opposition? I'm  
25 waiting for the guy to jump around the pole again.

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1           Then we'll turn it back to the applicant. Any  
2 additional questions of the applicant anyone?

3           All right, then we will close the record on this case.  
4 I would move that we grant the relief for the applicant with  
5 the conditions as provided in the Office of Planning's report.  
6 That's the motion.

7           VICE CHAIRPERSON HEATH: Second the motion.

8           CHAIR JORDAN: Made and seconded. Additional  
9 discussion? All those in favor, aye.

10           (Chorus of ayes.)

11           Those opposed, nay. The motion carries. Mr. Moy?

12           MR. MOY: Staff would record the vote as five to zero.  
13 This is on the motion of Chairman Jordan to approve the amended  
14 relief for the side yard relief under 405.1 as was included  
15 in the conditions as recommended in the Office of Planning  
16 report.

17           Mr. Chairman, I think with the change and adding a  
18 window in the kitchen that we'll need a revised sheet for that  
19 elevation for the record.

20           CHAIR JORDAN: Okay.

21           MR. MOY: Second, the motion of Vice Chairperson  
22 Heath; also in support, Mr. Peter May, Mr. Fred Hill, and Mr.  
23 Jeffrey Hinkle.

24           CHAIR JORDAN: Very good. Summary, please?

25           MR. MOY: Thank you.

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1 CHAIR JORDAN: Thank you. Thank you.

2 MR. SECK: Thank you, Chairman, board members.

3 CHAIR JORDAN: Thank you very much, appreciate it.

4 51.

5 MR. MOY: The next application for public hearing is  
6 Application 19051 of Richard Gbolahan.

7 Mr. Chairman, as captioned, this is a request for  
8 variance relief from lot area, lot width requirements under  
9 Section 401. This is at premises 1609 Levis Street, N.E.

10 CHAIR JORDAN: Good morning. Please introduce  
11 yourselves?

12 MR. CHIDOZIE: Good morning. My name is Dominic  
13 Chidozie. I'm the architect on the project.

14 MR. GBOLAHAAH: My name is Richard Gbolahah. I'm the  
15 owner of the lot.

16 CHAIR JORDAN: I think we've seen you guys before,  
17 haven't we? You've been here before, right?

18 MR. CHIDOZIE: Yes, sir.

19 CHAIR JORDAN: And why did we continue this thing?  
20 What happened? Okay, so you did meet with the ANC and ANC just  
21 getting in our hands hot off the press --

22 MR. CHIDOZIE: They approved.

23 CHAIR JORDAN: They vote to approve, to support the  
24 application. Okay. Did you do some modification to the  
25 plans?

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1 MR. CHIDOZIE: Yes, we did.

2 CHAIR JORDAN: Did you submit that to our record?

3 MR. CHIDOZIE: It has been submitted.

4 CHAIR JORDAN: Okay. Board, any issues with this?

5 I think it's pretty clear. Board, anyone?

6 Then let's turn to Office of Planning, to see if  
7 there's anything in addition.

8 MS. THOMAS: Mr. Chair, Karen Thomas with the Office  
9 of Planning. We have nothing else further to add. Thank you.

10 CHAIR JORDAN: Just one question. What about the  
11 recommendation that they need lot width in this? Is that still  
12 your recommendation?

13 MS. THOMAS: Lot width and lot area, they have 16.67  
14 feet, yes.

15 CHAIR JORDAN: For lot width, they need 18, right?

16 MS. THOMAS: Yes.

17 CHAIR JORDAN: So they need to get lot width relief.

18 MS. THOMAS: Yes.

19 CHAIR JORDAN: They already requested it, didn't  
20 they? Great, great, great.

21 Any questions for Planning, Board?

22 Applicant, any questions of Planning?

23 MR. GBOLAHAAH: No.

24 CHAIR JORDAN: Anyone here from the Department of  
25 Transportation on this case? We do have a letter of no

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1 objection from the Department of Transportation. We just  
2 announced that we have a letter from ANC 5D who voted 6 to 0  
3 in support of the application. Anyone here wishing to testify  
4 in support? In support? Anyone in opposition? Anyone in  
5 opposition? Then we'll close the record based upon what we  
6 have, including the ANC letter that I just read, and I would  
7 move that we grant the relief requested in 19051.

8 VICE CHAIRPERSON HEATH: I'll second.

9 CHAIR JORDAN: Motion made and seconded.  
10 Discussion, please? All those in favor of the motion, aye.

11 (Chorus of ayes.)

12 Those opposed, nay. The motion carries. Mr. Moy?

13 MR. MOY: Staff would record the vote as five to zero.  
14 This is on the motion of Chairman Jordan to approve the request  
15 for variance relief, lot area and lot width requirements.  
16 Seconded the motion, Vice Chairperson Heath. Also in support  
17 Mr. May, Mr. Hill, and Mr. Hinkle. Motion carries.

18 CHAIR JORDAN: Summary, please.

19 MR. MOY: Thank you.

20 CHAIR JORDAN: Thank you. Thank you, all.

21 MR. GBOLAHAAH: Thank you.

22 CHAIR JORDAN: Board, have moving to our decision  
23 case, I think it's going to be at least a minute before we get  
24 through, it's going to be a little bit on the Stadium Club and  
25 we have one other decision case. I really recommend that we

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1 at least take a half hour break and then move on, at least grab  
2 something to eat. Do you need more than a half hour, 40  
3 minutes? Let's take a half hour and then we will come back.  
4 Do the one decision? Do you think we can do it? Okay, we'll  
5 shoot -- is Mr. Miller here? He may be. He may be here. I  
6 see Mr. Miller is coming out for that. He's not here? We'll  
7 take a half hour break.

8 (Whereupon, the above-entitled matter went off the  
9 record at 12:25 p.m.)

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