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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning
Board of Zoning Adjustment

PUBLIC MEETING OF THE BOARD OF ZONING ADJUSTMENT

9:40 a.m. to 2:25 p.m.

Tuesday, November 10, 2015

441 4th Street, N.W.

Jerrily R. Kress Memorial Room

Second Floor Hearing Room, Suite 220-South

Washington, D.C. 20001

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1 Board Members:

2 MARNIQUE Y. HEATH, Chairperson

3 FREDERICK L. HILL, Vice-Chairperson

4 PETER MAY, U.S. Park Service

5

6 Office of Planning:

7 KAREN THOMAS

8 MATT JESICK

9 ANNE FOTHERGILL

10 ELISA VITALE

11 STEPHEN MORDFIN

12 STEPHEN GYOR

13

14 DDOT:

15 RYAN WESTROM

16

17 Also Present:

18 CLIFFORD W. MOY, Secretary to the Board

19 LAWRENCE FERRIS, ESQ.,

20 Office of Attorney General

21 SHERRY GLAZER, ESQ.

22 DAVID SNIDER

23 EMIL FRANKEL

24 ANDREY VEREFENAS

25 MIKHAIL KRUTIKOR

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1 MR. PARFENOV
2 CHERYL EDSON
3 NEZAM YOUSEFI
4 BILL WASHINGTON
5 DR. CHARLES FARMER
6 DR. JUDY FARMER
7 SHANE DETTMAN
8 NORMAN GLASGOW
9 DONAHUE PEEBLES, III
10 SATI ABDULRAHMAN
11 ERWIN ANDRES
12 JACOB JOYCE
13 FRANCISCO RUIZ
14 VIRGINIA KIRKS
15 KYRUS FREEMAN
16 ADRIAN WASHINGTON
17 BILL BONSTRA
18 MICHAEL GIULIONI
19 JESSICA BLOOMFIELD
20 TOYE BELLO
21 ARSEMA ADAL
22 KUBROM ADAL
23 MARK ECKENWILER
24 MERIDETH MOLDENHAUER
25 TRENT HEMINGER

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

2 CHAIRPERSON HEATH: Are you ready? The hearing will
3 please come to order. Good morning, ladies and gentlemen. We're
4 located in the Jerrily R. Kress Memorial Hearing Room at 441
5 4th Street, N.W. This is the November 10, 2015 meeting of the
6 Boning -- Boar -- Board of Zoning Adjustment of the District of
7 Columbia, convening to act on Chancery applications pursuant to
8 the Foreign Missions Act and Chapter 10 of the Zoning
9 Regulations.

10 My name is Marnique Heath, Chairperson. Joining me
11 today is Vice-Chairperson Fred Hill. Uh, the Federal
12 Representative, uh, Marcella Costa, representing the National
13 Capitol Planning Commission is not present today, but we do
14 have with us, uh, Peter May, representing the U.S. Parks
15 Service.

16 Um, copies of today's hearing agenda are available to
17 you and are located in the wall bin near the entrance door.
18 Please be advised that this proceeding is being recorded by a
19 court reporter and is also being Webcast live. Accordingly, we
20 must ask you to refrain from any disruptive noises or actions
21 in the hearing room.

22 When presenting information to the Board, please turn
23 on and speak into the microphone, first stating your name and
24 home address. When you're finished speaking, please turn your
25 microphone off so that the microphone is no longer picking up

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1 sound or background noise.

2 All persons wishing to testify today, either in
3 support or in opposition, are to fill out two witness cards.
4 These cards are located on the table near the entrance door and
5 on the witness tables. Uh, upon coming forward to speak to the
6 Board, please give both cards to the court reporter sitting to
7 my right.

8 At this time, I'll need anyone who's testifying,
9 whether you're planning to testify as a part of our, um,
10 Foreign Missions cases this morning or, uh, any of our other
11 hearing cases, to please stand and take the oath administered
12 by Mr. Moy, this Board's Secretary.

13 MR. MOY: Good morning. Do you solemnly swear or
14 affirm that the testimony you're about to present in this
15 proceeding is the to -- is the truth, the whole truth, and
16 nothing but the truth?

17 (Whereupon, the witnesses were sworn en masse.)

18 MR. MOY: Ladies and gentlemen, you -- you may
19 consider yourselves under oath.

20 CHAIRPERSON HEATH: Okay. So, we're going to begin
21 this morning with several of our Foreign Missions cases. Um,
22 the order of procedure for a Foreign Mission case is as
23 follows: We'll start with a statement, um, and witnesses of the
24 applicant. We'll then move to government reports, including
25 U.S. State Secretary, um, and the District of Columbia Office

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1 of Planning, on behalf of the mayor. We'll hear reports or
2 recommendations by other public agencies, a report from the
3 Advisory Neighborhood Commission, and then any persons in
4 support or in opposition. Please note that requests for party
5 status on a Chancery application are not applicable because
6 this is a rule-making proceeding.

7 Uh, the following constraints will be maintained: The
8 applicant, including witnesses, will be permitted up to 60
9 minutes to present its case. Persons testifying, whether in
10 opposition or support, will be permitted up to 3 minutes, uh,
11 with the exception of the ANC. Uh, these time constraints do
12 not include time used during questions from the Board, and the
13 Board may place further reasonable rec -- uh, restrictions on
14 or permit additional time for testimony as it deems
15 appropriate.

16 Because this is a rule-making proceeding, there are
17 no parties, and therefore there is no cross-examination. The
18 record will be closed at the conclusion of each case, except it
19 will remain open for any material specifically requested by the
20 Board. The Board and the staff will specify at the end of the
21 hearing exactly what is expected and the date when the material
22 must be presented to the Office of Zoning. After the record is
23 closed, no other information will be accepted by the Board.

24 Uh, Mr. Moy, are there any preliminary matters coming
25 before the Board today?

1 MR. MOY: Oh, yes, thank you, uh, Madam Chair. Good
2 morning. Good morning to, uh --

3 CHAIRPERSON HEATH: Good morning.

4 MR. MOY: -- other Members this morning. The, uh --
5 very quickly, uh, Madam Chair, there are two applications
6 originally scheduled for today that have been postponed and
7 rescheduled.

8 The first is Application Number 19101 of, uh, Darryl,
9 uh, Sulekoiki. This is property located at, uh, 2112 through
10 2126 3rd Street, N.E., and that has been, as I said, uh,
11 rescheduled to December 2015.

12 The second, uh, case that has been postponed and
13 rescheduled is Appeal Number 19092 of Patricia Schaub. Uh, this
14 is property located at 1120 Park Street, N.E., and again, that,
15 uh, was postponed and rescheduled to December 15. Thank you.

16 CHAIRPERSON HEATH: Thank you. So, we'll call our
17 first, uh, Foreign Missions case. Mr. Moy?

18 MR. MOY: Thank you, Madam Chair. I believe that
19 would be Application Number 16620. This is the application of
20 the Embassy of the Republic of Azerbaijan -- thank you, sir --
21 um, and, uh, this is property located at 30 -- 2741 34th
22 Street, N.W. If you'll come to the table?

23 CHAIRPERSON HEATH: Have you given your witness cards
24 to the court reporter? Okay. All right. Perfect. Once you're
25 settled, please state your names and, uh, home address for the

1 record.

2 MR. ALAKISHIYED: Good morning. Um, my name is Tural
3 Alakishiyed. Um, my home address is 2500 Wisconsin Avenue,
4 N.W., Washington, D.C.

5 MS. EDSON: My name is Cheryl Edson. I'm here on
6 behalf of the Department of State, Office of Foreign Missions.

7 CHAIRPERSON HEATH: Thank you. Um, we've reviewed the
8 materials submitted into the record on this case, and, uh, it
9 appears to be fairly straightforward. This is a request to
10 construct a security fence at the existing Chancery --

11 MR. ALAKISHIYED: Yes.

12 CHAIRPERSON HEATH: -- at 2741 34th Street, N.W. One
13 issue that I wanted to address with you before we go any
14 further is, we don't show that we have an affidavit of posting
15 on file.

16 MR. ALAKISHIYED: Yes, I presented it yesterday.

17 CHAIRPERSON HEATH: Oh, you did? Okay.

18 MR. ALAKISHIYED: Yes, I did.

19 CHAIRPERSON HEATH: Mr. Moy, have we received any
20 documentation on an affidavit posting?

21 MR. MOY: Uh, I -- I -- I believe it was posted
22 yesterday --

23 CHAIRPERSON HEATH: Okay.

24 MR. MOY: -- Madam Chair.

25 CHAIRPERSON HEATH: Okay. All right. Thank you for

1 getting that to us. Okay. Um -- all right. So, given that we've
2 satisfied that requirement, I believe that, um -- I don't see
3 anything in the record that, uh, is missing, uh, or that we
4 need -- that I need to hear further about from you.

5 Does any other Members of the Board have anything
6 they'd like to hear from the applicant?

7 MR. HILL: Uh, Madam Chair, I was just curious as far
8 as the fencing goes. I mean, some of the things that the ANC or
9 the neighborhood was talking about -- oh, I'm sorry, it was, I
10 think, OP, now that I'm thinking about it -- was talking about
11 how the fence -- if it could -- you know, when you -- when the
12 fence opens, it doesn't go into the driveway, and then, also,
13 when the fence opens, it doesn't swing, eh, the -- the -- and
14 then the gate, when you're entering -- um, not the driveway
15 fence, but the gate when you're walking through doesn't swing
16 into public space.

17 CHAIRPERSON HEATH: Sure.

18 MR. HILL: Um, would you --

19 CHAIRPERSON HEATH: I believe those are, um --

20 MR. ALAKISHIYED: They're --

21 [Simultaneous speaking]

22 CHAIRPERSON HEATH: -- on a --

23 MR. ALAKISHIYED: Yeah, they are sliding -- sliding
24 doors, so it is not going to the driveway. It's, uh, to -- to
25 -- to -- to -- onto the, um --

1 CHAIRPERSON HEATH: Into the public space?

2 MR. ALAKISHIYED: -- public space, yes.

3 CHAIRPERSON HEATH: Okay. Um, if -- if the applicant
4 is fine with this, I think, at this point, it would make sense
5 for us to turn to Office of Planning to, uh -- for them to
6 speak on behalf of the mayor about these concerns or about, uh,
7 comments from DDOT.

8 MS. THOMAS: Uh, good morning, Madam Chair, Members
9 of the Board. Um, the Office of Planning is recommending that
10 we not disapprove this application. Um, it ha -- it has
11 satisfied the requirements, and DDOT has no comments concerning
12 the, um -- the gate with respect to coming out into public
13 space.

14 CHAIRPERSON HEATH: Okay.

15 MS. THOMAS: And we will stand on the record of our
16 approval.

17 CHAIRPERSON HEATH: Okay. Any further questions?
18 Okay. All right. Thank you.

19 Um, applicant, do you have any questions of Office of
20 Planning --

21 MR. ALAKISHIYED: No, thank you.

22 CHAIRPERSON HEATH: -- on behalf of the mayor? Okay.
23 Thank you. All right.

24 Uh, then I will turn to, um, our other witness.
25 You're from the Department of State?

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1 MS. EDSON: Yes, I'm -- I'm here from the Department
2 of State, Office of Foreign Missions. Um, we have no further
3 comments beyond our letter of September 25th, where we, um, um,
4 support the, uh -- the Embassy's application.

5 CHAIRPERSON HEATH: Okay. All right. Thank you. Uh,
6 we also have in the record a letter from the Secret Service,
7 uh, ad -- in support --

8 MR. ALAKISHIYED: Yes. Yeah.

9 CHAIRPERSON HEATH: -- of this application, as well
10 as a letter of no objection from ANC 3C, and, uh, so I believe
11 I'm satisfied with, uh, this request.

12 Does the Board have any other questions of this
13 applicant? Okay. Then I would move that we do not disapprove
14 this application for, uh, the request to construct the security
15 fence.

16 MR. HILL: I second.

17 CHAIRPERSON HEATH: The motion's been made and
18 seconded. Uh, any further discussion? All those in favor?

19 (Chorus of ayes)

20 CHAIRPERSON HEATH: Anyone opposed?

21 (No audible response)

22 Uh, then the motion carries. Thank you.

23 MR. ALAKISHIYED: Thank you very much.

24 MR. MOY: Staff would record the vote as 3-0-2, this
25 on the motion of, uh, Chairperson Heath to not disapprove.

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1 Seconded the motion, Vice-Chairperson Hill. Also in support,
2 uh, Mr. Peter May. We have two Members not present today -- or
3 rather, one Member not present, one seat vacant, so motion
4 carries 3-0, Madam Chair.

5 CHAIRPERSON HEATH: Thank you. Summary order. All
6 right. Thank you.

7 MS. GLAZER: Not exactly a summary order within --

8 CHAIRPERSON HEATH: Oh --

9 MS. GLAZER: -- if I may?

10 CHAIRPERSON HEATH: Okay. All right. Thank you. Thank
11 you. All right, our next FM case?

12 MR. MOY: Yes, uh, Madam Chair, that would be
13 Application Number 19134. This is the application of the
14 Embassy of Zambia. Um, this is to allow the temporary location
15 of a Chancery in the D/R-3 District at premises 2200 R Street,
16 N.W., Square 2512, Lot 808.

17 If the applicants could please come to the table?

18 MR. SNIDER: Hello. Good morning.

19 CHAIRPERSON HEATH: Good morning.

20 MR. SNIDER: My name's David Snider. My home address
21 is 5815 4th Street, N.W.

22 MS. EDSON: Cheryl Edson, Department of State, Office
23 of Foreign Missions.

24 CHAIRPERSON HEATH: Thank you. This is a request to
25 allow the temporary location, for a period of 1 year, of --

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1 MR. SNIDER: Yes, approximately 1 year.

2 CHAIRPERSON HEATH: -- okay -- of the Chancery at
3 2200 R Street, while the Embassy is undergoing renovations.

4 MR. SNIDER: That's correct.

5 CHAIRPERSON HEATH: Okay. Um, so, the requested
6 relief here is under Section 1002, for temporary location of
7 the Chancery. Um --

8 MS. GLAZER: Madam Chair -- Um, I'm sorry to
9 interrupt, but --

10 CHAIRPERSON HEATH: Sure.

11 MS. GLAZER: -- um, a person in the audience
12 approached and asked if he could testify, so I just wanted to
13 make you aware of that.

14 CHAIRPERSON HEATH: Okay.

15 MS. GLAZER: I don't believe he filed anything.

16 CHAIRPERSON HEATH: Okay. Thank you. Would you please
17 also state your name? Make sure your mic is on. You'll see a
18 glowing red --

19 MR. FRANKEL: There, I got it. Thank you.

20 CHAIRPERSON HEATH: -- a gl -- a glowing green light.

21 MR. FRANKEL: Morning. Thank you, Madam Chairman. Uh,
22 I'm Emil Frankel, uh, with my wife Kathryn. We occupy the house
23 immediately adjacent, uh, to the proposed embassy, uh, at, uh
24 -- our address is 1620 22nd Street, N.W.

25 I might mention, as a procedural matter, uh, that the

1 notice posted on the property still indicates October 27th as
2 the date for this, uh, public hearing; it was never changed.
3 Um, and I don't know whether that raises procedural issues or
4 notice issues to other neighbors, but, uh, it's conceivable
5 that any order you enter today might be subject to challenge
6 by, uh, someone else who did not receive proper notice.

7 CHAIRPERSON HEATH: Okay. Thank you for bringing that
8 to our attention. Um -- and are you wishing to speak in support
9 or opposition?

10 MR. FRANKEL: Uh, I have some questions. I've
11 identified myself, uh, kind of in the middle. I have some
12 concerns. I'm not opposed to this, by any means -- we welcome
13 them to the neighborhood -- but I do have some concerns that
14 I'd like to express to this Board. And --

15 CHAIRPERSON HEATH: Okay.

16 MR. FRANKEL: And, I might say, to the Office of
17 Foreign Missions at the State Department -- because this is
18 about the only way one can actually get them -- uh, get their
19 attention. Thank you.

20 CHAIRPERSON HEATH: Okay. Thank you. So, we'll come
21 back to you when, uh -- at the appropriate time for comment.

22 Um, so, one issue that I see here is that you are
23 asking for this relief without providing parking, and so you
24 will need to revise your application to include parking relief.

25 MR. SNIDER: Uh -- okay. Um, the -- the Zambian, uh,

1 staff, the Embassy staff, is able to park their vehicles 3
2 blocks away at their -- the location of the permanent Chancery,
3 so they don't need parking. Um, when I -- when I completed the
4 application, I knew that we weren't going to be asking for any
5 parking adjustments or any relief in that matter. They -- all
6 the staff parks and walks to the building at 2200 R Street,
7 except for the Ambassador.

8 CHAIRPERSON HEATH: Okay. And that's fine. Um, if you
9 could just revise your application to note that you, um --

10 MR. SNIDER: Sure.

11 CHAIRPERSON HEATH: -- are not -- you're not going to
12 be providing any parking here, that your staff is parking
13 elsewhere --

14 MR. SNIDER: Okay.

15 CHAIRPERSON HEATH: -- so you will have relief from
16 parking --

17 MR. SNIDER: Okay.

18 CHAIRPERSON HEATH: -- from having to include
19 parking.

20 MR. SNIDER: Okay. Thank you.

21 CHAIRPERSON HEATH: All right. Okay. Is there
22 anything else, Board, that you'd like to hear from the
23 applicant in this case? Okay. All right.

24 Um, again, you have the right to a full hearing, but
25 the Board feels, at this time, that we've read enough

1 information, as submitted from you, that we fully understand
2 the case, and we don't have any questions. So, if you're fine,
3 we'll proceed, uh, with the rest of the hearing by turning to
4 Office of Planning and getting their input on behalf of the
5 mayor.

6 MR. SNIDER: I could -- I could -- um, if I could
7 say, one thing that I recall from the ANC meeting --

8 CHAIRPERSON HEATH: Sure.

9 MR. SNIDER: And I take the ANC group very seriously,
10 and the neighbors, um, expressed a concern that properties in
11 this neighborhood were being zo -- once they are zoned for
12 diplomatic purposes that they have -- they feel they've lost
13 the property, that it will never once again be a home. And I
14 tried to explain to them that the owners could always move back
15 into the house, and it could be a home. The next renter could
16 always be a family that would own it as a -- as a personal --
17 or -- or rent it as a personal home.

18 Is there a way, uh -- their skepticism was about the
19 Board and its ability to make the zoning variance temporary or
20 perma -- or once the change is made, is it a permanent change.
21 Um, is it a permanent change? Does a property, uh, go from
22 diplomatic, um, ba --

23 CHAIRPERSON HEATH: This --

24 MR. SNIDER: -- back to residential, or does it stay
25 permanently, um, applicable?

1 CHAIRPERSON HEATH: This is a request for a temporary
2 location, so there's nothing that we are, um, approving or
3 agreeing to not disapprove, um, that would allow this to remain
4 a Chancery. So --

5 MR. SNIDER: Okay.

6 CHAIRPERSON HEATH: -- we're -- the language that we
7 would put forward speaks specifically to a temporary location
8 of the Chancery.

9 MR. SNIDER: Fine. Okay.

10 CHAIRPERSON HEATH: Um, we did receive the letter
11 from the ANC, which was a bit confusing, because they -- they
12 stated that they would support the temporary location but not a
13 permanent, but you weren't --

14 MR. SNIDER: Okay.

15 CHAIRPERSON HEATH: -- asking for permanent.

16 MR. SNIDER: Correct. Yes.

17 CHAIRPERSON HEATH: So, they're -- they've indicated
18 that they're in support of the Chancery being located f -- here
19 for 1 year.

20 MR. SNIDER: Okay.

21 CHAIRPERSON HEATH: And that's all you've asked for,
22 through September of 2016.

23 MR. SNIDER: Yes.

24 CHAIRPERSON HEATH: Correct? Okay.

25 MR. SNIDER: Now, the actual renovations of the

1 permanent Chancery might take a month or two longer, and with
2 -- within the -- the -- within the restrictions or allowances
3 of the lease, they could stay an extra month in the property.
4 Um, it's not expected to be an extra year, but renovations have
5 their own nuance that -- uh, an unpredictability. It was
6 expected to take 9 months, it might take 12 months, might take
7 13, but --

8 CHAIRPERSON HEATH: Sure.

9 MR. SNIDER: -- not -- not -- not -- not an abuse of
10 the, um, term.

11 CHAIRPERSON HEATH: Sure. But given the comments that
12 we just heard from you, it sounds like the ANC's real concern
13 is that this wouldn't ret -- be able to return to being a
14 single-family home --

15 MR. SNIDER: Right.

16 CHAIRPERSON HEATH: -- after you, um, move back to
17 your permanent Chancery. So, I think we've -- we can address
18 those concerns.

19 MR. SNIDER: Fine. Okay.

20 CHAIRPERSON HEATH: Okay. All right. Any other
21 questions or comments, Board? Then I will turn back to Office
22 of Planning.

23 MS. THOMAS: Yes, good morning, Madam Chair. Again,
24 Karen Thomas for the record -- I didn't say that the last
25 time --

1 CHAIRPERSON HEATH: Thank you.

2 MS. THOMAS: -- um, with the Office of Planning, and
3 we will con -- uh, stand on the record for our report to
4 recommend that the Board not disapprove this application. We
5 understand it's for a temporary, um, relocation. And we would
6 support parking relief, um, because the applicant has stated to
7 us that they'd continue to park at their, um, current location
8 on Massachusetts Avenue.

9 CHAIRPERSON HEATH: Okay.

10 MS. THOMAS: And, um, again, we rest on the record.

11 CHAIRPERSON HEATH: Okay.

12 MS. THOMAS: Thank you.

13 CHAIRPERSON HEATH: Thank you. So, just to restate,
14 we'll need you to amend your application because you are
15 required to provide parking, um, but in this case, we
16 understand that you won't, so we will -- we're approving, as a
17 part of this application -- uh, or you're asking us to approve
18 the temporary location and relief from the required parking.

19 MR. SNIDER: Thank -- thank you.

20 CHAIRPERSON HEATH: Okay. All right. Um, I'll now
21 turn to the Department of State re -- representative.

22 MS. EDSON: Thank you. I have, uh, no comments beyond
23 what we provided in our letter of October 16th supporting the
24 Embassy's request to temporarily locate at this location,
25 pending completion of their construction.

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1 CHAIRPERSON HEATH: Okay. Thank you. All right, we
2 don't have any other letters, um, other than the ANC's, which
3 I've just mentioned. We've spoken about that. So, then, I'll
4 ask for anyone --

5 Is the ANC present? Anyone from ANC 2D? No? Okay. Um,
6 then with that, I will ask for anyone who wishes to speak in
7 support or opposition to this request.

8 MR. FRANKEL: Thank you, Madam Chairwoman. Um, as I
9 said, we welcome the Embassy. I'm sorry I'm not, uh, familiar
10 with all the procedures here, and, uh, I must say that the ANC
11 did not certainly seek us out, although we're immediate
12 neighbors, so I don't know the position they've taken. And --
13 and I apologize for, uh, coming here when you already have a
14 letter from, conceivably, the neighborhood that is the formal
15 neighborhood group.

16 Uh, first of all, the comments that just were made in
17 your discussion about parking was one of my concerns. I
18 appreciate, uh, the Embassy not requesting parking. This is a
19 neighborhood, uh, which has not -- no off-side -- off-site --
20 off-street parking available, so we all have to park on the
21 street, and the loss of, conceivably, five or six parking
22 spaces to diplomatic, um, use would have really had an impact
23 on our ability to find adequate street parking, and I
24 appreciate, uh, that, uh, position by the Embassy. I have, uh,
25 two concerns I -- I did want to raise.

1 One is, since the, uh, property was vacated, it was
2 vacant, probably, for 2 or 3 months, maybe slightly longer,
3 after the prior owners or tenants -- whatever they were --
4 moved out. Uh, we have noticed, during that time, uh, a problem
5 with rats, uh, coming from the property to be occupied by the
6 Embassy of Zambia. I don't know if they originate from there --
7 um, I'll talk about that in just a second -- but I, uh -- they
8 -- they come into the back of our property from there. And I do
9 want to make sure that steps are taken by the Embassy to, um,
10 protect health and safety, and to take actions to exterminate
11 rodents and otherwise protect the property so it's not an
12 impact on neighbors, particularly us, who are immediately
13 adjacent to it.

14 Um, uh, I might say, also, during the period that the
15 property was vacant, uh, the landscaping, the external
16 appearance, deteriorated. Uh, there've been some steps, I guess
17 by the Embassy, uh, or the owner -- I'm not sure which -- to
18 kind of clean things up, but I hope, um -- I'm not suggesting
19 it necessarily be part of the order, but I do hope, as tenants,
20 that, uh, they will act to maintain the external appearance,
21 the landscaping, uh, in an adequate way. Uh, the old saying
22 that nobody washes a rented car, uh, I hope will not apply to
23 the Embassy, and they'll be respectful of the neighborhood and
24 the impact of external appearance on the neighborhood.

25 The final thing I want to mention -- it does not

1 relate directly to the Embassy of Zambia, but I hope maybe they
2 can, uh, with the State Department, act. They are now
3 immediately across the street from a property -- I'm sure
4 you're aware of this -- a property that's been abandoned and
5 vacant, uh, for over 10 years. We've lived in our house 10
6 years. This is property owned by the, uh, Pakistani government.
7 Uh, and I've spoken to the Office of Foreign Missions at the
8 State Department, and emailed them, and brought this to their
9 attention.

10 It's a severe health and safety problem, will be to
11 the Embassy of Zambia during their period of time occupying
12 this property, and I hope, uh, that, perhaps, the Embassy of
13 Zambia will have more influence with the State Department than
14 just we, as residents of the neighborhood, in taking action,
15 finally, in property that's been in a deteriorated condition,
16 is used as -- for parking, may in fact be the source of the
17 rodents, uh, which occupy the neighborhood.

18 Nobody pays attention. Nobody takes care. Uh, the
19 Secret Service point to the D.C. police; the D.C. police point
20 to the Secret Service. Um, it's an outrageous situation. I'm
21 sure it's a situation -- I know the D.C. government can't do
22 anything about it, but I would hope that they, too, would, um,
23 try to influence the State Department to taking action against,
24 uh, the Pakistani government, which is, admittedly, a failed
25 state and not particularly friendly to the people of the United

1 States, or the government of the United States. But I do hope
2 that all the parties can act responsibly, and we would welcome
3 the help now from the temporary residence, uh, that is the
4 Embassy of Zambia, in trying to bring about a correction of
5 this really severe danger to the neighborhood. Thank you very
6 much.

7 CHAIRPERSON HEATH: Thank you for taking the time to
8 come down, and for your comments. Yes, would the applicant like
9 to respond?

10 MR. SNIDER: Yes, please. Thank you. Um, I'm -- I'm
11 certain that the rodent problem is not originating from the
12 Embassy staff. They're very fastidious and respectful, to a
13 fault. Um, I will follow up with the property manager to
14 address the issue, and, uh -- and I promise to follow up and --
15 and follow up with him on top of that.

16 CHAIRPERSON HEATH: Okay. All right. Thank you. Um,
17 would the representative from Department of State have anything
18 else you'd like to say, any further comments?

19 MS. EDSON: No, I don't have any further comments at
20 this time.

21 CHAIRPERSON HEATH: Okay.

22 MS. EDSON: I mean, with respect to the -- the -- the
23 property owned by Pakistan, I'm not prepared to discuss it at
24 this point, and I'm not sure it's quite relevant for the issue
25 respecting the Embassy of Zambia.

1 CHAIRPERSON HEATH: Thank you. Is there anyone else
2 here wishing to speak in support of this application? Any --
3 anyone else in support? Anyone else in opposition to this
4 application? Any opposition? Okay.

5 Then, does the Board have any further questions of
6 the applicant?

7 MR. MAY: Um, I -- I just have a question about the
8 -- the -- the duration of this. Um, if -- if we were to grant a
9 1 year from September, whatever the date was, and you think it
10 might be 13 months, um, I -- You know, I don't think we want to
11 leave that hanging out there, because then, in, you know, the
12 11th month, August, you're going to need to come down here and
13 get an extension or something like that. So, I mean, I don't
14 know how we address this in the order, but -- I mean, are you
15 confident that if it were 13 months, that will absolutely be
16 sufficient?

17 MR. SNIDER: Uh, yes, but the -- the -- the Zambian
18 Embassy's permanent Chancery has a -- is an 11,000-square-foot
19 building. It's going, uh, through an, uh, top-to-bottom
20 renovation, and, um -- So, this application -- the -- the
21 original schedule was for approximately 9 months, 9- to 10
22 months of renovations. The nature of the construction, uh,
23 puzzle that has to be put together to re -- rebuild the
24 building is, uh -- it might take a little bit longer. So, I
25 would ask for the Board to consider, uh, perhaps a slightly

1 longer period to allow for the unpredictable.

2 MR. MAY: Okay. So, how slight?

3 MR. SNIDER: Well, let's say 3 months.

4 MR. MAY: Three months.

5 MR. SNIDER: I'd say fifteen -- I'd say, uh --

6 MR. MAY: Fifteen months?

7 MR. SNIDER: Yeah. Until the end of next year.

8 MR. MAY: End of next year? Well, I know that the --
9 what's driving this -- what will drive this for you -- excuse
10 me -- will be strong financial incentives of getting
11 construction done and getting, you know -- and -- and to stop
12 paying rent, I assume. Um, so I think that's really what's
13 going to drive it, more so than us saying, you know, absolutely
14 it's got to be done by, you know, November 15th or something
15 like that. So --

16 MR. SNIDER: Yes.

17 MR. MAY: Um, I'm inclined to go ahead with the 15
18 months, but I guess we'll save that for deliberation.

19 MR. SNIDER: Thank you.

20 CHAIRPERSON HEATH: All right. Thank you. Any other
21 questions? Okay. All right. Thank you. Then if the applicant
22 doesn't have any further comments, we'll close the hearing.
23 Okay. All right.

24 Um, one second -- Uh, we still have to deliberate,
25 um, and decide. All right. Then, uh, based on the information

1 that we've heard, I would move that we not disapprove this
2 request to allow for the temporary location of the Chancery and
3 the amended relief for parking, uh, for a period of 15 months
4 from, uh, now, which will be the end of 2016. So --

5 MR. MAY: From now, or from September, which is --

6 MR. SNIDER: If we could, uh, just aim for December
7 31st of next year?

8 CHAIRPERSON HEATH: Okay.

9 MR. MAY: Okay.

10 CHAIRPERSON HEATH: Okay. So -- so, to continue the
11 motion, uh, the temporary rel -- uh, relocation through
12 December 31st of 2016.

13 MR. MAY: I would second that motion, and, uh, urge
14 the -- that the renovations move as quickly as possible so that
15 it can be less than the -- December 31st, if possible.

16 MR. SNIDER: Okay.

17 CHAIRPERSON HEATH: All right. So, the motion's been
18 made and seconded. All those in favor?

19 (Chorus of ayes)

20 CHAIRPERSON HEATH: All -- anyone opposed?

21 (No audible response)

22 CHAIRPERSON HEATH: Then the motion carries. Thank
23 you. Thank you.

24 MR. MOY: Staff would record the vote as 3-0 to -- to
25 2. This is on the motion of Chairperson Heath. Seconded the

1 motion, uh, Mr. Peter May. Also in support, Vice-Chairman Hill,
2 and, of course, a Board seat vacant and a Board member not
3 present. And, of course, this is, uh, for 15-month period, uh,
4 ending at December 31, 2016. Thank you.

5 CHAIRPERSON HEATH: Thank you. So, we'll call our
6 last Foreign Missions case, Mr. Moy.

7 MR. MOY: Thank you, Madam Chair. Uh, that would be
8 Application Number 19130. This is the application of the
9 Embassy of the Russian Federation, uh, to allow the
10 construction of a security fence at a g -- at an existing
11 embassy in the R-5-D District at premises 2001 Connecticut
12 Avenue, N.W., Square 2536, Lot 308.

13 CHAIRPERSON HEATH: Okay.

14 MR. VEREFENAS: Good morning.

15 CHAIRPERSON HEATH: Good morning. Hi. Will you, uh,
16 all please state your names for the record?

17 MR. VEREFENAS: Andrey Verefenas, home address is
18 1207 Saugas Court, Great Falls, Virginia.

19 MR. KRUTIKOR: Mikhail Krutikor. Um, uh, my address
20 is, uh, 2650 Wisconsin Avenue, N.W., Washington, D.C., ZIP code
21 20007.

22 MR. PARFENOV: Artin (ph.) Parfenov, 2001 Connecticut
23 Avenue, Washington, D.C., N.W.

24 MS. EDSON: Cheryl Edson, Department of State, Office
25 of Foreign Missions.

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1 CHAIRPERSON HEATH: Thank you. Okay. Um, Mr. Moy, one
2 question for you before we proceed: Have we received the
3 affidavit of posting for this case?

4 MR. MOY: Uh, just a second, Ms. -- uh, Madam Chair.
5 If you want to continue, I can report --

6 CHAIRPERSON HEATH: Sure.

7 MR. MOY: -- back after I --

8 CHAIRPERSON HEATH: Also, the, uh, ANC 1C report --
9 if we could see if that's come in yet? All right.

10 MR. MOY: Oh, I do know the -- that there -- there --
11 there is not an ANC 1 report, Madam Chair.

12 CHAIRPERSON HEATH: Okay. Okay. Then I'll ask of the
13 applicant: Do you know if you've posted, uh --

14 MR. VEREFENAS: Uh, yes, uh --

15 CHAIRPERSON HEATH: -- this application?

16 MR. VEREFENAS: -- we did -- we did post the sign,
17 uh, the yellow sign on the gate.

18 CHAIRPERSON HEATH: Okay. Do you know when?

19 MR. VEREFENAS: Uh, it was a year ago.

20 CHAIRPERSON HEATH: You posted the sign a year ago?

21 MR. VEREFENAS: I mean, when we started the procedure
22 and --

23 CHAIRPERSON HEATH: Okay.

24 MR. VEREFENAS: -- you know, like, then -- then, we
25 were just going -- the -- the hearing was just delayed,

1 delayed, and delayed.

2 CHAIRPERSON HEATH: Okay. All right. All right. Um --
3 okay. So, based on our review of the record, and the drawings
4 that you've submitted showing the new security fence to be
5 added on top of the existing balustrade, I think my biggest
6 concern has to do with, uh, historic preservation issues, and
7 we still, at this time, haven't received anything from HPRB.
8 Um, I'm not sure if -- So, you do have a letter from HPRB?

9 MR. VEREFENAS: I have the letter from them.

10 CHAIRPERSON HEATH: Okay. Can you -- do you have
11 multiple copies of that?

12 MR. VEREFENAS: Uh, unfortunately, I just brought
13 one, because I was thinking that they're -- that they were
14 mailing it to everyone, but I can share it with you.

15 CHAIRPERSON HEATH: Okay. Is it HPO or HPRB?

16 MR. VEREFENAS: Uh, let's see -- District of Columbia
17 Zoning Commission, uh -- one second -- where is -- District of
18 Columbia Office of Planning. That's where --

19 CHAIRPERSON HEATH: Yeah, so it's -- it's not --
20 Right. Yeah. So, it's --

21 MR. VEREFENAS: I mean, it's -- it's from, uh, Karen
22 Thompson --

23 CHAIRPERSON HEATH: Right.

24 MR. VEREFENAS: -- uh, Thomas --

25 CHAIRPERSON HEATH: With the Office of Planning --

1 MR. VEREFENAS: Okay.

2 CHAIRPERSON HEATH: -- who was there. Okay. We do
3 have that report.

4 MR. VEREFENAS: Mm-hmm.

5 CHAIRPERSON HEATH: Uh, what we don't have is
6 anything from the Historic Reservati -- uh, Historic
7 Preservation Review Board.

8 MR. VEREFENAS: I was reviewing it, and, uh, it was
9 stating that, uh -- Yeah, here -- here it is. The second part
10 of that is from Hi -- Historic Preservation, uh, Review Board.
11 So, it's right here.

12 CHAIRPERSON HEATH: Okay. Um, let me -- So, have you
13 had -- um, you've had conversations with, obviously, Office of
14 Planning --

15 MR. VEREFENAS: Mm-hmm.

16 CHAIRPERSON HEATH: -- and you understand the issues
17 related to historic preservation.

18 MR. VEREFENAS: Correct.

19 CHAIRPERSON HEATH: Okay. Um, the Historic
20 Preservation Office and the Historic Preservation Review Board
21 are two separate, um, entities, and we're going to need you to,
22 um, uh, review the application with the Historic Preser --

23 MR. VEREFENAS: Uh, we have been --

24 CHAIRPERSON HEATH: -- Preservation Review Board.

25 MR. VEREFENAS: Um -- okay. We have been, uh, with

1 the -- you know, a long conversation with the Historic
2 Preservation Committee, and that's basically who said that we
3 need to come here. And because they are against of us putting
4 the fence over there, uh, unfortunately, there is no other way
5 we can secure the property. Um --

6 CHAIRPERSON HEATH: Have you explored other design
7 options for securing the property?

8 MR. VEREFENAS: Uh, yes, and, uh, they're proposing
9 to put some kind of glass fence, which is not security
10 standards for the Russian government.

11 CHAIRPERSON HEATH: Okay.

12 MR. VEREFENAS: Because glass is, unfortunately --
13 you know.

14 CHAIRPERSON HEATH: That was what the Historic
15 Preservation Office recommended?

16 MR. VEREFENAS: Yeah. Yeah. And that -- that --
17 that's the only option they -- they pretty much recommended to
18 us.

19 CHAIRPERSON HEATH: Okay.

20 MR. VEREFENAS: And, uh, we are, uh, proposing to
21 build the fence on the pri -- I mean, on the property, not, uh,
22 extending to the public property, and, uh, it does not inter --
23 interfere with them. And you said that, uh, the f -- uh, the
24 metal fence will be on top of the balustrade; uh, it's actually
25 behind it.

1 CHAIRPERSON HEATH: Okay.

2 MR. VEREFENAS: If you will review the -- the
3 drawings, it's behind it, so, uh, we'd not want to interfere
4 with the his -- we -- we know that it's a historic landmark.
5 Uh, Russian government just spent almost half a million dollars
6 restoring the landmark to the -- to its original beauty, but,
7 uh, they need to address the, uh, security aspect of that.

8 CHAIRPERSON HEATH: Okay. Does the Board have any
9 other questions of the applicant?

10 MR. MAY: Um, so, it -- the, um -- one of the reasons
11 why this is, um, problematic has to do with the fact that you
12 already have a substantial stone wall that is a -- that
13 protects part of the property in some way. Um, and at the
14 highest point, it means that the fence is going to wind up
15 being something like 16 feet above the sidewalk, which is very,
16 very high. Um, eh, but it's not clear from the elevations how
17 high it is at the low end. Can you --

18 MR. VEREFENAS: At the low end --

19 MR. MAY: -- tell me that?

20 MR. VEREFENAS: -- uh, we are talking about, uh, thr
21 -- so it's -- it's going to be, all together, at, uh -- at 11
22 feet, with -- with the height of the -- the -- at the lowest
23 end. But --

24 MR. MAY: So, it -- it -- it -- you're adding 6 feet
25 of fence height above the balustrade.

1 MR. VEREFENAS: Mm-hmm. Uh, it's -- it's clo -- it's
2 going to be close to 7 feet, because that's --

3 MR. MAY: Seven feet.

4 MR. VEREFENAS: -- a standard, because, uh, the
5 balustrade is considered as a step, unfortunately.

6 MR. MAY: Uh, yeah, I understand that. That -- that's
7 easy.

8 MR. VEREFENAS: Because, I mean, it's not security --

9 MR. MAY: Sure.

10 MR. VEREFENAS: -- so.

11 MR. MAY: Right. So, um, is there -- is there much --
12 I mean, I don't think we have a -- a plan that shows where the
13 -- We have elevations of the fence, but I don't think we have a
14 plan that shows that -- where the fence is on the property.

15 MR. VEREFENAS: Uh, it -- it -- it has been submitted
16 with the package, and, uh, there is a plot of the property, uh
17 --

18 MR. MAY: Of the surveyor's plat?

19 MR. VEREFENAS: Yes. With the --

20 MR. MAY: Yeah, okay --

21 MR. VEREFENAS: -- with the --

22 MR. MAY: -- it's -- it's a li -- eh, eh, it's hard
23 to tell from that. I mean, it sort of shows where the fence is,
24 but it doesn't show where the building is.

25 Um, one of the reasons I'm asking this is that --

1 Have you looked at options that would, um -- that would put the
2 fence somewhere in the yard as opposed to right up against --
3 right up behind the balustrade?

4 MR. VEREFENAS: I mean, that's, uh, pretty much in
5 the yard. I mean, it's, uh -- we -- we are proposing it 2 feet
6 from the -- from the balustrade. And it's going to be, like, it
7 -- it, uh -- 18 inches to 2 feet from the balustrade. It's not
8 going to be right against it.

9 MR. MAY: Okay. The drawings that we have show it, um
10 -- well, it doesn't -- it's not dimensioned, but it's showing
11 that the structure of the balustrade -- maybe not each
12 individual balusters -- ea -- each individual baluster -- is
13 within about -- just going by the scale of other dimensions on
14 there, it's, like, 2- or 3 inches away from the --

15 MR. VEREFENAS: Uh, it is --

16 MR. MAY: -- the baluster.

17 MR. VEREFENAS: -- not going to be 2- to 3 inches,
18 because if you look at the picture over here, uh, you have the
19 bottom, uh, rail, which is the limestone, which is extending
20 from the balustrade another, at least, 7-, 8 inches.

21 MR. MAY: Right. Uh, but I'm looking at your post
22 fence section that was submitted for --

23 MR. VEREFENAS: Mm-hmm.

24 MR. MAY: -- the record. This is Exhibit --

25 MR. VEREFENAS: Yes.

1 MR. MAY: -- Number 9, and it's showing --

2 MR. VEREFENAS: Right.

3 MR. MAY: -- the -- the -- the 9-1/2-foot fence, not
4 including the, um -- the pickets and the tassels and everything
5 else, um, being, um, within a -- just a few inches of the
6 balustrade.

7 MR. VEREFENAS: Mm-hmm. But the -- the fence is going
8 to be located at least 12 inches from the balustrade itself, ju
9 -- ju -- due to the, um --

10 MR. MAY: Okay, but that's not what their drawing
11 says. So, um -- but -- Okay. So, my question is not, can it be
12 a foot away? My question is, can it be, um, 5 feet away so it's
13 not a step?

14 MR. VEREFENAS: Uh, the issue with that is, uh, if
15 it's going to be in the front, it's one thing, but, uh, they
16 have the walkway on the side, between the -- between the
17 building and, uh, the fence --

18 MR. MAY: Yeah.

19 MR. VEREFENAS: -- so -- which is, like, 6 feet wide,
20 and, uh, the -- the only proposition -- I mean, they -- they're
21 losing -- They have some events that are going on all the time
22 over there on the -- on the outside, so that -- that -- that
23 will, uh, interfere with their --

24 MR. MAY: Right.

25 MR. VEREFENAS: -- property.

1 MR. MAY: Okay. Um, it -- it's very hard to
2 understand what your -- your options are and what your
3 flexibility is with the limited documentation here, so that's
4 why I'm asking these questions.

5 MR. VEREFENAS: Mm-hmm.

6 MR. MAY: And, um, I don't know what -- what -- what
7 direction we'll go today, but, uh, it may well be that we'll
8 need to see some better documentation of where the fence is,
9 and that you might need to actually talk to the Hes -- Historic
10 Preservation Review staff about the possibility of having a
11 shorter fence, set a little bit further back from the
12 balustrade, so it's not as visible.

13 MR. VEREFENAS: Uh, we already discussed this option.
14 The Historic Preservation --

15 MR. MAY: Okay.

16 MR. VEREFENAS: -- Committee was on the side.

17 MR. MAY: So, when you say "Committee," who was that?

18 MR. VEREFENAS: Uh, it was, uh --

19 MR. MAY: Was it Steve Calcott, on the staff?

20 MR. VEREFENAS: Yes. Correct.

21 MR. MAY: Okay.

22 MR. VEREFENAS: Yes. He was on the side, uh, it being
23 more than a year ago --

24 MR. MAY: Yeah.

25 MR. VEREFENAS: -- and then we had to go through the

1 process, you know, of applying for it to -- to FMBZA.

2 MR. MAY: Right.

3 MR. VEREFENAS: So, I mean, I --

4 MR. MAY: And -- and -- and so, when you talked --
5 when you talked to him about that --

6 MR. VEREFENAS: Mm-hmm.

7 MR. MAY: -- um, I mean, did -- did he suggest
8 anything specific, and -- and did you simply find that
9 unacceptable? I mean, where did you land --

10 MR. VEREFENAS: Uh --

11 MR. MAY: -- when you talked to him?

12 MR. VEREFENAS: Basically, he said that he's going to
13 be against it. The only thing, uh, he would be, uh -- he -- We
14 were trying to propose to, uh, match the fence that is existing
15 over there so it would look similar.

16 MR. MAY: Right.

17 MR. VEREFENAS: And, uh, Steve was saying that, uh,
18 he was -- uh, he -- he wanted to have it actually less
19 obstructive, and we -- we are fine with that. I mean, we -- we
20 were just trying to -- to -- to, you know -- to -- to -- to
21 come closer to the existing look. Uh, but, uh, in the end, uh,
22 he -- he was just -- uh, you know, they -- they were just
23 against the fence, period.

24 MR. MAY: Okay. So, I mean, I -- I'm completely agree
25 with his perspective that if you're going to have a fence

1 that's immediately behind an ornate balustrade, and it's going
2 to be -- it's -- and it's not original, it shouldn't have that
3 same sort of ornate character of the rear fence.

4 MR. VEREFENAS: Mm-hmm.

5 MR. MAY: So having something that's -- that's
6 simpler, um, makes more sense.

7 But again, I think the placement of it is an issue,
8 and I think if -- if there's a -- eh, I mean, I know it's -- it
9 -- it may not be very good for aesthetic reasons or for
10 security reasons, but some examination of where that fence is
11 in relation to the -- both the building and the balustrade, um,
12 might get it to the point where this is something that -- that
13 is at least not as bad--

14 MR. VEREFENAS: I mean, the ideal --

15 MR. MAY: -- from the Historic Preservation --

16 MR. VEREFENAS: -- scenario would be put -- to put it
17 outside of the -- of the property, but unfortunately, I mean,
18 the -- there is a walkway there --

19 MR. MAY: Oh, I understand that.

20 MR. VEREFENAS: -- which is, like, 3 feet, and then
21 -- We can -- we -- we -- we would love to put it outside.

22 MR. MAY: I'm not talking about outside the property;
23 I'm talking about inside the property, but between the
24 balustrade and the building. So -- and -- but we don't have any
25 -- and I don't have any way of understanding whether that's

1 possible based on what you've submitted. All right. I -- I -- I
2 think that's it for my questions.

3 CHAIRPERSON HEATH: Okay. All right. So, again, to
4 the applicant: We can proceed on with the hearing, but we are
5 going to need you to have conversations with, um, the Historic
6 Preservation Review Board, beyond the staff, um, that you've
7 spoken with at HPO. We're going to need HPRB to weigh in on --

8 MR. VEREFENAS: I've been --

9 CHAIRPERSON HEATH: -- on this application.

10 MR. VEREFENAS: -- trying to reach someone on this
11 matter.

12 CHAIRPERSON HEATH: Okay.

13 MR. VEREFENAS: I mean, be -- I've -- we've been
14 dealing with this for a year now.

15 CHAIRPERSON HEATH: Sure. I understand.

16 MR. VEREFENAS: And we've been thrown from this
17 Historic Committee to the -- to -- to State Department, back
18 and forth, and now we are here, finally --

19 CHAIRPERSON HEATH: Okay.

20 MR. VEREFENAS: -- and we've been, uh, waiting for
21 this hearing for 4 months now.

22 CHAIRPERSON HEATH: Okay. All right. And I think that
23 it would also be helpful, for us, if we had drawings that
24 would, uh, explain what my colleague, Mr. May, is asking --

25 MR. VEREFENAS: Mm-hmm.

1 CHAIRPERSON HEATH: -- with regards to the placement
2 of the fence and -- and where it might be better positioned. If
3 we had a plan that showed that, and if your section drawing
4 accurately depicted what you're describing --

5 MR. VEREFENAS: Mm-hmm.

6 CHAIRPERSON HEATH: -- because right now, what we see
7 in the section shows the fence being just inches away. In fact,
8 it's -- it's -- the fence is in a concrete footer that abuts
9 the balustrade. So, it -- it is very close to what we're --
10 we're seeing here. So, we would need drawings that accurately
11 depict the placement of the fence and that help us understand
12 why it's best placed there versus further into the site.

13 MR. VEREFENAS: Okay.

14 CHAIRPERSON HEATH: Okay? All right. Um, so unless
15 the Board has any other questions --

16 MR. VEREFENAS: So what would be next up? I mean,
17 when can we reschedule it for? I mean, like, uh, frankly, where
18 -- what -- where are we, uh, at this point right now? I just do
19 not want indefinite answer for -- you know.

20 CHAIRPERSON HEATH: Sure. Absolutely. Absolutely. One
21 second.

22 (Off mic)

23 CHAIRPERSON HEATH: All right. Okay. So, um, before
24 we -- We will definitely let you know how we'll proceed, um, if
25 we don't decide on this today --

1 MR. VEREFENAS: Mm-hmm.

2 CHAIRPERSON HEATH: -- and, uh -- and talk to you
3 about next steps so you'll have a -- a clear understanding of
4 the process and the timeline before we close today, but, um, if
5 you're okay with us proceeding on so that we can get to that --

6 MR. VEREFENAS: Yes.

7 CHAIRPERSON HEATH: -- conclusion --

8 MR. VEREFENAS: Mm-hmm.

9 CHAIRPERSON HEATH: -- I will turn to Office of
10 Planning, because I think we may be able to, uh, get to where
11 you need to be through conversations with --

12 MR. VEREFENAS: Okay.

13 CHAIRPERSON HEATH: -- with them. So, I'll turn to
14 Karen Thomas.

15 MS. THOMAS: Yes. Um, Good morning, Madam Chair,
16 again. Karen Thomas with the Office of Planning. Um, we
17 absolutely acknowledge the, um, Russian Federation's, um,
18 concerns, security concerns, and we're willing to work with
19 them to, um, come to some resolution with respect to the fence.
20 And, uh, to that end, we would recommend that they do go before
21 the, um, Historic Preservation Review Board, and, um, we
22 anticipate that that could be done in December, um, so they can
23 have this resolved as --

24 CHAIRPERSON HEATH: So, that's --

25 MS. THOMAS: -- as soon as possible.

1 CHAIRPERSON HEATH: -- the next meeting?
2 MS. THOMAS: That would be the next meeting --
3 CHAIRPERSON HEATH: Okay.
4 MS. THOMAS: -- in -- in December.
5 CHAIRPERSON HEATH: Would you be able to formally
6 refer them, um, to HPRB?
7 MS. THOMAS: Um, I'm not sure about that --
8 CHAIRPERSON HEATH: Okay.
9 MS. THOMAS: -- but I can, um, work with, um, Steve
10 Calcott to --
11 CHAIRPERSON HEATH: Okay.
12 MS. THOMAS: --to -- and with the applicant --
13 CHAIRPERSON HEATH: To try to get them on the
14 calendar?
15 MS. THOMAS: -- to -- to get them on the calendar.
16 CHAIRPERSON HEATH: Okay.
17 MS. THOMAS: Yes.
18 CHAIRPERSON HEATH: All right.
19 MS. THOMAS: But I -- I did, um -- we did note that
20 they could be on the December agenda.
21 CHAIRPERSON HEATH: Okay.
22 MS. THOMAS: Mm-hmm.
23 CHAIRPERSON HEATH: All right. Okay. So --
24 MS. GLAZER: Madam Chair, perhaps, uh, the date --
25 the specific date could be included in the record?

1 CHAIRPERSON HEATH: Sure. Do you know the specific
2 date of their next meeting in December?

3 MS. THOMAS: I do not have the specific date right
4 now, but, um, if you can give me a few minutes, I can try and
5 get --

6 CHAIRPERSON HEATH: Sure.

7 MS. THOMAS: -- some answers on that.

8 CHAIRPERSON HEATH: Okay. All right. So, just so you
9 understand, uh, as the applicant, where we'd like to get you on
10 the December calendar for the Historic Preservation Review
11 Board so that you would then present, and they would be able to
12 weigh in on your application and the design of the fence, the
13 location -- all of the things that we're talking about -- and,
14 uh, if we can get --

15 If -- if it's possible for you to get on in December,
16 that would be the next time that they're meeting. That would be
17 the next step in this process. And then, they would submit back
18 to us their, um -- their comments, um, and then we could
19 proceed further with a decision on this case.

20 MR. VEREFENAS: Um, originally, when we went to the
21 Historic Preservation Committee -- and, uh, we were actually
22 trying to apply for the historic review, they said, okay, that
23 they -- we need to go first in front of your Board. So, now we
24 are going to go back to them, and then we are scheduling
25 another meeting with you.

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1 CHAIRPERSON HEATH: You'll go beyond just the staff
2 to actually present to the Historic Preservation Review Board,
3 which is, uh, a -- a separate body --

4 MR. VEREFENAS: Mm-hmm.

5 CHAIRPERSON HEATH: -- from the staff, and so that's
6 a -- another step in this process that you'll have to -- you'll
7 have to go through, and then you can come back to us. So, what
8 you've done so far, based on what you've explained to us, is
9 meet with the staff, which is fine, but we need HPRB to also
10 review the application. All right? Let's see if we can -- if we
11 can get clarity on the -- the date in December.

12 MS. THOMAS: Madam Chair, um, the next date for the
13 Historic Preservation Review Board will be December
14 the 15th --

15 CHAIRPERSON HEATH: Okay.

16 MS. THOMAS: -- 2005 -- 2015.

17 CHAIRPERSON HEATH: Okay. All right. So, then, we
18 would like to, um -- I would recommend that we defer this
19 application until the Historic Preservation Review Board has an
20 opportunity to -- to meet, um, on this, if -- assuming you can
21 -- we can get this on their calendar in December.

22 MR. MAY: Um, eh, December 15th? You sure about that?
23 Because that's when the BZA meets next. I mean, meets in that
24 week in December. That's a Tuesday as opposed to a Thursday.
25 Isn't it normally a Thursday?

1 MS. THOMAS: Uh, I think that's what the calendar is
2 show -- showing right now, but, um, let me verify that again.

3 CHAIRPERSON HEATH: Okay.

4 MR. VEREFENAS: Because we would like to try to move
5 it as quickly as possible. We have been in this process for a
6 year now, since last October.

7 CHAIRPERSON HEATH: Sure.

8 MR. VEREFENAS: So, we've been, you know, through
9 different departments out here now.

10 CHAIRPERSON HEATH: Sure. We understand. Okay.

11 (Off mic)

12 MR. MOY: Madam Chair, while there's a pause -- Uh,
13 just to get back with you on the question of the affidavit:
14 There -- there's no official affidavit in the record, although,
15 um, certainly the Embassy may have posted, but there's no
16 affidavit that -- uh, that would attest to the posting, of
17 course.

18 CHAIRPERSON HEATH: Okay.

19 MR. VEREFENAS: It has been submitted with the
20 package. It should be in the package.

21 CHAIRPERSON HEATH: If you could reconfirm that
22 that's been submitted and uploaded to IZIS -- if you -- eh, we
23 understand that you posted over a year ago. We need the, um,
24 affidavit signed, saying when it was posted, and a photograph
25 of the posting on the property, and so if you could submit that

1 to us, or --

2 MR. VEREFENAS: Okay --

3 (Simultaneous speaking)

4 CHAIRPERSON HEATH: Just make sure we have it in the
5 record.

6 MR. VEREFENAS: Okay.

7 CHAIRPERSON HEATH: Thank you.

8 MR. VEREFENAS: Um, let me ask you a question. So,
9 let's say, uh, theoretically, we have a meeting with the
10 Historic, uh, Committee on the 15th of December, when we can
11 meet -- uh, when -- when we can present our case again in front
12 of you, uh, B -- BZA.

13 CHAIRPERSON HEATH: So, it, uh, appears that the next
14 meeting for HPRB is December 3rd --

15 MR. VEREFENAS: Okay.

16 CHAIRPERSON HEATH: -- which would allow us to put
17 this back on the BZA calendar for December 15th.

18 MR. VEREFENAS: Very good.

19 CHAIRPERSON HEATH: That's the next time when, um,
20 all of the Members participating today will be here, and so
21 we'll -- we'll keep this moving. So, you would have a date of
22 December 3rd for HPRB, and December 15th for the BZA. And
23 hopefully, at that time, we'll have everything we need to be
24 able to give an official ruling, um, and bring the case to a
25 close for you.

1 MR. VEREFENAS: Okay. Thank you.

2 CHAIRPERSON HEATH: All right?

3 MS. GLAZER: Madam Chair? Um, it -- so, is the case
4 set for decision, and the record closed, or is the Board going
5 to allow more submissions from the applicant, as well, in
6 response to any HPRB?

7 CHAIRPERSON HEATH: We would want the applicant to
8 respond to comments from HPRB. So, we will not close the
9 record. All right. Okay?

10 So, Mr. Moy, can we officially continue this case,
11 then, until December 15th?

12 MR. MOY: Yes, indeed.

13 CHAIRPERSON HEATH: Okay.

14 MR. VEREFENAS: Thank you.

15 CHAIRPERSON HEATH: Um, let's see, is there anybody
16 else who's present today who wishes to testify, either in
17 support or opposition? Um -- okay. I just wanted to make sure
18 that anybody who was here has a chance to speak since they
19 would have taken the time to come down, so -- Okay. All right.
20 Thank you.

21 All right. Then, let's take a 5-minute break, or a
22 10:30 break, and we'll come back with our first public meeting
23 case.

24 (Whereupon, the above-entitled matter went off the
25 record at 10:34 a.m., and then resumed)

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1 CHAIRPERSON HEATH: Um, all right. All right. We'll
2 please come to order. All right. If we could have it quiet
3 here, please. Thank you.

4 We -- the Board needs to address one issue regarding
5 the last Foreign Missions case that was just before us. It's
6 come to our attention that the date of the next HPRB review
7 meeting is December 17th, not December 3rd, and so we will need
8 to make a change in the date for the continued hearing for the
9 Russian Federation, for their application.

10 So, if we could -- Mr. Moy, look at December -- or,
11 I'm sorry, January 12th. That's our first date in January.

12 MR. MOY: Yes, uh, there's, uh -- we can -- we can --
13 there's -- there would be an opening for that for -- as the --
14 the first application of the day, Madam Chair.

15 CHAIRPERSON HEATH: Okay. That's great. And, uh, Mr.
16 May would join us for that first application. Okay. Perfect.
17 So, that case will be continued to January 12th, rather than
18 December 15th. Okay.

19 So, we will, uh, continue with our public meeting,
20 cases. If -- Mr. May, if you'll call the first? Oh, I'm sorry,
21 Mr. -- I'm -- I'm not going to do this today.

22 (Laughter)

23 CHAIRPERSON HEATH: Mr. Moy, if you would please call
24 the first.

25 MR. MOY: I'll just get a name tag. Uh, all right,

1 the --

2 (Laughter)

3 MR. MOY: All right, that would be --

4 CHAIRPERSON HEATH: You need one on one side, and one
5 on the other.

6 MR. MOY: All right, that would be an, uh, expedited
7 review, uh, case. Um that's Application Number 19098 of Kevin
8 Murphy, uh, special exception under Section 223, not meeting
9 the non-conforming structure requirements under Section, uh,
10 2001.3, to construct a two-story addition in the R-5-B District
11 at premises 2125 10th Street, N.W.

12 CHAIRPERSON HEATH: Okay. Um, before we begin, I'd
13 like to just clarify that based on our -- my review of the
14 case, uh, I believe that the relief being requested, uh, is
15 appropriate as relief from 223, not meeting 2001.3, and also
16 403.2, lot occupancy. So, I think the Board should be
17 considering that relief, uh, as we consider the special
18 exception. And the applicant will need to revise their
19 application to include all of the relief as we -- as I've just
20 clarified it.

21 Um, aside from that, I don't have any other issues
22 with this application. Does the Board have any, um -- We, uh,
23 have a letter from OP recommending approval. We don't have a
24 letter on file from ANC 1B, but we do have a letter of no
25 objection from Department of Transportation.

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1 So, with the clarified relief, I don't have any other
2 issues, and unless the Board has anything else we'd like to
3 discuss, I would move that we approve the special exception
4 application for relief under 223, not meeting 2001.3, and 403.2
5 for lot occupancy.

6 MR. HILL: I second.

7 CHAIRPERSON HEATH: The motion's been made and
8 seconded. Any further discussion? All those in favor?

9 (Chorus of ayes)

10 CHAIRPERSON HEATH: Any opposition?

11 (No audible response)

12 CHAIRPERSON HEATH: The motion carries. Mr. Moy?

13 MR. MOY: Uh, Chair would vo -- uh, Chair would
14 record the vote as 3-0-2, this on the motion of, uh,
15 Chairperson Heath to approve the amended, uh, application to,
16 uh, include, uh, uh, 403.2. Seconded the motion is, uh, Vice-
17 Chairman, uh, Hill. Also in support, Mr. Peter May, and of
18 course, uh, we have a Member not present today and a Board seat
19 vacant. Three to zero, Madam Chair.

20 CHAIRPERSON HEATH: Okay. Summary order.

21 MR. MOY: Yes, thank you.

22 CHAIRPERSON HEATH: Okay. We'll continue with the
23 order.

24 MR. MOY: Yes. The, uh, next, uh, application for
25 decision making is a request for a minor modification to

1 Application Number 18309 of Jubilee Housing. Uh, as the Board
2 will recall, this application was originally, uh, uh, approved
3 for a special exception relief to allow a child development
4 center, uh, 70 infants and -- and children and 25 staff under
5 Section 205, and a special ex -- exception to allow a community
6 service center, serving 30 high school and children -- high-
7 school-age children under Section 334.1, in the D/R-5-B
8 District on the ground floor of premises 1474 Columbia Road,
9 N.W.

10 CHAIRPERSON HEATH: Okay. Thank you, Mr. Moy. And so,
11 based on the review of this application, uh, I understand that
12 the applicant seeks to reduce the footprint of the child
13 development center in order to increase the community service
14 center. As the Board, uh, we will need to address a few issues.

15 First is, uh, we'll need to waive the 2-year filing
16 provision. The deadline for filing of this modification was
17 February 27, 2015, and so, um, I would recommend that we waive
18 that 2-year filing provision, based on the fact that the
19 applicant has, uh -- didn't understand until after February 27
20 that they would be working with Martha's Table on new programs
21 which are driving the change from having, uh -- the change to
22 reduce the footprint of the child development center and to
23 increase the community service center.

24 So, again, I would -- I recommend -- Is there any
25 discussion on waiving the 2-year filing provision? Okay. So, uh

1 -- so we will waive that.

2 Uh, the second thing that the Board will need to
3 speak to is whether or not we find the modification to, in
4 fact, qualify as minor, um, and I have no issues here. Um, I
5 think that, um, the change that's -- that's been made is in
6 keeping with the intent of the previously approved application.

7 Any discussion around the issue of this being a minor
8 modification? Okay.

9 So, then, we will proceed to the third piece of this
10 application, which is that we need to rule on, uh, whether or
11 not this application, now having a new community service use,
12 meets the requirements under 334, and that would be 334.2: "A
13 community service center shall be located so that it is not
14 likely to become objectionable to neighboring properties
15 because of noise or other objectionable [concerns]"; 334.3: "No
16 structural changes shall be made except those required by other
17 municipal laws or regulations"; and 334.4: "The use shall be
18 reasonably necessary or convenient to the neighborhood in which
19 it is proposed to be located"; 334.5, finally: "A community
20 service center shall not be organized for profit, and no part
21 of its net income [shall inure] to the benefit of any private
22 shareholder or individual."

23 And, uh, I believe that this project is, uh -- meets
24 the requirements, uh, of each of these, um -- of each of the
25 provisions under 30 -- uh, 334.2 through 334.5. Any discussion

1 from the Board? Okay.

2 Um, there are conditions that were, um, agreed to as
3 a part of the previous order, and those are being modified, um,
4 and I'll just read through the conditions, uh, because they
5 would still apply should we decide to approve this
6 modification, but with the changes, as I'll note.

7 Number 1: Um, approval shall be for a period of 7
8 years, commencing on the issuance of the first certificate of
9 occupancy for the child development center or community service
10 center uses at the property.

11 Uh, condition number 2: There shall be a maximum of
12 48 children and 16 staff at the child development center at any
13 time during its core hours of 7:00 a.m. to 6:00 p.m. There
14 shall be a maximum of 25 children, and I believe it's now 8
15 staff, at the child development center at any 1 time, from 6:00
16 p.m. to 7:00 a.m., provided that there shall be no use of the
17 outdoor play area after dark.

18 Number 3: They'll share -- there shall be a maximum
19 of 30 students and 4 staff at the teen residence center space
20 at any 1 time from 3:00 p.m. to 10 p.m.

21 Number 4: The family resource center shall be used
22 from 9:00 a.m. to 6:00 p.m. and shall also be permitted to
23 operate until 9:00 p.m. a ma -- a maximum of 3 times per week.

24 Number 5, which is a completely new condition: The
25 McKenna's Wagon and Pa -- uh, Market Pantry shall operate

1 between the hours of 1:00 a.m. to 6:45 p.m., and 9:00 to 5:00
2 p.m. respectfully. There shall be a maximum of 13 volunteers
3 and 1 staff at any 1 time, with a maximum of 20 program-
4 enrolled visitors per day at the Market Pantry.

5 The new number -- uh, previously number 5, new number
6 6: The applicant shall implement the traffic management plan as
7 provided.

8 And the new number 7, which was previously number 6: The
9 applicant shall make best efforts to work with DDOT to locate a
10 bike rack adjacent to the property on 15th Street, if
11 permitted, through the Historic Review process.

12 Um, so, um, with that, if the Board has no further
13 comments, then I would move that we approve this, uh,
14 modification, the minor modification, with the, uh, conditions,
15 the new conditions, as I've stated, um, and that we also waive
16 the 2-year filing provision.

17 MR. HILL: I second.

18 CHAIRPERSON HEATH: Um, the motion's been made and
19 seconded. Um -- Yes?

20 MR. MOY: Um, just a moment -- Before you vote,
21 I've --

22 CHAIRPERSON HEATH: Sure.

23 MR. MOY: -- got a -- a hand signal from --

24 CHAIRPERSON HEATH: Okay.

25 MR. MOY: -- OP.

1 CHAIRPERSON HEATH: Okay. So, we have --
2 MR. MOY: May want to --
3 CHAIRPERSON HEATH: -- request from --
4 MR. MOY: -- see what she needs before you continue.
5 CHAIRPERSON HEATH: Sure. Okay.
6 MS. THOMAS: Madam Chair, if I -- respectfully
7 request --
8 CHAIRPERSON HEATH: Sure.
9 MS. THOMAS: It's a -- uh, just a minor correction,
10 um --
11 CHAIRPERSON HEATH: To the conditions?
12 MS. THOMAS: -- to the condition where, uh, you said
13 1:00 -- 1:00 -- 1:00 p.m.
14 CHAIRPERSON HEATH: Which condition is it?
15 MS. THOMAS: Um, let's see, let me just make sure --
16 Um -- and it's supposed to be 10:00 --
17 CHAIRPERSON HEATH: Oh, I did -- I -- is it number
18 five?
19 MS. THOMAS: Five? One --
20 CHAIRPERSON HEATH: 1:00 p.m. --
21 MS. THOMAS: Yes, to s --
22 CHAIRPERSON HEATH: -- to 6:45 -- yes.
23 MS. THOMAS: Yes, to --
24 CHAIRPERSON HEATH: All right. Thank you for that
25 correction.

1 MS. THOMAS: 10:00, it should be 10:00.

2 CHAIRPERSON HEATH: Was it 1:00 p.m. to 6:45 p.m.?

3 MS. THOMAS: Let's see -- Let me -- let me just,
4 uh --

5 CHAIRPERSON HEATH: Okay.

6 MS. THOMAS: -- double check -- a.m., 10:00 a.m.

7 CHAIRPERSON HEATH: 10:00 a.m.

8 MS. THOMAS: 10:00 a.m.

9 CHAIRPERSON HEATH: Got it. Okay. 10:00 a.m. to 6:45
10 p.m.

11 MS. THOMAS: Mm-hmm. Yeah.

12 CHAIRPERSON HEATH: Okay.

13 MS. THOMAS: Thank you.

14 CHAIRPERSON HEATH: Thank you. Okay. So, the new
15 condition, number 5, will read: The McKenna's Wagon and Market
16 Pantry shall operate between the hours of 10:00 a.m. to 6:45
17 p.m., and 9:00 to 5:00 p.m., respectfully. There shall be a
18 maximum of 13 volunteers and 1 staff at any 1 time, with a
19 maximum of 20 program-enrolled visitors per day to the Market
20 Pantry.

21 Okay. All right. So, back to the motion. I think
22 you've seconded.

23 MR. HILL: I second it.

24 CHAIRPERSON HEATH: Okay. Any further discussion?
25 Then, all those in favor?

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1 (Chorus of ayes)

2 CHAIRPERSON HEATH: Anyone opposed?

3 (No audible response)

4 CHAIRPERSON HEATH: The motion carries.

5 MR. MOY: Madam Chair, before I -- I read back the
6 vote, uh, we do have a -- an absentee ballot vote from, uh,
7 Jeff Hinkle --

8 CHAIRPERSON HEATH: All right.

9 MR. MOY: -- who participated on this application,
10 and, uh, he votes to approve, with such conditions as the Board
11 may impose.

12 CHAIRPERSON HEATH: Okay.

13 MR. MOY: So that would give a final vote for the
14 Board as 4-0-1. Um, and of course, on the motion of, uh -- of
15 your -- of you, Chairperson Heath, with, uh, uh, the motion as
16 you've, uh, just described; seconded the motion, Vice-Chairman
17 Hill; also in support Mr. Peter May; and, of course, the
18 absentee vote of, uh, Mr. Hinkle and the Board seat vacant, so
19 motion carries.

20 CHAIRPERSON HEATH: Okay. Thank you. Mr. Moy --

21 MR. MOY: I think we could do a summary. We --

22 CHAIRPERSON HEATH: Summary.

23 MR. MOY: -- waive that. Thank you.

24 CHAIRPERSON HEATH: Sure. So, our next meeting case:
25 a motion for reconsideration.

1 MR. MOY: Yes, Madam Chair, there are, uh, two
2 motions for reconsideration the Board may want to entertain
3 taking up together. Um, the first is Application Number 19040
4 of District Properties.com. The other is Application Number
5 19041 of Distr -- District Properties.com -- .com. Uh, the
6 first is located at, um, 6002 Clay Street, N.E. The other, the
7 second, is located at 4926 Foote Street, N.E. And again, um,
8 these are motions for reconsideration from the ANC.

9 CHAIRPERSON HEATH: Okay. Um, I -- I'm fine to
10 consider these together, since these two applications were
11 submitted together, and we previously reviewed them together.

12 Um, so the first matter that the Board will have to
13 address is the motion to, uh -- the motion for timely filing.
14 Um, the ANC filed their motion, uh, simply a day late. Uh, the
15 filing deadline was October 8th, and this was filed on October
16 9th. They've stated that they weren't able to file in time due
17 to having to deal with other community issues, um, and I feel,
18 because the -- the -- the ask here is minor, a day, that, um --
19 although I wish they could have given us a stronger reason, but
20 I'm -- I'm inclined to -- to grant the, um, waiver of -- of the
21 deadline for filing.

22 MR. MAY: I have no problem, same reason.

23 CHAIRPERSON HEATH: Okay.

24 MR. MAY: It's --

25 CHAIRPERSON HEATH: Okay.

1 MR. MAY: -- it's -- it's just a day, and I
2 understand the ANC's going to be very busy --

3 CHAIRPERSON HEATH: Mm-hmm.

4 MR. MAY: -- and this is not always the norm of their
5 routine. So, uh, I think that's fine that we consider it.

6 CHAIRPERSON HEATH: Okay. Um -- all right. So, um --
7 so, the second matter that we'll have to decide on is the
8 matter of reconsideration. Um, in order to determine that we
9 should reconsider this case, we'll have to state how the Board,
10 um, was erroneous in our previous ruling on this case.

11 Um, and looking at the information from the ANC, it
12 appears that they were having conversations with the applicant,
13 and that they -- the applicant actually presented to the ANC on
14 September 10th, but at that time, they didn't feel they had
15 enough information to make a final judgment, and that they, as
16 a result, asked the applicant to come back to their next
17 meeting.

18 Um, the -- in the meantime, the ANC filed for, uh,
19 postponement of the BZA's hearing of this case and that request
20 for postponement was denied, and we proceeded with the case.
21 Um, I think the -- the ANC expected that, on good faith, the
22 applicant would have attended their next meeting in order to
23 discuss details, but because the applicant had already received
24 their approval, they didn't attend the meeting.

25 So, um, I think, based on the fact that the -- there

1 were conversations happening, and we made a decision or a
2 judgment in the middle of that, and the ANC was still looking
3 for additional information, um, I'm inclined to think that we
4 should give the ANC and the applicant a little bit more time to
5 -- for the ANC to get the details that they're looking for.
6 It's unfortunate the -- I don't believe the ANC was here for
7 the hearing, because we may have been able to address some of
8 the issues then, but, um --

9 Does anyone else have a -- a feeling about this, or,
10 um, thoughts about how we might proceed?

11 MR. MAY: Um, Madam Chair, uh, you know, I'm -- I'm
12 sympathetic to the -- the desire of the ANC to want to have
13 full information before they make a -- make a recommendation,
14 but my recollection is that we had already delayed this project
15 once. I don't think that we have any indication that the, um --
16 that the, uh -- the applicant was unwilling to meet with the
17 ANC, and, uh -- you know, we -- we made the decision to move
18 ahead without the ANC's full input, knowing that they wanted to
19 have extra time.

20 We decided once before that, uh, the, uh -- their
21 request for additional time, um, did not merit granting it,
22 back in September. S -- so, now, uh, you know, a month and a
23 half later, uh, we would take up, you know, the issue of -- of
24 reconsidering our own decision not to -- to -- to postpone. I
25 -- I don't think that really makes sense, and I don't think

1 it's fair to the applicant.

2 I also don't think that this -- I mean, th -- these
3 are all very modest projects with very modest relief associated
4 with them. I don't think it's, um -- it's worth proloming the
5 -- prolonging the process, um, either -- Um, I -- I don't think
6 we're doing a great service to the -- the ANC by doing so.
7 We're certainly not doing any service to the, uh, uh -- the
8 applicant by doing so.

9 So, I -- I'm not really in -- in favor of, uh -- of
10 reconsidering that decision.

11 MR. HILL: I'd also agree with, uh, my colleague, in
12 that, as I recall -- again, he -- there was, you know, a lot of
13 discussion about trying to reach out to the ANC, trying to meet
14 with them, and we did decide to go and move forward. I remember
15 this, uh -- these projects because there was the whole thing
16 about the kitchen window, and the back of the, uh -- the, uh --
17 the developments, and, um --

18 You know, I don't think anything would change my
19 mind, also, regardless, either way, in terms of, uh, where, uh,
20 I stood before. So, I think that, you know, I would also be in
21 favor of just denying the reconsideration.

22 CHAIRPERSON HEATH: Yeah. Um, thank you. I -- I am
23 also very sympathetic to the ANC's position, but I agree with
24 both of you that, um, they had opportunity. I think what, uh,
25 may have happened in this case is that the bulk of the, um,

1 initial review period for the ANC took place during the summer
2 months, when they weren't meeting as frequently, but, uh, the
3 ANC certainly had time, um, uh, in September, when they met
4 with the applicant.

5 Um, we did postpone this, uh, in order to allow them
6 additional time to meet with the applicant, and, uh -- and
7 unfortunately, in order for us to reconsider this, we'd have to
8 determine that we were in error in our previous determination,
9 and it's -- they're not really giving us much to go on to
10 determine that we were in error.

11 So, um -- Then with that, it sounds like we are all
12 in agreement that we will deny this request for
13 reconsideration. So, I'll make the motion that we deny the
14 request for reconsideration.

15 MR. MAY: And -- and this is for Case 19040 and
16 19041?

17 CHAIRPERSON HEATH: Correct.

18 MR. MAY: I would second that.

19 CHAIRPERSON HEATH: The motion's been made and
20 seconded. Any further discussion? All those in favor?

21 (Chorus of ayes)

22 CHAIRPERSON HEATH: Any opposition?

23 (No audible response)

24 CHAIRPERSON HEATH: The motion carries. Mr. Moy?

25 MR. MOY: Yes, thank you. Uh, before, uh, recording

1 the vote, Madam Chair, we do have, uh, uh, two absentee ballots
2 from, uh, Mr. Jeffrey Hinkle on these two a -- applications,
3 and his absentee, uh, vote is to deny the, uh, request for
4 reconsideration. So, that would give a total vote of, uh, 4-0-1
5 as on the motion of, uh, Chairperson Heath. Seconded the
6 motion, Mr. Peter May. Also in support, uh, uh, Vice -- uh,
7 Vice-Chair Hill, and of course, Mr. Hinkle, seat vacant. Motion
8 carries.

9 CHAIRPERSON HEATH: Okay. Thank you.

10 (Off-mic speaking)

11 CHAIRPERSON HEATH: Yes we did. We did. Um, I
12 appreciate Mr. Hinkle taking the time to review all of these
13 cases while on vacation. Um, all right. So, our ne -- can we do
14 a summary on that, or do we need to do a full order?

15 (Off-mic speaking)

16 CHAIRPERSON HEATH: Okay. So, a full order?

17 MR. MOY: Okay. The, uh, last, uh, case for decision
18 making, um, um, Madam Chair, is the Application Number 18866 of
19 Planned Parenthood Association of D.C. Uh, this is the, uh, uh,
20 request for reconsideration, uh, on property located at 1108
21 16th Street, N.W. Um, staff will leave that, uh, w -- in here.

22 CHAIRPERSON HEATH: Okay. So, we have a few issues
23 that we need to consider as a part of this motion, um, and the
24 first would be that -- Just as a preliminary matter, um, I'll
25 note that Red A&W, as the current owner, um, of the subject

1 property, and the successor, um, uh, in interest, uh, for
2 Planned Parenthood, is now a party to this case. Um, we previ
3 -- when this case was before us previously, uh, Planned
4 Parenthood still owned the site, but A&W has since taken over
5 ownership.

6 Um, we'll also need to decide, uh, whether to accept
7 Lesser Atlantic, um -- Lesser Atlantic's reply brief. There
8 were a number of documents going back and forth, uh, being
9 submitted to the file from Lesser Atlantic and Red A&W, uh, and
10 so we'll need to decide whether to accept all of the, um,
11 additional documentation that was sub -- submitted, both the
12 reply brief and a surreply, and I think we had a surreply to
13 the surreply, um, so, uh --

14 And then, we'll also need to decide whether there's
15 good cause to waive the party status requirement and the 10-day
16 filing deadline in this case, um, and whether Red A&W will be
17 prejudiced by such a waiver, um, and then we can consider the
18 motion for reconsideration and rehearing.

19 Um, so, um -- and in -- we all acknowledge that Red
20 A&W is now party to the case. Um, uh, does the Board have any
21 feelings about whether or not to accept the reply brief and the
22 surreply and the subsequent documentation that's been filed?

23 MR. MAY: I guess I'm a little confused about the
24 order in which we're deciding these things. I mean, the -- I
25 mean, it would seem to me that the first thing that we would

1 consider is whether to grant -- uh, whether there's good cause
2 to waive the party status requirement and 10-day filing
3 deadline, because if we don't grant that waiver --

4 CHAIRPERSON HEATH: Then --

5 MR. MAY: -- then the original --

6 CHAIRPERSON HEATH: Surreply won't matter.

7 MR. MAY: -- reply from -- from Lesser Atlantic
8 doesn't come into place, and so then the -- the reply brief
9 from the new party in this doesn't come into play.

10 CHAIRPERSON HEATH: Okay. We can --

11 MR. MAY: Is that -- does that -- oh, we don't
12 have --

13 CHAIRPERSON HEATH: We do -- this is Lawrence's case.

14 MR. MAY: Oh, I'm sorry, it's Lawrence's case.

15 CHAIRPERSON HEATH: Yeah.

16 MR. MAY: Sorry.

17 CHAIRPERSON HEATH: So --

18 MR. MAY: I didn't see you back there.

19 (Laughter)

20 MR. MAY: Sorry.

21 CHAIRPERSON HEATH: Yeah. I would be fine --

22 MR. MAY: So, I mean, does that --

23 CHAIRPERSON HEATH: -- with --

24 MR. MAY: Does that make sense, legally? The -- the
25 -- the first thing to consider is the waiver of the 10-day?

1 MR. FERRIS: I think, le -- legally, you could go
2 either way, really, but if you would rather address the -- the
3 waiver first, that -- I think that would be appropriate, so, um
4 -- But all the -- all the filings regard the waiver, um, so.
5 You know, so.

6 CHAIRPERSON HEATH: Okay. All right. Okay. So, then
7 we -- I'm fine to proceed with discussing the party status
8 requirement and 10-day filing, uh, deadline first, before we
9 move to the documentation and whether we're willing to accept
10 that.

11 MR. HILL: Well, my thoughts, Madam Chair --

12 CHAIRPERSON HEATH: Mm-hmm? Sure.

13 MR. HILL: And I'd be happy to, you know, hear what
14 my colleagues have to say, but as far as the filing deadline,
15 like, I don't -- I wouldn't vote to waive the filing deadline.
16 I mean, I think -- and, uh, as reading through this, I mean,
17 part of the argument was that the -- the sign that was posted
18 in front of the building, it was posted there. The ANC -- it --
19 uh, it was on the ANC agenda. The ANC went through there. It's
20 gone through HPRB. I mean, there was many opportunities for,
21 uh, notice, um, about what the project was.

22 I mean, I'm familiar with, uh, the building itself,
23 and even walking by that building, there -- the fence where it
24 was posted on, uh, is right up against the sidewalk. So, you
25 know, to have missed that, or even to have talked -- and -- and

1 there's only one building -- uh, there's only one side of the
2 building that faces east. The other two sides of the building
3 are -- are, uh -- you know, there's neighbors to adjacent
4 properties. So, um -- so that's where I would stand on that.

5 MR. MAY: Uh, Madam Chair, I -- I would agree. Um,
6 the, um -- you know, the -- th -- we have multiple forms of
7 notice --

8 CHAIRPERSON HEATH: Mm-hmm.

9 MR. MAY: -- so that we make sure that we hit people,
10 on -- in all possible ways, who might have an interest in a
11 case. So, um, first of all, the argument that sending a notice
12 by mail to the address that is listed in the tax records, I
13 think, is sufficient.

14 And I -- a -- and I just think that -- that, you
15 know, between that and the fact that it was posted, I believe
16 that there ha -- there was sufficient notice and that the, um,
17 um -- the -- Lesser Atlantic, um, had -- had plenty of means to
18 -- to be aware of this case and should have filed their
19 concerns sooner. They should have requested party status at the
20 hearing, a hearing that was delayed once, so the -- the notice
21 was up for a long period of time. Um -- or it was no -- it was
22 up for two different hearings. So, I -- I think there was
23 plenty of reason to believe that if they needed party status,
24 they should have known to gr -- to request it.

25 CHAIRPERSON HEATH: Okay. I would agree, um, and, uh,

1 think the -- the whole purpose of, uh, providing that
2 applicants post, that it's p -- the notice is published, uh,
3 that it's, uh -- notice is given to the ANC, is all, um, with
4 the intent of giving parties, or -- or anyone who has an
5 interest or concern in a case, the op -- opportunity to be
6 able to know about a particular case and weigh in, in this case
7 to, um, request party status and to participate in the hearing.

8 So, um -- and I agree with, uh, Mr. Hill's comment
9 that the notice that was posted, although it wasn't on the
10 building itself, it was on the -- the fence, which is r --
11 directly adjacent to the sidewalk and, um, more -- even more
12 visible than had they posted a sign on the building. So, I
13 certainly think that the applicant has done their due diligence
14 to, um, make those who might have an interest in this case
15 aware that, uh, there was a hearing coming up.

16 So, then, I think -- sounds like we're prepared to --
17 to move on this particular issue, um, so I will make a motion
18 that we vote to deny the request for, uh, the 10-day filing
19 deadline, based on the information that we've -- we've
20 discussed here today.

21 MR. HILL: I second.

22 CHAIRPERSON HEATH: All right. The motion's been made
23 and seconded. Any further discussion? All those in favor?

24 (Chorus of ayes)

25 CHAIRPERSON HEATH: Anyone opposed?

1 (No audible response)

2 CHAIRPERSON HEATH: So, the motion carries. So, with
3 that --

4 MR. MOY: Staff would record the vote as 3-0-2, this
5 on the motion, uh, of, uh, uh, Chairperson Heath to deny;
6 seconded the motion, uh, Vice, uh, Chairman Hill; also support,
7 uh, Mr. Peter May. Motion carries, Madam Chair.

8 CHAIRPERSON HEATH: All right. Thank you. So, full
9 order, Mr. Moy?

10 MR. MOY: Yes. Yes.

11 CHAIRPERSON HEATH: So, we're ready for our new
12 applications, um, hearings.

13 MR. MOY: So, I believe the first, uh, case, um, as
14 publicly noticed is Application Number 19089. This is the
15 application of, uh, uh, Nezam, or Nezam, uh, Yousefi -- uh,
16 Y-o-u-s-e-f-i. This is a request, Madam Chair, for variance
17 relief from the off-street parking requirements under Section
18 2101, uh, which would allow, uh, construction of a new,
19 5-story, mixed-use building containing 13 units in the
20 C-3-C District at premises 8 P Street, N.E.

21 CHAIRPERSON HEATH: Okay. Were you all here this
22 morning to take the oath?

23 (Off-mic speaking)

24 CHAIRPERSON HEATH: Okay. And you've given your
25 witness cards to the court reporter?

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1 (No audible response)

2 CHAIRPERSON HEATH: Thank you. So, if you will each
3 state your names?

4 MR. YOUSEFI: Nezam Yousefi.

5 MR. BILL WASHINGTON: Bill Washington.

6 DR. CHARLES FARMER: Dr. Charles Farmer, Refuge of
7 Hope Disciple Center, Bishop.

8 DR. JUDY FARMER: Uh, Dr. Judy Farmer, Refuge of Hope
9 Disciple Center, Pastor.

10 CHAIRPERSON HEATH: Okay. Okay. Uh -- So, one thing
11 that we just want to get clarity -- or that I just want to get
12 clarity on is, the language that was used in the self-
13 certification referenced a use variance. I just want to be
14 clear that what's being requested here is relief from parking
15 under 2101.1, um, where 3 spaces are required, and you're not
16 providing any parking. Is that -- that's correct?

17 (No audible response)

18 CHAIRPERSON HEATH: Okay. All right. So, no use
19 variance. Have you met with, uh -- you met with ANC 3 -- uh,
20 5E?

21 MR. YOUSEFI: Yes, I did.

22 CHAIRPERSON HEATH: Okay, and can you --

23 MR. YOUSEFI: Oh. Yes, I met, you know.

24 CHAIRPERSON HEATH: Okay. And was there -- did they
25 vote, uh, following your presentation? Did you make a full

1 presentation to the ANC?

2 MR. YOUSEFI: Uh, but there was, uh, some, uh -- uh,
3 I don't know. The issue that we had on August, we couldn't --
4 uh, it was, uh -- they did not have any meeting, and on
5 September, I had some personal issue because, you know, my
6 wife's got sick -- I mean, her mother got sick. I had to --

7 CHAIRPERSON HEATH: Did you meet with them on October
8 20th?

9 MR. YOUSEFI: Yes, I --

10 CHAIRPERSON HEATH: Okay.

11 MR. YOUSEFI: -- meet them on October 20. Then, also,
12 there was another meeting when Eckington ANC that I meet them
13 over there. So, I had two presentation on ANC.

14 CHAIRPERSON HEATH: On the 20th? Both --

15 MR. YOUSEFI: No, one on 20, and the other one was
16 on, eh -- I believe this was around 28, at --

17 CHAIRPERSON HEATH: Okay.

18 MR. YOUSEFI: -- another ANC, Eckington ANC. That's
19 the neighborhood ANC.

20 CHAIRPERSON HEATH: So, October 20th and the 28th.
21 Okay. And did they vote to support or oppose your application
22 at that time?

23 MR. YOUSEFI: On the 20, eh, they oppose it.

24 CHAIRPERSON HEATH: Okay.

25 MR. YOUSEFI: And on 20 -- eh, on Eckington, you

1 know, they didn't do any voting, but, uh, the atmosphere was
2 there, you know, all the members, even -- uh, uh, especially
3 after the meeting, I talked to them. Everybody was supporting.

4 CHAIRPERSON HEATH: They were supporting you on the
5 20th, but not on the 28th?

6 MR. YOUSEFI: No, no, on 28 they supporting me,
7 Eckington ANC, the members -- except -- except, uh, Mr., uh --

8 CHAIRPERSON HEATH: Farmer?

9 MR. YOUSEFI: -- Farmer.

10 CHAIRPERSON HEATH: Okay.

11 MR. YOUSEFI: Uh, the other people that were there,
12 you know, I had discussion with several of them, you know,
13 and --

14 CHAIRPERSON HEATH: Okay. I'm asking because I don't
15 believe we've received a formal letter from the ANC, and so I'm
16 trying to get clarity as to where they stand. Um, we don't have
17 a letter, so we wouldn't be able to give the ANC great weight
18 in this case --

19 MR. YOUSEFI: Right.

20 CHAIRPERSON HEATH: -- but I just want to understand
21 what the outcome of the meetings were with the ANC.

22 MR. YOUSEFI: The truth is, you know, I try to
23 understand myself what was her, eh, opposition is --

24 CHAIRPERSON HEATH: Okay.

25 MR. YOUSEFI: -- but I never hear the reason that,

1 you know, why she's opposed.

2 CHAIRPERSON HEATH: Okay. All right.

3 MR. YOUSEFI: Right. And I had several occasion with
4 her, when I hand deliver all the document to her ho -- house. I
5 have documentation here. I sent her 10 e-mails with no reply.

6 CHAIRPERSON HEATH: Okay.

7 MR. YOUSEFI: And I forward all the information,
8 documentation, whatever I submitted -- I copied one of them to
9 her.

10 CHAIRPERSON HEATH: Okay. All right. Um, and I assume
11 there's no one here from ANC 5E. Is there anyone here from ANC
12 5E? Okay. All right.

13 Um, Board, do you have any other questions of the
14 applicant?

15 (No audible response)

16 CHAIRPERSON HEATH: Okay. All right. Okay. So, the
17 Board has reviewed all documents submitted on your file, and at
18 this point, we don't have anything that we need to hear from
19 you. Uh, we feel that your application is complete. We will
20 likely have some questions as we proceed through the case, but,
21 um -- You have the right to a full hearing, but at this time,
22 if you're okay for us to proceed, we will, um, proceed on with,
23 uh, questions or comments from Office of Planning. Okay.

24 MR. JESICK: Thank you, Madam Chair, Members of the
25 Board. My name is Matt Jesick. The Office of Planning is happy

1 to rest on the record in support of the application. Uh, we
2 recommend approval, and, uh, I'd be happy to take any
3 questions. Thank you.

4 CHAIRPERSON HEATH: Okay. Have you heard anything
5 about the ANC's position on this? Do you have any clarity on
6 where they stand, or what their opposition might be?

7 MR. JESICK: No. All I know is, uh, what I've read in
8 the record, and, uh --

9 CHAIRPERSON HEATH: Okay.

10 MR. JESICK: -- uh, from speaking to the applicant.
11 Uh --

12 CHAIRPERSON HEATH: Okay.

13 MR. JESICK: -- it's nothing new.

14 CHAIRPERSON HEATH: All right. Thank you. Board, any
15 questions of Office of Planning?

16 (No audible response)

17 CHAIRPERSON HEATH: Applicant, any questions of
18 Office of Planning?

19 (No audible response)

20 CHAIRPERSON HEATH: Okay. All right. Um, again, we
21 don't have a letter from ANC 5E, uh, so -- We do have a letter
22 of no objection, with one condition, from DDOT, and it looks
23 like we have someone here from DDOT.

24 MR. WESTROM: Yes. Good morning, uh, Members of the
25 Board. Ryan Westrom from DDOT, and I did just want to comment

1 on this case. We -- we're appreciative of the, uh, we believe,
2 robust TDM measures put forward, uh, for this proposal, and as
3 a result of -- of that, we do not object to approval of this
4 case.

5 CHAIRPERSON HEATH: Okay.

6 MR. WESTROM: And I'm happy to take any questions
7 from -- from the Board or from the applicant. Thank you.

8 CHAIRPERSON HEATH: Okay. Thank you. Thanks for
9 coming down. Board, any questions of Office of Plan -- uh, I'm
10 sorry, of DDOT?

11 (No audible response)

12 CHAIRPERSON HEATH: Applicant, any questions of DDOT?

13 (No audible response)

14 CHAIRPERSON HEATH: All right. Then, um, at this
15 time, I'll ask if there's anyone here who's wishing to speak in
16 support of this application. Anyone in support?

17 (No audible response)

18 CHAIRPERSON HEATH: Anyone in opposition?

19 DR. JUDY FARMER: Yes.

20 DR. CHARLES FARMER: Yes.

21 CHAIRPERSON HEATH: Okay. Um, we'll give you, uh --
22 are you -- your position is the same, so one of you will
23 represent your position, and we'll give you 3 minutes to speak.

24 DR. JUDY FARMER: Okay.

25 DR. CHARLES FARMER: Yeah. Go ahead --

1 (Simultaneous speaking)

2 DR. JUDY FARMER: Uh, question, uh, Madam Chairperson
3 and all the Panel: Did you receive a copy of our opposition
4 letter?

5 CHAIRPERSON HEATH: We did.

6 DR. JUDY FARMER: Okay. We hand-delivered --

7 CHAIRPERSON HEATH: So you can choose to --

8 DR. JUDY FARMER: -- that.

9 CHAIRPERSON HEATH: -- read that letter, or you can
10 choose to, um, just make a statement.

11 DR. JUDY FARMER: Well, we think --

12 CHAIRPERSON HEATH: You have 3 minutes to use how you
13 see fit.

14 DR. JUDY FARMER: Okay. And then one other question I
15 need to, um -- and you also need to clarify is that, um, the
16 relationship to the October 20th meeting -- we were -- we were
17 there for that meeting. We've also had meetings at the Hanover
18 Civic Association. Um, we are asset forfeiture Weed and Seed
19 properties, so we've worked with the people in the community
20 and had those properties since 1997, um, so we're very involved
21 in the community.

22 Uh, and also, um, just to say that, um, we -- at the
23 particular meeting, Mr. Yousefi did not present any
24 documentation to the ANC that was shared. There were others
25 there that were, um -- persons that wanted to make -- you know,

1 that had plans for the community, and they made their
2 presentation, like, you know, on the video or whatever.

3 CHAIRPERSON HEATH: With drawings.

4 DR. JUDY FARMER: But we had -- drawings, okay. But
5 we had not. We are directly adjacent to that property. This
6 directs us. We have four properties in ad -- uh, that -- that
7 are in connection: Number 10, Number 12, Number 14, and Number
8 16. So, we are directly affected, um, and it's a -- it's --
9 it's always been a auto body shop, so we're concerned on
10 whether or not there's been any EPA studies. We have not
11 received any information in relationship to our questions and
12 concerns that were raised at the meeting. Um, and, um, just to
13 -- I'm just going to do some high -- I'll give some highlights,
14 uh, in terms of our opposition.

15 Um, we recently received a copy of an application
16 submitted by Mr. Nezam Yousefi to your office, requesting a
17 variance from the off-street parking requirements. Refuge of
18 Hope Disciple Center is asset forfeiture property, acquired via
19 the U.S. Attorney's Office as well as a D.C. partnership via
20 the Weed and Seed Program. We are active members providing a
21 variety of social, educational, recreational, spiritual, and
22 emergency assistance programs to youth, adults, and senior
23 residents of the District of Columbia since 1997.

24 We're not only a church, but we're a designated
25 public charity. As such, these properties were renovated as a

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1 result of many community service projects and partnerships with
2 GTM Architects, Behrend Builders, Fellwood(ph.) Construction,
3 law enforcement, et cetera.

4 As a result of the many years of hard work throughout
5 this community, the P Street, bordered by New York Avenue,
6 Florida, and North Capitol, has evolved into a very vibrant
7 neighborhood. Nevertheless, 8 P Street, N.E., over the last 15
8 years, has changed hands numerous times, has remained
9 unoccupied, has served as an indoor auto body repair garage,
10 with one -- only, with one level, one lift gate, and one door
11 for an entrance, directly adjacent to our first building:
12 Number 10 P Street, N.E. There is no rear outlet, no backyard
13 or land whatsoever adjacent in relationship to Number 8. Number
14 8 owns no property in relationship to our rear property, um,
15 because our walls are adjoining, and the rear of our building
16 is where our enclosed playground is located.

17 Um, we are opposed to any additional variance being
18 granted for parking. We're extremely opposed to any 5-story
19 building looming over a 4 -- 2-story properties, because it was
20 brought to our attention at the meeting, uh, on October 20th
21 that any units 10 and above would have to also provide low-to-
22 moderate-income housing availability to the community. That was
23 not a -- addressed, uh, in terms of whether or not that's going
24 to be something, um, that we would be able to have information
25 on.

1 Um, however, our conc -- contractors have also noted
2 that said underpinning excavation construction would weaken,
3 compromise, cause cracks, holes, and deterioration to our
4 existing adjacent, uh, structure.

5 Also, um, I said -- said owner has not shared what
6 types of plans he has for this mixed-use and first-floor retail
7 business. He has not stated what this use could or would be --
8 for example: a nightclub, an indoor-outdoor restaurant with a
9 liquor license, a liquor store, uh, a variety shop.

10 The Office of Zoning should do due diligence in
11 making sure that said owners will not negatively impact our
12 said properties, the neighborhood residence, and the youth that
13 we serve socially, environmentally, economically, et cetera.
14 So, that's -- that's sort of like, um, you know, a synopsis --

15 CHAIRPERSON HEATH: Mm-hmm.

16 DR. JUDY FARMER: -- um, in relationship to what our
17 concerns are. We have very, very valid concerns. We've also
18 spoken to our neighbors on the other side, because we do a lot
19 of projects with, uh, Number 6 P Street. They have -- they are
20 Asians, and they also have a language understanding barrier,
21 but we're the ones that told Mr. Yousefi to go to the
22 community. We're the ones that told him.

23 CHAIRPERSON HEATH: Mm-hmm.

24 DR. JUDY FARMER: We sent him to the Hanover Civic
25 Association. We told him he needed to be -- make this

1 information available. To this date, we have not had any, uh,
2 conversations with him. We hoped, when we went to the meetings,
3 community meetings, he would make a formal presentation, and
4 explain and answer what it was that his diagram of the -- you
5 know, access on either side, but we have not received that. We
6 also need to know, was he planning to tear down, because it's
7 only -- it's like, you're the middle, you're his property.
8 Then, you have 10, and you have 8 on the other side.

9 CHAIRPERSON HEATH: Okay.

10 DR. JUDY FARMER: If he took --

11 CHAIRPERSON HEATH: Understood. Your time is up --

12 DR. JUDY FARMER: Okay.

13 CHAIRPERSON HEATH: -- so if you could -- if that is
14 --

15 DR. JUDY FARMER: That's fine.

16 CHAIRPERSON HEATH: Thank you for making your points.
17 We understand. And, uh, one thing I just want to point out is
18 that what he's come to the -- this Board requesting is a
19 variance from parking spaces. So, that's really the only thing
20 that we can speak to.

21 We're con -- uh, you know, we understand your
22 concerns, um, about wanting to see what he's doing, and -- and
23 I feel, as a -- as a neighbor, you should, um, do your due
24 diligence to explain the project to your neighbors so that you
25 can, um, hopefully get their support. It's hard for them to

1 support the project if they don't know anything about it, and
2 so it's unfortunate that you didn't provide drawings or a full
3 presentation, as it -- as it sounds, um, at the ANC meeting,
4 but, um --

5 But really, um, at issue here is just the request for
6 parking relief. So, um, he's not asking for a use variance or,
7 um, a variance associated with the construction of, uh, this
8 mixed-use building. Um, so we -- we -- or the Board doesn't --
9 the Board also does not weigh in on issues related to
10 construction. So, I also understand your issues, uh, structural
11 issues, but that is not before this Board. So, um, just want
12 you to understand that as the BZA, our hands are -- are sort of
13 tied when it comes to issues -- the issues that you've spoken
14 of. We can only speak to the relief being requested. So --

15 DR. JUDY FARMER: Excuse me. They --

16 CHAIRPERSON HEATH: But -- but --

17 DR. JUDY FARMER: -- did vote.

18 CHAIRPERSON HEATH: I -- I understand. I understand. I
19 understand. Um, and I understand, um, from what you've said,
20 where the issues lie, but parking is really the only thing that
21 is before us today. So, it is -- it's on us to weigh in just on
22 that issue.

23 DR. JUDY FARMER: Okay.

24 CHAIRPERSON HEATH: All right?

25 DR. CHARLES FARMER: We just don't want anything to

1 come up later about that --

2 CHAIRPERSON HEATH: Sure.

3 DR. CHARLES FARMER: -- with the neighborhood and the
4 safety and everything for the community.

5 CHAIRPERSON HEATH: Sure.

6 DR. JUDY FARMER: The ANC did vote it down, just so
7 you know.

8 CHAIRPERSON HEATH: Sure. Sure. I understand.

9 Um, Board, do you have any questions of the
10 opponents? Um --

11 MR. HILL: Yeah, I do.

12 CHAIRPERSON HEATH: -- opposition?

13 MR. HILL: Uh, Dr. Farmer, I'm just curious: So --
14 so, as far as the construction, I understand your concerns and
15 -- and, um, can -- you know, your property and -- and -- and --
16 and such, and those are things that, again, are not in our
17 purview, and those are things that would go through permitting
18 and then -- and so that you are protected. So, that's something
19 that you can at least, uh, uh, be, uh -- you know, feel good
20 about, I suppose, is that -- the -- the permitting process will
21 -- will go through that for the construction.

22 But the -- what your real opposition is, is the
23 height. Is that, kind of, correct? Like, if it were -- if it
24 were three stories, then you'd be okay with it.

25 DR. CHARLES FARMER: Well, height and damage to any

1 of the adjacents -- you know, adjacents. There's -- our
2 construction, uh, GC, um, there can be no underpinning or
3 anything --

4 (Simultaneous speaking)

5 MR. HILL: I understand. Well, let's just say that
6 there was no damage; it -- it's the height issue that you're
7 really having problems with, is that correct?

8 DR. JUDY FARMER: Yes.

9 MR. HILL: Okay.

10 DR. CHARLES FARMER: Yeah, basically. Definitely.
11 Yeah.

12 MR. HILL: Okay.

13 CHAIRPERSON HEATH: Any -- okay. All right.

14 DR. JUDY FARMER: And the parking, because -- I mean,
15 it was unanimously -- I don't know why the -- it didn't -- the
16 report didn't get here, but they unanimously vote against it.

17 CHAIRPERSON HEATH: Okay. Um, and I'm not sure if --
18 because it -- it appears that there wasn't a full presentation
19 at the ANC. Did you have the opportunity to present to the ANC
20 and your neighbors your plans for transportation demand
21 management? Which we -- we've read, but we understand how that
22 is helping to alleviate some of the concerns about parking,
23 since you're not going to be providing the -- the three spaces
24 that are required.

25 MR. YOUSEFI: Uh, can I answer you?

1 CHAIRPERSON HEATH: Sure. Make sure you're on the
2 microphone.

3 MR. YOUSEFI: I am on the microphone now?

4 CHAIRPERSON HEATH: Make sure it's on.

5 MR. YOUSEFI: Oh, okay.

6 CHAIRPERSON HEATH: There you go.

7 MR. YOUSEFI: Actually, this one that, uh, you see is
8 that this is the one that I made 10 copies of it, and I gave it
9 to the Commissioner. It was on ANC meeting, 10 copies of it.
10 You can double check with ANC. They have 10 copies of this. It
11 has all the transport, uh, information, everything that we
12 going to do.

13 And also, if you look at the record, on Exhibit
14 Number 31, I answer every single concern that they had here, on
15 that -- on that letter, uh, Number 31, Exhibit Number 31.
16 Actually, I pull it -- put them on their, uh, bullet numbers
17 that I went through their oppositions and answered, like, every
18 single line of their oppositions. It's all there. Exhibit
19 Number 31. Few days after this, I get that, uh, opposition
20 letter.

21 And also, uh, I, uh -- I don't know, I don't want to
22 get involved with all the other questions that, uh, they're --
23 uh, stuff that they, uh said. I -- I can go -- uh, uh, answer
24 all their question, but since you say it's not, uh -- it has
25 nothing to do with parking variance that we are asking, so if

1 you want, I will explain it all after, every single one. I
2 answer them in detail, all their concern.

3 And also, one item that I want -- I call Mr. Farmer
4 several times, no answer. I meet him on the street.

5 CHAIRPERSON HEATH: That's fine.

6 MR. YOUSEFI: I ask him --

7 CHAIRPERSON HEATH: We're not going to -- we're not
8 going to have a conversation between -- It's your -- E --
9 excuse me.

10 MR. YOUSEFI: Yes, I'm sorry.

11 CHAIRPERSON HEATH: I think we -- we've heard enough.
12 We're not going to have a -- a discussion or disagreement
13 between the two of you. It's not appropriate. Um, and so if you
14 don't have any further comments to present to the Board, then
15 we will conclude --

16 MR. YOUSEFI: Sure.

17 CHAIRPERSON HEATH: -- at this time. Okay. Thank you.
18 Um, does the Board have any other comments or
19 questions of the applicant?

20 (No audible response)

21 CHAIRPERSON HEATH: Um, okay. Um --

22 (Off-mic speaking)

23 CHAIRPERSON HEATH: Sure. Mm-hmm.

24 MR. HILL: I just want to be clear. So, you didn't
25 present to the full ANC on the 28th?

1 MR. YOUSEFI: Yes, I did.

2 MR. HILL: Oh, you did.

3 MR. YOUSEFI: Yeah.

4 MR. HILL: Okay.

5 MR. YOUSEFI: I give them --

6 MR. HILL: Okay. And so --

7 MR. YOUSEFI: -- 10 pages of documents --

8 MR. HILL: Okay. Okay. Okay. And so, they voted in
9 favor at that meeting?

10 MR. YOUSEFI: No.

11 MR. HILL: Okay.

12 CHAIRPERSON HEATH: But you don't know why they voted
13 to oppose.

14 MR. YOUSEFI: No. Actually, they -- they didn't need
15 to be -- I didn't get that much time. Uh, really, I didn't -- I
16 never heard why the reason is.

17 CHAIRPERSON HEATH: Do you know --

18 MR. YOUSEFI: And the only thing that I hear, the
19 stuff that we heard --

20 CHAIRPERSON HEATH: Okay.

21 MR. YOUSEFI: -- here.

22 CHAIRPERSON HEATH: I understand. Do you know when
23 the ANC meets again?

24 MR. YOUSEFI: I don't know.

25 CHAIRPERSON HEATH: Okay. Um, because although the --

1 the request here, um, is strictly just for parking, I do feel
2 like it would be fair for the --

3 (Off-mic speaking)

4 CHAIRPERSON HEATH: Sure. Sure. Um, uh, did OP and
5 DDOT have any other comments? Okay. I mean, I understand
6 they're both in support, so, um -- and given the TDM measures
7 and the inability to have a curb cut, there's no alley access.
8 I don't see how --

9 MR. MAY: Right. I -- I have a question for, um --
10 for DDOT --

11 CHAIRPERSON HEATH: Sure.

12 MR. MAY: -- about this. So, um, this is, um, a
13 commercial district. I assume that this is the -- the -- this
14 property would not be eligible for residential parking permits,
15 right?

16 MR. WESTROM: Uh, it -- it -- it goes on a block-by-
17 block basis --

18 MR. MAY: Right.

19 MR. WESTROM: -- and so without looking it up myself,
20 I can't confirm whether that's the case or not. It is possible.
21 Uh, obviously, the intent would not be for there to be
22 residential parking in a commercial building --

23 MR. MAY: Mm-hmm.

24 MR. WESTROM: -- but it is possible the block is
25 eligible, and we haven't been presented with any proposal, uh,

1 to limit this building from eligibility.

2 MR. MAY: Right. Um -- yeah. I mean, it's helpful to
3 know whether something is eligible or not, because it's, uh --
4 eh, you know, if it's on a commercial street, it's not
5 eligible. That's always useful information to know. Is that
6 something you can find out while we're sitting here?

7 MR. WESTROM: Yes.

8 MR. MAY: Oh, excellent. Thank you.

9 CHAIRPERSON HEATH: Okay.

10 MR. WESTROM: It'll take me a few minutes.

11 CHAIRPERSON HEATH: Okay.

12 MR. MAY: Okay. I mean --

13 CHAIRPERSON HEATH: I don't know that we have
14 anything else to --

15 MR. MAY: Well, all right. So, let me talk about this
16 a little bit. I mean, the -- the -- I mean, really, uh, you
17 know, I appreciate the -- the concerns of the immediate
18 neighbors, and I appreciate the concerns about the height of
19 buildings, um, in what's otherwise a relatively low-rise block.
20 But the block is zoned C-3-C, and that allows substantial
21 height. And so, I think that that -- it's not -- I mean, the
22 height of the building doesn't really become discretionary for
23 us simply because it's next door to low-rise buildings.

24 Uh, I think that the -- you know, uh, the essential
25 question is, is it -- you know, given that this is otherwise a

1 matter of right building, is it possible for the applicant to
2 provide parking? And I don't believe that it is possible for
3 them to provide parking, um, without severe impacts, uh, to the
4 use of the property, and to the neighborhood, frankly, by
5 having a curb cut and a big driveway and all that sort of
6 stuff.

7 So, I mean, it seems like, um, this is one of those
8 cases where there really isn't an alternative to granting the
9 relief. The only, you know, alternative would be to
10 artificially limit the size of the building, but I don't think
11 that that's, um, called for in this circumstance, since we're
12 only talking about a requirement for three spaces.

13 Um, I also think that the, uh -- the TDM measures
14 that are proposed are -- are, uh, robust for this property and
15 for a property this size, so, um, uh, you know -- I mean, I
16 could -- I could quibble over aspects of the design of the
17 building and the -- and the -- you know, the -- the -- the way
18 the penthouse is treated and so on, but, um, you know,
19 ultimately, there's going to be a lot more density on this
20 block, I think. So, I don't think that's, in the long run, is
21 going to be that much of an issue.

22 Um, so I mean, I -- I'm -- I -- I think I'm assuming,
23 um, that the block doesn't -- is not eligible for residential
24 parking, but do we know yet?

25 MR. WESTROM: I'm on the site, and -- the --

1 unfortunately, the phone technology is not cooperating to
2 scroll down to the block. Uh, you guys, having property there,
3 does anybody know if it is RPP eligible?

4 DR. JUDY FARMER: There is no -- there -- there is
5 no --

6 DR. CHARLES FARMER: No, not to our knowledge, no.
7 No.

8 DR. JUDY FARMER: Yeah, not to our knowledge.

9 DR. CHARLES FARMER: No.

10 DR. JUDY FARMER: And there is no parking there.

11 MR. MAY: I -- I understand that. I mean, did the
12 rest of the block -- uh, I mean there're no -- it's not signed
13 for residential parking permits only or anything like that?

14 DR. JUDY FARMER: No.

15 MR. MAY: Okay.

16 DR. JUDY FARMER: No, it is --

17 (Off-mic speaking)

18 CHAIRPERSON HEATH: Okay.

19 MR. MAY: So -- I mean, that's another reason -- I
20 mea -- uh, uh, you know, sometimes when we have to grant
21 parking relief, one of the things that'll be proffered is a
22 restriction on the -- on the -- the lessees to prevent them
23 from getting -- having the ability to park on the street,
24 because when you have 13 more units, you could have 13 more
25 cars in the neighborhood.

1 Um, in this circumstance, uh, there's -- there's --
2 any -- any block that is, uh, controlled by residential parking
3 permits, um, anybody who lives in -- in this building is not
4 going to be able to park there. Now, if there's -- if it's just
5 sort of wide open parking on the block, you know, who knows,
6 but, um -- I -- I -- I would not want to have a car in a
7 neighborhood unless I knew where I was going to be able to park
8 at.

9 So, um, I -- I -- I don't know that there's really --
10 eh, as much as I would like to hear from the ANC, um, you know,
11 we really haven't heard a peep from them, and so I -- I'm --
12 I'm inclined to move forward, and, uh, I don't -- I just don't
13 see that there's any other alternative.

14 And I think that the concerns that, um, uh -- raised,
15 uh, in -- in the hearing today, um, are really issues that have
16 to do with, uh, construction, and -- and, frankly, being good
17 neighbors, and so I would urge that -- that, Mr. Yousefi, in
18 the course of this project, you be a really good neighbor, and,
19 uh -- and -- and of course, you have to comply with all the
20 other regulations. You have to comply with in -- inclusionary
21 zoning and everything else. So, that's all -- that's all part
22 of it, and it's outside of our domain. That's my -- those are
23 my thoughts.

24 CHAIRPERSON HEATH: Very well stated. Um, and, yeah,
25 I -- I concur with everything you've said, Mr. May, so with

1 that, I will, um, move that we approve the request for variance
2 for, uh, off-street parking. Um, any second?

3 MR. HILL: I second.

4 CHAIRPERSON HEATH: All right. The motion's been made
5 and seconded. Any further discussion? All those in favor?

6 (Chorus of ayes)

7 CHAIRPERSON HEATH: Any opposition?

8 (No audible response)

9 CHAIRPERSON HEATH: The motion carries. Thank you.

10 MR. YOUSEFI: Thank you.

11 CHAIRPERSON HEATH: And thank you all for coming
12 down.

13 MR. MOY: Staff would record the vote as 3-0-2, this
14 on the motion of Chairperson Heath to approve the application
15 for the relief requested. Seconded the motion, uh, Vice-
16 Chairman Hill. Also in support, uh, Mr. Peter May. Member not
17 present today and the Board seat vacant. The motion carries,
18 um, Madam Chair.

19 CHAIRPERSON HEATH: Summary order.

20 MR. MOY: Thank you.

21 (Off-mic speaking)

22 MR. MOY: The, uh, next application, uh, to the
23 table, Madam Chair, is Application Number 19103. This is the
24 application of TPC 5th & I Partners LLC. Uh, it was advertised,
25 uh, for notice, um, requesting relief for variances from the

1 rear yard, uh, under 774, closed court requirements under 776,
2 minimum parking requirements under 2101.1, and parking access
3 requirements under, uh, 2117, and a special exception from the
4 roof structure requirements under 770.6, uh, B, and 411.3, uh,
5 pursuant to, uh, Section 411.11 to construct a mixed-use
6 building containing a hotel, an apartment house, in the
7 DD/C-2-C/MVT District at premises 901 5th Street, N.W.

8 CHAIRPERSON HEATH: Okay. Um, Thank you, Mr. Moy. Um,
9 would each of you please introduce yourselves?

10 (Off-mic speaking)

11 MR. DETTMAN: Good morning, Shane Dettman with the
12 law firm Holland & Knight, Director of Planning Services.

13 MR. GLASGOW: Chip Glasgow with Holland & Knight.

14 MR. PEEBLES: Dono -- Donohue Peebles, III, with TPC
15 LLC, 5th and I LLC Partners.

16 MS. ABDULRAHMAN: Sati Abdulrahman with WDG
17 Architechture.

18 MR. ANDRES: Erwin Andres with Gorove-Slade
19 Associates.

20 CHAIRPERSON HEATH: Thank you. Um, this is an
21 interesting case, because we have before us, um, a request for,
22 uh, 411.4, which is a new regulation that is not quite yet
23 enforceable, um, and, uh, one that we do expect will be likely
24 enforceable in the coming weeks. Um, uh, our understanding is
25 that it's -- it's likely that we could, um, have language

1 that's final on this within a month. So, um, we -- and -- and
2 Mr. May may want to speak to this, because the Zoning
3 Commission has just recently, um, met about exactly this
4 provision. Um, but we're not in a position, at this point,
5 because the -- the regulation is not yet enforceable -- we're
6 not in a position to really have you present on it yet.

7 Uh, and so, um, we can go through the rest of the
8 hearing, but I think, at any -- in any case, we're going to
9 want to have you come back and present once this provision is
10 -- is fully enforceable. Do you -- do you want to speak to
11 this, Mr. May?

12 MR. MAY: Yeah, sure. So, um, I'm sure that, um, uh,
13 Mr. Glasgow and Mr. Dettman are aware -- I think Mr. Dettman
14 was there last night, 15 hours ago, when we voted to approve
15 the new zoning regulations with regard to -- to, uh, uh,
16 penthouses, and as I understand it, you're requesting special
17 exception relief related to the use on the roof.

18 And you know, if it were just -- it just had to do
19 with the physical, uh, constraints, I would be, you know, more
20 comfortable, uh, with the notion of -- of, um, proceeding and
21 that -- you know, on the assumption that certain things would
22 be, um, uh -- that -- that the regulations would -- would come
23 into effect before the next time, you know, eh -- be -- before
24 we actually take this up at a -- for a decision at a -- at a
25 subsequent meeting. But since you're talking about special

1 exception relief, um, I mean, uh, I don't even know that this
2 has necessarily, um, been fully discussed in the -- in the
3 community, and so I think that that's -- I mean, that's one of
4 the really important aspects of having that, uh, special
5 exception relief.

6 So, I would be much -- I mean, seems obvious to me
7 that, at this point, we're going to have to have an actual
8 continuance of the hearing to take up that issue. And so, if
9 that's the case, why don't we hear -- hear the entire case at
10 that time? I mean, that's my gut reaction on this. Because
11 you're not really going to get anything any faster if we take
12 it up -- part of the case now and then part of the case later
13 on. Unless you're willing to forego the relief, and then come
14 back with a separate case later on.

15 MR. GLASGOW: Well, I guess that that's -- that's
16 part of the -- the question and issue as to, uh, timing. I'll
17 have to talk with the client, because this is a -- this is a
18 piece of property that's, uh -- was an RFP that was issued by
19 the District government. So, we do have certain time
20 constraints. That's why we were hoping that, with respect to
21 administrative efficiency and amending our application the day
22 after it was filed to include this relief and to have brought
23 it up at the ANC, that, uh, we would be able to go forward.

24 It -- it reminds me of a case that I had, um, years
25 ago with the -- and this was before the Zoning Commission --

1 but it was a Weather Bureau site. So, it was -- it was owned by
2 the District of Columbia government, so it was unzoned. And I
3 went to the Zoning Commission, and we got it zoned, with the
4 zoning to take into -- to go into effect when the transfer of
5 title occurred from the United States, uh, to my client.

6 And so, it was something -- it was similar, and also,
7 I had a -- a case --

8 MR. MAY: It's -- it's a little bit different,
9 though. I mean, uh, you know, a special exception is a -- is --
10 is a contested proceeding, a -- a map amendment.

11 MR. GLASGOW: Well, mas -- map amendments a contested
12 case.

13 MR. MAY: Would have been contested -- yeah, you're
14 right.

15 MR. GLASGOW: Yeah, it was a contested case.

16 MR. MAY: I mean, it -- I don't know.

17 CHAIRPERSON HEATH: If --

18 MR. GLASGOW: And then, I also had a case, um, a BZA
19 case -- I guess it was in Square -- either 516 or 517, on the
20 south side of Massachusetts Avenue between 4th and 5th Street,
21 when the DD was going into effect, where when the, um -- when
22 there was a change originally in the housing priority area,
23 there was a limitation on FAR of, uh, residential. It had a
24 cap. Then we came back -- we worked with Charlie Doctrin and a
25 bunch of other people and said it's great to have an FAR cap on

1 the DD housing priority area.

2 So, this was a case, during that interim period, that
3 went forward. It was -- that was a BZA case.

4 MR. MAY: So, um, I'm -- I'm still not totally
5 comfortable with it, again, because this was a contentious
6 issue during the -- the, uh, penthouse regulation discussion.
7 Um, is there some compelling reason why we could not put this
8 off until December 15th, which is the -- the next time I'm
9 scheduled to be here?

10 (Off-mic speaking)

11 MR. GLASGOW: Okay, we would like to go forward with
12 the part of the case, uh, that we have, and then we can
13 determine, uh, whether and when to -- to file the --

14 MR. MAY: No -- no. So, I -- I -- I mean, the way I
15 see the choice here is that you go forward with the case,
16 without the special exception, period, and then if you -- if
17 you want to seek a special exception subsequently to add that
18 use, then you could do that. But I don't believe that on
19 December 15th, when -- if we took it up for decision making at
20 that point, that you would, um -- you -- We would have to have
21 a new hearing of it, so you'd have to have new notice of it and
22 all that other stuff.

23 So, it's either hear it all now, without the special
24 exception, or hear it on December 15th, with the special
25 exception. Okay.

1 (Off-mic speaking)

2 MR. MAY: You can -- yeah, that's fine.

3 (Off-mic speaking)

4 MR. GLASGOW: All right. We -- we will -- we will
5 come back on December 15th for the entire case.

6 CHAIRPERSON HEATH: Okay.

7 MR. MAY: Thank you.

8 CHAIRPERSON HEATH: Thank you.

9 MR. MAY: Appreciate it. Sorry to make you wait here
10 this long in order to do that, but --

11 (Off-mic speaking)

12 CHAIRPERSON HEATH: So, we'll call our next case, Mr.
13 Moy.

14 MR. MOY: All right, Madam Chair. I believe that's,
15 uh, 19104 of Jacob Joyce, um, as advertised and publicly
16 noticed for a special exception relief under Section 223: not
17 meeting the lot occupancy requirements under Section 403, rear
18 yard requirements under Section 404, and the non-conforming
19 structure provisions under 2001.3 to construct a rear spiral
20 staircase to an existing flat, R-4 District at premises 1617
21 Gales Street, N.E.

22 CHAIRPERSON HEATH: All right. Thank you. Would you
23 please introduce yourself?

24 MR. JOYCE: Uh, my name is Jacob -- All right, it was
25 on. Sorry. My name is Jacob Joyce, and I am the owner and --

1 and currently re -- reside at 1617 Gales Street, N.E.

2 CHAIRPERSON HEATH: Okay. Thank you. We've reviewed
3 the full record, and the Board doesn't feel that we have any,
4 um, real issues based on the information we've seen so far. Um,
5 there may be questions that come up along the way. You have the
6 right to a full hearing, but you can decline that, um, and we
7 can proceed on, um, based on the fact that we think you've
8 addressed everything that we need to hear so far.

9 (No audible response)

10 CHAIRPERSON HEATH: All right. So, we will proceed
11 then, um, and I'll ask for comments from Office of Planning.

12 MR. MORDFIN: Good morning, Chair, Members of the
13 Board. I'm Stephen Mordfin, and the Office of Planning, uh,
14 support -- continues to support this case and stands on the
15 record.

16 CHAIRPERSON HEATH: Thank you. Board, any questions
17 of Office of Planning?

18 (No audible response)

19 CHAIRPERSON HEATH: Applicant, any questions of
20 Office of Planning?

21 (No audible response)

22 CHAIRPERSON HEATH: Okay. Thank you. Um, we also have
23 a letter of no objection from DDOT. Is there anybody here from
24 DDOT wishing to speak on this?

25 (No audible response)

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1 CHAIRPERSON HEATH: Okay. Um, we have a letter from
2 ANC 6A recommending approval. Anyone here from ANC 6A? No one
3 from ANC 6A? No one here?

4 (No audible response)

5 CHAIRPERSON HEATH: Okay. Um, additionally, we have
6 multiple letters of support -- well, actually, a letter of
7 support from your neighbor, and then a petition with five
8 signatures from neighbors who are also in support. So, we
9 appreciate you, um, taking the time to work with your neighbors
10 on this, um, and we appreciate them submitting their -- their
11 support for this application.

12 Um, normally, at this point, we'd turn back to you
13 for closing and rebuttal, but given the proceeding so far, I
14 don't know that that's necessary.

15 MR. JOYCE: Um, the only thing that I would say on
16 that matter is -- is, there should be a neighbor -- one of the
17 -- the -- one of those letters is from one of the direct
18 neighbors. The other one is a property that -- that is, um --
19 at the time, was -- was, um, up for sale --

20 CHAIRPERSON HEATH: Okay.

21 MR. JOYCE: -- so I was not able to reach them. Um,
22 this is, for in the future, to, uh, be a roof deck on top of
23 the building. Um, I applied for that permit back a year ago at
24 this point, um, and then, uh, they told me I needed a second
25 permit, sometime -- uh, eh, uh, just for the staircase.

1 CHAIRPERSON HEATH: Okay. All right. So, we're only
2 dealing with the spiral stair at this point. Um -- okay. So,
3 Board, any questions before we close?

4 (No audible response)

5 CHAIRPERSON HEATH: Then I will move that we grant
6 the special exception request for the construction of the rear
7 spiral staircase.

8 MR. HILL: I second the motion.

9 CHAIRPERSON HEATH: The motion's been made and
10 seconded. Any further discussion?

11 (No audible response)

12 CHAIRPERSON HEATH: All those in favor?

13 (Chorus of ayes)

14 CHAIRPERSON HEATH: Any opposition?

15 (No audible response)

16 CHAIRPERSON HEATH: The motion carries. Thank you.

17 MR. MOY: The staff would record the vote as 3-0-2.
18 This is on the motion of, uh, Chairperson Heath to approve the
19 application for the relief request. Uh, seconded the motion,
20 uh, Vice-Chair Hill. Also in support Mr. Peter May. Board
21 Member not present, seat vacant. Unanimous vote, Madam Chair.

22 CHAIRPERSON HEATH: Thank you. Summary order, Mr.
23 Moy.

24 MR. MOY: Thank you.

25 CHAIRPERSON HEATH: All right.

1 MR. MOY: The next application, I believe, is 19105
2 of Yolanda, uh, Garay and, uh, Francisco Ruiz. Uh, this was
3 advertised for a special exception relief from the use
4 requirements pursuant to 32 -- or rather, 320.3 to convert a
5 one-family dwelling to a one-family dwelling with accessory
6 apartment in an R-3 District at premises 2113 Bancroft Place,
7 N.W.

8 CHAIRPERSON HEATH: All right. Thank you. Would you
9 please introduce yourselves?

10 MR. RUIZ: Uh, Francisco Ruiz. Uh, I live in ni -- in
11 2113 Bancroft Place.

12 CHAIRPERSON HEATH: Make sure your mic is on, please.
13 You'll see a glowing green light.

14 MS. KIRKS: Virginia Kirks, 2115 Bancroft Place.

15 CHAIRPERSON HEATH: Okay. Um -- all right. Um, Board,
16 is there anything that you want to hear from this applicant?
17 Any issues you want to drill down on?

18 MR. HILL: Mm-mmm.

19 MR. MAY: No.

20 CHAIRPERSON HEATH: Okay. So, um, the Board feels
21 that, based on the information we've received so far, that your
22 application is complete, and there's nothing in addition that
23 we want to hear from you at this point. Again, questions may
24 come up as we proceed through the hearing, but, um, if you're
25 okay, then we'll, um, proceed with the rest of the hearing

1 rather than allowing you to present your full case.

2 MR. RUIZ: I'm fine with that. Yes.

3 CHAIRPERSON HEATH: Okay. All right. Then, um, I'll
4 turn to Office of Planning.

5 MR. GYOR: Good morning, Madam Chair and Members of
6 the Board, uh, Stephen Gyor with the Office of Planning. Uh, we
7 support the proposed relief and rest on the record. Thank you.

8 CHAIRPERSON HEATH: Thank you. Board, any questions
9 of Office of Planning?

10 (No audible response)

11 CHAIRPERSON HEATH: Applicant, any questions of
12 Office of Planning?

13 MR. RUIZ: No, I don't. Thanks.

14 CHAIRPERSON HEATH: Okay. All right. Um, we do have a
15 letter from ANC 2D recommending approval, um, and they've
16 listed two reservations associated with their approval, but
17 they are not issues that, um, are before the Board since they
18 deal with issues of precedent and, uh, construction. Um, but we
19 do have their letter of approval. Is there anyone here from ANC
20 2D?

21 (No audible response)

22 CHAIRPERSON HEATH: All right. We also have a letter
23 in -- uh, of no objection from DDOT, and, uh, I assume there's
24 no one here from DDOT who wants to speak on this case. Um, but
25 we do have that letter. All right.

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1 Is there anyone here wishing to speak in support of
2 this application? Anyone in support?

3 (No audible response)

4 CHAIRPERSON HEATH: Anyone in opposition?

5 MS. KIRKS: Yes, ma'am.

6 CHAIRPERSON HEATH: I assume that's why you're here.
7 (Laughter)

8 MS. KIRKS: That's why I'm here --

9 CHAIRPERSON HEATH: Okay.

10 MS. KIRKS: -- yes.

11 CHAIRPERSON HEATH: All right. We're going to give
12 you 3 minutes to, um, make a statement or present your case,
13 uh, and then the Board will ask questions, if necessary.

14 MS. KIRKS: That's fine. Uh, the first is my concern
15 that we are zoned as a single-family only, uh, area. That is
16 the first concern.

17 And the second concern is a personal concern. Uh, we
18 share a common wall, and I have seen the proposed plans, and
19 I'm concerned about my own structural integrity due to the fact
20 that it's going to have to be extensive excavation in order to
21 comply with the -- the code, the zoning code. So, those are my
22 two concerns.

23 CHAIRPERSON HEATH: Okay. Thank you. Board, any
24 questions of --

25 MR. MAY: Uh, so you're concerned that -- that in

1 order to make this apartment, they -- they're going to have to
2 excavate a couple of feet.

3 MS. KIRKS: That's correct.

4 MR. MAY: Okay. And has that happened -- I mean, it
5 -- it -- it's quite frequent in many neighborhoods to do that.
6 Has that happened to other houses on your block that you're
7 aware of?

8 MS. KIRKS: Uh, there are apartments on, uh, several
9 houses on the block, but to the best of my knowledge, they did
10 not, uh, excavate in order to have these apartments.

11 MR. MAY: Mm-hmm. Okay. Um, so I mean, the only other
12 observation for us is that that's -- that question, eh, about
13 excavating is not really part of our consideration. Uh, if it
14 meets certain requirements to have an accessory apartment in
15 R-3 zone, then we can grant the relief, and, um, we have to
16 rely on the building code and building code officials, and --
17 and, you know, the contractor that would be hired to do the
18 work to make sure that it's done properly, and that there's no
19 damage to your property. But it is something that does, uh,
20 occur quite frequently throughout the city.

21 Um, I don't -- I mean, um, how -- how deep -- how
22 much deeper do you need to a
23 -- actually go?

24 MR. RUIZ: Right now, my ceiling height is 6'10", so
25 I'm pushing to -- to go to 7'7". So, it's only a foot or so.

1 You know, it's not -- I mean, my experience --

2 MR. MAY: Right.

3 MR. RUIZ: -- it's not that great.

4 MR. MAY: Right. So -- and, I mean, at a foot or so,
5 it may not even require any kind of underpinning of -- of the
6 adjacent property because, very often, the foundations will go
7 much deeper than that. Um, but, again, it's not -- it's not
8 really a question that's before us.

9 Um, the -- your concern is that -- that it is a
10 single-family neighborhood -- or sin -- single-family homes,
11 so, um, eh, there are a number of apa -- apartments in the
12 area, as well -- basement apartments, I guess, or, um, houses
13 that have been converted to flats. So, is there, um, uh -- is
14 -- is that -- are -- are many of those recent? Are you
15 experiencing a wave of these changes, and is it affecting the
16 character of the neighborhood, or is it just a matter of
17 principle?

18 MS. KIRKS: Uh, both, and I know that there have been
19 comparables, uh, comparing Bancroft Place to S Street. S Street
20 is much more a commercial street. Bancroft Place is between
21 Leroy Place and S Street, and both Leroy and S Street have many
22 embassies, condominiums, other, uh -- hotel, other commercial
23 buildings, and Bancroft Place is the last bastion of
24 single-family homes. So, this is a concern to me.

25 CHAIRPERSON HEATH: Okay.

1 MR. MAY: Um, but is it -- Uh, uh, that sounds like
2 the argument in principle, as opposed to the argument in terms
3 of actual impact. I mean, ha -- have you noticed a change in
4 the character of the neighborhood, um, of Ban -- Bancroft, as a
5 result of this? Because there are other apartments on Bancroft,
6 right?

7 MS. KIRKS: There's always a concern of parking,
8 having more people on the block.

9 MR. MAY: Mm-hmm. Okay.

10 CHAIRPERSON HEATH: Has that been an issue, or is it
11 just a concern at this point?

12 MS. KIRKS: I believe it has been an issue.

13 CHAIRPERSON HEATH: Okay.

14 MR. MAY: Um, do you have parking in your property
15 now?

16 MR. RUIZ: Yes, I do.

17 MR. MAY: How much parking do you have?

18 MR. RUIZ: I have a space for two cars, but we only
19 use one.

20 MR. MAY: Mm-hmm. Um, eh, if -- if need be, could you
21 park a second car there, or is it -- you -- you -- you
22 definitely have space for two?

23 MR. RUIZ: We do, yes--

24 MR. MAY: Yeah.

25 MR. RUIZ: -- but we don't -- we don't do it.

1 MR. MAY: Right. Okay. Um --

2 MR. RUIZ: We live in a location that is, actually,
3 um -- it's not that highly dense, so at night, it's easier to
4 park rather than other locations in the city.

5 MR. MAY: Sure. I understand that. Um, so, I mean,
6 eh, with -- with one space for two units, that would re --
7 comply with zoning for comparable -- for a neighborhood of
8 flats, anyway, um -- All right. Well, thank you.

9 CHAIRPERSON HEATH: All right. Thank you. Um, Board,
10 any other comments for the opposition or questions?

11 (No audible response)

12 CHAIRPERSON HEATH: Okay. Um -- all right. Then, um,
13 I'm okay to bring this case to a close, then. Um -- All right?
14 And, um, while we understand your concerns, and, um, we -- we
15 thank you for coming down and taking the time to present your
16 -- your concerns to us, um, it sounds like the parking issues
17 that you're concerned about would be mitigated by the fact that
18 there are two parking spaces here, and so, um, the owner in --
19 has indicated that he uses one, so the other could be available
20 to, um, the apartment dwellers, um --

21 And so, again, um, the issues of construction are not
22 before the Board. So, we encourage you to follow the permitting
23 process, and take up any questions or concerns that you have
24 regarding construction with, uh, DCRA. They're the -- the
25 appropriate body for that. Okay.

1 Um, so, then, with that, I'll move that we approve
2 the special exception request for, uh, the conversion of the
3 one-family dwelling to a one-family dwelling with the accessory
4 apartment.

5 MR. MAY: Second.

6 CHAIRPERSON HEATH: The motion's been made and
7 seconded. Any further discussion?

8 (No audible response)

9 CHAIRPERSON HEATH: Uh, all those in favor?

10 (Chorus of ayes)

11 CHAIRPERSON HEATH: Anyone opposed?

12 (No audible response)

13 CHAIRPERSON HEATH: The motion carries.

14 MR. MOY: Staff would record the vote as 3-0-2,
15 that's on the motion of Chairperson Heath to approve the
16 application for the special exception, um, request. Seconded
17 the motion, uh, Mr. Peter May. Also in support, uh, Vice-Chair
18 Hill. Uh, Member not present, Board seat vacant. Motion
19 carries, Madam Chair.

20 CHAIRPERSON HEATH: Thank you. Uh, you can do a
21 summary. All right. Thank you.

22 MR. RUIZ: Thank you so much.

23 CHAIRPERSON HEATH: All right. So, it looks like we
24 have one, two, three more cases. Before we proceed to the next
25 case, we're going to take a short break. Do you think 15 -- 15

1 minutes -- I know -- 15 minutes. We have three more cases, so,
2 um, uh, you can start preparing and get set up so you'll be
3 ready when we come back. Thank you.

4 (Whereupon, the above-entitled matter went off the
5 record at 12:12 p.m. and resumed at 12:34 p.m.)

6 All right. We're ready to get started.

7 MR. MOY: Yes.

8 CHAIRPERSON HEATH: Do you want to officially call
9 them?

10 MR. MOY: Yes, uh, uh, to the table, and I see
11 they're there. Uh, Application Number 19079, uh, as advertised
12 and publicly noticed, uh, for application, uh, 2002 11th Street
13 LLC and -- and -- and Industrial Bank, as amended, and, um --
14 and this, uh -- unless there's been a revision, this is a
15 request for variances from the park -- from the public space at
16 ground level requirements under Section 633, the rear yard
17 requirements under Section 636.3, and the off-street parking
18 requirements -- requirements under 2101.1, special exceptions
19 from the roof structure setback requirements under 411 and
20 770.6, and the penthouse requirements under 639. This is to
21 allow the construction of a new, mixed-use building with 33
22 residential units and ground-floor retail in the CR/ARTS
23 District at premises 2000 through 2002 11th Street, N.W.

24 CHAIRPERSON HEATH: All right. Thank you. Would you
25 all please introduce yourselves?

1 MR. FREEMAN: Uh, good mor -- good afternoon, Madam
2 Chair. For the record, Kyrus Freeman, partner at Highland &
3 Knight, on behalf of the applicant.

4 MR. ADRIAN WASHINGTON: Adrian Washington,
5 Neighborhood Development Company, and also representing our
6 partner, Industrial Bank.

7 MR. BONSTRA: I'm Bill Bonstra, Bonstra Haresign
8 Architects.

9 MR. ANDRES: Good afternoon, Erwin Andres with
10 Gorove/Slade Associates.

11 MR. GIULIONI: Michael Giulioni with Neighborhood
12 Development Company.

13 CHAIRPERSON HEATH: Thank you.

14 MS. BLOOMFIELD: I'm Jessica Bloomfield, also with
15 Highland & Knight.

16 CHAIRPERSON HEATH: Thanks. All right. Um, can you
17 just clarify that the relief, as stated by the Board Secretary,
18 is correct?

19 UNIDENTIFIED SPEAKER: Yes.

20 CHAIRPERSON HEATH: Okay.

21 UNIDENTIFIED SPEAKER: It's, uh, correct.

22 CHAIRPERSON HEATH: Great. Good. Thank you. Um, all
23 right. We're going to allow you time to present, uh, to the
24 Board. Um, I think, uh, I'll let the Board focus on what you --
25 what we want to really drill down on, um, but specifically, um,

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1 you know, issues around, uh, the requested relief, uh, but more
2 specifically, the special exception relief for, um, roof
3 setback and penthouse requirements. Um, there may be other
4 questions that come up as we go through your presentation. Mr.
5 May, anything else?

6 MR. MAY: Yeah, um, there were conditions that were,
7 uh, recommended in the OP report and the DDOT report, and, um,
8 not totally clear to me that you've agreed to -- uh, what
9 you've agreed to, if you agreed to it all or not. You can
10 address that.

11 Um, the, uh -- I understand what has occurred with
12 the changes to the penthouse, but I need to understand why it
13 is not possible to comply. Um, you know, we've just -- now,
14 it's, uh, I guess, about 16 hours ago, we finished, uh, the
15 regulations for, um, penthouses, and, uh, they're -- they're
16 not official yet, but, you -- eh, you know, I'm just -- I'm
17 just full of -- of penthouse-related knowledge, concern --

18 (Laughter)

19 MR. MAY: -- and, um -- anyway, lots of contentious
20 stuff there.

21 Uh, but I -- you know, one of the most important
22 principles that I came out of -- w -- uh, uh, out of that whole
23 discussion with was that -- that the importance of, uh, meeting
24 the setback requirements if we're going to wind up allowing
25 greater use of -- of rooftops through occupied penthouses. I

1 know that you're enti -- talking about a lot of occupied space
2 on the penthouse level, uh, but nonetheless, I'm just as
3 sensitive about that now as I ever have been, and, um, I really
4 need to know why it is not possible, why the -- the -- the
5 mechanical room is configured the way it is, um, uh, those
6 sorts of, uh, questions -- whether you looked at varying
7 heights of parts of the penthouse, et cetera.

8 Um, so -- and it's -- it's just so prominent because
9 of the placement of the building. You've got a low building in
10 front of it, and -- I mean, that was a particular concern we
11 had, was when you have an existing historic building, and then
12 you've got a very tall building next to it, and how do you put
13 penthouses on top of that and -- and the importance of
14 maintaining setbacks, even on the sidewalks. So, that's the big
15 concern that I have.

16 Um, I'm also -- uh, I was confused, because, eh, the
17 -- uh, I didn't -- uh, was there a final HPRB report that I
18 missed? Because what I'm seeing is not an approval yet, or an
19 approval in delegation to staff. Maybe I missed a piece. Is
20 that in there somewhere? Maybe you can just point to me where
21 it is.

22 MR. FREEMAN: They have approved it and delegated it
23 to staff. We can get the exact date. Michael Giulioni will
24 have --

25 (Simultaneous speaking)

1 MR. MAY: Well, it's -- I mean, eh, you know, point
2 to it on the exhibit, because the last exhibit I saw, it was --
3 it was -- it seemed to be all over the place, so. Then again, I
4 read 14 cases in the last 2 days, so --

5 MR. FREEMAN: Let -- let me start with the easy, uh,
6 answer, and the easy answer is, we have agreed to, um, both of
7 OP's, uh, conditions, on page one of their report, um, and we
8 have agreed to all of DDOT's conditions, which begin on page
9 one, uh, and then -- and then continue to the second page. So,
10 we've agreed to all of OP and DDOT's conditions.

11 MR. MAY: Well, I had to give you an easy one to --
12 (Laughter)

13 MR. FREEMAN: So -- so we'll -- we'll have Mr., uh,
14 Washington do a quick introduction, and then we'll have, uh,
15 Mr. Bonstra talk quickly about -- through the plans and focus
16 on the areas of relief.

17 MR. ADRIAN WASHINGTON: Uh, good afternoon. Uh, thank
18 you, everyone. Uh, just very quickly, just a overview on our
19 company. Uh, we are a D.C.-based company, been in business for
20 16 years, uh, have done about 600,000 square feet of
21 development. Uh, we have both an affordable-housing- as well as
22 a market-rate, uh, housing practice.

23 Uh, we're also proud, on this project, to partner
24 with Industrial Bank. Industrial Bank was founded in 1930. I
25 believe that they are one of the nation's, uh, oldest,

1 continuous African American-owned financial institutions. Uh,
2 Patricia Mitchell, uh, and Doyle Mitchell are the, uh,
3 grandchildren of the founder of the bank. Patricia was here
4 earlier and, unfortunately, was not able to stay for this
5 hearing, but, uh, their participation in this project is
6 something that's very important to me.

7 Uh, just in terms of the, uh -- our, you know, work
8 on this project, we've worked very hard, uh, and
9 collaboratively with the, uh -- both our adjacent neighbors,
10 uh, then the ANC in the wider community, and so we spent a lot
11 of time, uh, as developer, working to, uh, you know, weave in
12 the key design considerations in terms of the property's
13 context, historical context, neighborhood context. We've been
14 extensively, from the beginning, with the staff of OP, with the
15 staff of HPO, uh, with the neighbors, and so we spent a lot of
16 time in that.

17 Uh, we're happy that, through that, we've come up
18 with a compromise that we think works for the neighborhood in
19 that, you know, we have something that works with the -- the
20 neighboring, uh, Lincoln Condominium. By right, we were able
21 to, well, thankfully, uh, really give them a hard time, and we
22 decided that we'd work with them, and so we're able to preserve
23 light and air for all the eight units that, uh, adjoin our
24 property, and we were able to achieve a viable plan that would
25 comply with the intent, the zoning audience -- uh, ordinance,

1 I'm sorry.

2 Uh, so, just, you know -- that's one thing we want --
3 hope to convey through all of this, is that this -- the
4 proposal we have before you was born from a lot of compromise,
5 a lot of, uh, community engagement, something that we're proud
6 of in this process, and hopefully that you'll consider as you
7 consider our case.

8 MR. BONSTRA: Uh, thank you very much. Uh, I will
9 focus -- Uh, I guess what I heard was to focus on the special
10 exception, correct?

11 CHAIRPERSON HEATH: Correct.

12 MR. BONSTRA: And the, uh, reasons why our penthouse
13 is configured the way it is.

14 Um, I will start a little bit with the -- um, the
15 history -- well, um, I will, um -- I'll talk about the, uh --
16 the building itself. Um, as you -- as you may understand, that
17 -- this -- these were two lots, and the lots have been
18 consolidated. Um, as two lots, we would actually have, uh, two
19 interior lot lines and would not have setback issues with the
20 penthouse, necessarily. So, by consolidating the lot, we have
21 sort of inherited this situation.

22 Um, it's a very modest site, as you know. Um, we've
23 been, um, encouraged by HPRB to, uh, uh, not only, uh, break
24 down the massing of the project, which, uh, in the A9 drawing,
25 uh, de -- is demonstrated by the three bays, uh, that are four

1 feet from the building face, uh, but we've also been encouraged
2 to set the, uh, massing down along the south face of this site.

3 Um, those contribute to our non-conformity, uh, and
4 I'll -- I'll show you, uh -- I'll step through -- This is the
5 tenth floor plan, which is, uh, a balcony, um, and an -- as you
6 know, the, um, the one-to-one setback is measured from the main
7 edge of the roof of the building. In this case, um, because we
8 had to set the bays down, that, uh, gives us a situation where
9 our measuring point is actually at the rooftop, which is, um, a
10 -- above this line and in line with the building itself. So,
11 the rooftop -- Sorry. Then, um, rather than measured from the
12 face of the bay, if that bay came to the roof, we have to
13 measure by the ordinance, uh, at this face. So, we -- we have a
14 line -- our measuring point's actually tucked in.

15 On the other side of the equation, we have, uh, a
16 very small roof area because we are, in fact, setting the
17 building in off the north property line to en -- to accommodate
18 at-risk windows. Um, uh, in -- to me, they're more than at-risk
19 windows; they're essential windows. There's a difference, to
20 me, and we have, uh -- we have set the building face back along
21 the north property line five feet to maintain the windows of
22 the additi -- uh, of the adjacent Lincoln Condominium building.
23 So, that pushes our penthouse to the south and offers --
24 offers, uh, some additional challenges there.

25 Um, we, um -- we have, um, done some preliminary

1 design on the mechanical equipment, and we believe, uh, because
2 of the limited area of the roof, that mechanical space is -- is
3 at a premium in terms of what has to go in it. It's -- it's a
4 modest space. Um, the amenity space is also a very modest
5 space.

6 So, it's really not that the penthouse is larger than
7 it would nor -- normally be. In fact, the penthouse is smaller
8 than it might normally be. But because of the challenges of the
9 site -- the setback off the north property line, the way the
10 building is massed along the south line, and because the
11 property line is no longer there, it's been consolidated --
12 that we -- we have this non-conformity.

13 Um, I can show you, um, some more, um -- what we've
14 done, also, in terms of the height of the penthouse. I -- I do
15 feel like it's better to have a single-height penthouse, um,
16 and what we've done here, because we have such limited space,
17 we've put mechanical units on the -- on the penthouse itself,
18 and we've extended up the parapets, which, I believe, is
19 supported by the current regulations, uh, whereby you don't do
20 a penthouse and then have equipment on top of the penthouse,
21 which makes it more unsightly. We actually integrated it into
22 the architecture.

23 Um, and the -- finally, I will say that the
24 penthouse, in this case, uh, as you can see here, is
25 articulated, and in the same materials and the same quality of

1 architecture, and actually integrated into the architecture of
2 the building, uh, uh, better than I've seen done, uh, by many
3 others, and, um, something that we care about, uh, in
4 integrating the building. It's not seen as an afterthought, or
5 some stucco material on the top, but in fact, integrated with
6 the architecture. So, we feel, uh, that that, uh -- that that,
7 uh, is, uh -- is certainly a benefit, uh, here to the
8 aesthetics and -- and to the setbacks.

9 I do want to show you -- um, well, uh, this is the
10 south facade. We've balanced the penthouse. We've located it
11 central to the building. It works with the three bays. It works
12 with the existing historic building. All these things are, um
13 -- are conscious efforts to integrate the new architecture with
14 the old architecture. It was supported by HPRB, uh, and we ha
15 -- we did have approval, uh, at the last meeting. It was a
16 consent calendar item, maybe that's why it wasn't registered.

17 Um, we have some diagrams, um, that we've shown --
18 uh, let me -- uh, that are in your package, and we've also
19 added --

20 MR. HILL: Can I -- can I just you a question? What
21 are the at-risk windows that you're protecting because of the
22 penthouse you were talking about earlier?

23 MR. BONSTRA: Uh, well, yeah, let me see if I can --
24 right here. Uh, there are, um -- there are units in Lincoln
25 Condominium -- Should I show that?

1 (Off-mic speaking)

2 MR. BONSTRA: Okay. That's a good idea.

3 (Off-mic speaking)

4 MR. BONSTRA: Uh, some of their earlier shots, um, a
5 little hard to see, maybe, but, um, the at-risk windows on the
6 Lincoln are here, along this face. And like I said, they're
7 more than at risk; they're -- they're essential windows.
8 They're --

9 MR. HILL: I -- I understand that -- I'm sorry -- but
10 those aren't -- those look up to the penthouse, right?

11 MR. BONSTRA: I'm sorry?

12 MR. HILL: That building doesn't go all the way up to
13 the penthouse.

14 MR. BONSTRA: No, but we -- but it forced us to move
15 our building off that --

16 MR. HILL: I see.

17 MR. BONSTRA: -- north property line --

18 MR. HILL: Okay.

19 MR. BONSTRA: -- which is demonstrated at the --

20 MR. HILL: Okay.

21 MR. BONSTRA: -- at 5 feet, and 5 feet is a -- is a
22 magic number because it is about building code and about, uh,
23 clearances between faces of buildings from a -- a, you know,
24 dimensional perspective.

25 MR. HILL: Okay.

1 MR. BONSTRA: So it's not arbitrary; it's, uh -- it's
2 a very, you know, sound number that we chose and, uh -- not --
3 not arbitrary.

4 MR. HILL: Thank you.

5 MR. BONSTRA: Yeah. The, um -- I just wanted to get
6 to the -- maybe the final -- the final shot, which, uh, we
7 added. Let me see -- sorry. Uh, what we've added to the record,
8 uh, that were distributed before we began was a comparison
9 between where we started, and where we filed our initial
10 application, on the left side, and the left side showed a -- a
11 consolidated bay that ran all the way east/west, uh, projecting
12 9 feet over the existing building -- sorry -- um, 9 feet over
13 the existing building, um, and came all the way to the roof.
14 So, uh, while we, uh -- while our, uh, existing penthouse
15 hasn't really -- hasn't changed in size, because it has the
16 same requirements, the condition along that edge has changed,
17 and, uh -- uh, we -- we believe we -- we have very limited
18 choices in how to deal with that.

19 But we do feel like, again, the penthouse is, uh --
20 is -- is not an afterthought. It's sensibly located, and it --
21 it is, in fact, nicely balanced in a composition on all facades
22 of -- of -- of -- of, uh, very, um, high-quality materials like
23 the building. Um, it is actually the continuation of the north
24 wall that steps -- steps in behind this face. So, that is -- is
25 just a continuation of the architecture of that wall coming up.

1 So, it's a very integrated penthouse, and it's not ab --
2 abnormally high, either. It's 14 feet. It could go to 18 feet.
3 We didn't -- we didn't feel like we needed the 18 feet, so I
4 think we made the right choice in keeping that low. Um --

5 MR. FREEMAN: If I could -- if I could just add one
6 -- one -- one final point, Commissioner May, um, and rest of
7 the Board -- What -- what Mr. Bonstra's showing on the left is
8 our original plans that we filed, um, with our initial BZA
9 application. Um, we amended our application to add the special
10 exception relief because HPRB did not support that plan. Um,
11 that's why the -- that's why we have what we have on the right,
12 which is why we had to amend to add the -- the roof structure
13 relief.

14 MR. BONSTRA: Uh, thank you. If you have any other
15 questions, I'm happy -- uh, I think I touched on everything,
16 but maybe not.

17 MR. MAY: Some -- some questions, some response, but,
18 um, you know, first of all, uh, the, uh -- I did actually find
19 -- uh, you know, for some reason, I just stopped scrolling
20 through the HPRB reports, and I only read the first one; I
21 didn't read the second one. So, I just -- uh, just read that,
22 as you were talking, and, you know, as -- as -- as usual, the
23 -- you know, it has language in there about how HPRB approval
24 does not indicate any, uh, blessing for, uh -- for zoning
25 approval and, you know, we -- we do try to defer, certainly on

1 -- on aesthetic matters, and not try to push the building
2 around too much, but, um, there is still an obligation by the
3 Zoning Regulations.

4 Um, first, I have a question. Uh, you refer to the
5 at-risk windows as "essential windows." Does that mean that --
6 I mean, essentially, that they were -- they were -- that they'd
7 wind up with windowless bedrooms and things like that on that
8 building next door?

9 MR. BONSTRA: Um, without the setback and the windows
10 remaining, they are not occupiable units, by code. They would
11 have no --

12 MR. MAY: How did that even --

13 MR. BONSTRA: -- windows.

14 MR. MAY: How did that even get approved, uh, do you
15 know?

16 MR. BONSTRA: I can't speculate.

17 MR. MAY: Oh, man. I -- I sure hope it was not
18 approved by the BZA or the Zoning Commission.

19 (Off-mice speaking)

20 MR. MAY: No? Okay. I mean, we -- you know, we -- the
21 -- the --

22 MR. BONSTRA: The property was constructed, I
23 believe, in, uh, 2001, and it -- perhaps it was just by right
24 and so it was more of a, uh, building permit, uh --

25 MR. MAY: Right.

1 MR. BONSTRA: -- mistake, as opposed to a -- a BZA
2 mistake.

3 MR. MAY: Right. Well, I -- you know. If it's our
4 mistake, I'd want to know about it, so. Um, yeah, you know,
5 occasionally, at-risk windows come up on Zoning cases and PUDs
6 and things like that, and we're -- You know, on the one hand,
7 we don't want to have large, blank facades, but then again, we
8 also don't want to create, um, at-risk windows, which carry an
9 expectation by the occupant or the owner of that unit, even
10 though it's -- You know, it's always in the paperwork, you
11 know, these windows are at risk; they could go away at any time
12 -- um, but maybe these people didn't know that they were at
13 risk.

14 Uh, so I -- I -- I guess I do appreciate that, on
15 some level, although, essentially, you're manipulating your
16 building to cover up somebody else's mistake, which is
17 unfortunate. Uh, and then, the rest of us have to pay the
18 price, because then we have to see more of the height of the
19 building, which is a, uh -- is the concern.

20 Um, you know, you made one statement about how the
21 consolidation of the two properties is what, um, complicated
22 matters for you, but in fact, under the new zoning regulations,
23 when you're abutting an historic property -- or a -- a -- a
24 historic building that is contributing and it has -- or a
25 building that is contributing in an historic district, you have

1 to set back under the new regulations. So, um -- but those are
2 not in effect.

3 (Laughter)

4 MR. MAY: Not for another couple of weeks, but anyway
5 -- Um, the, uh -- but in the meantime, you are, you know -- um,
6 there is a -- there is still a setback requirement.

7 Um, I -- I -- I appreciate the -- the extent to which
8 you've attempted to resolve everything and design everything. I
9 mean, I think that's very sensible, and having, you know, good
10 materials, it's all -- uh, that's all gr -- great, because it's
11 going to be a -- a pretty visible penthouse, particularly from
12 across the street, um -- But, um I don't know that the, uh --
13 that the centering process -- or that design move is
14 necessarily going to be abe -- appreciated by anybody except
15 someone who is standing at it and looking at that elevation
16 head on and seeing the entire thing.

17 It's -- you know, it -- it looks better on paper, but
18 I'm not sure that, in real life, it really makes much of a
19 difference, and I am more inclined -- If you were asking for
20 relief toward the back of the building, as opposed to on that
21 very prominent facade that would be, you know, still visible
22 from U Street, it -- it -- You know -- it
23 -- it's easier for me to accept, um, against the rear property
24 line than it is in -- on the south facade.

25 Um, the -- now, you'll -- you provided in your

1 submission a diagram of what would have to be, you know, cut
2 off from the mechanical room, and what would have to be cut off
3 from the, uh -- from the amenity space. I want to try and pull
4 that back up again so I know what I'm talking about when I
5 speak to that.

6 MR. BONSTRA: Sheet A24.

7 MR. MAY: Thank you. Um, so, um, you have -- you have
8 a couple of feet to work with, forward and -- and back, it
9 seems, um, because you're only at 14'6"? Is that right? For the
10 height of the penthouse? So, um -- by the way, 14'6" for the
11 height of the penthouse on a hundred-foot building -- Um, I
12 can't say that enough, that that is acceptable on this
13 building, because that was a contentious issue right up to the
14 last minute, in the penthouse regulations, because people in
15 the development community were going on about how hard it is to
16 develop within a 15-foot height and have an elevator, uh, that
17 accesses the roof. But here you've done it. You've proven it.
18 I'm going to be pointing at you from here on out.

19 (Laughter)

20 MR. MAY: Any time come -- somebody comes and needs
21 that extra 3 feet, I'll say, "Talk to Bill Bonstra. He knows
22 how to do it."

23 MR. BONSTRA: Trailblazers.

24 (Laughter)

25 MR. BONSTRA: The -- the trailblazers take the

1 arrows.

2 (Laughter)

3 MR. MAY: Yeah. Well, anyway, I appreciate the fact
4 that you've done it. Um, the, uh, um -- Anyway, uh, I
5 appreciate the fact that -- that, uh, you would not wind up
6 with a -- a highly-usable amenity space, um, in -- if you wind
7 up, um, cutting off 4-1/2 feet of the entire penthouse. And I
8 am with you a hundred percent on preferring, uh, penthouses of
9 -- of equal height, and this is the sort of circumstance that
10 -- that really does lend itself to it because you can -- you
11 know, you can ha -- you have some space on top for a, uh, um --
12 a condenser farm and -- and then you also -- you know, and --
13 and it -- and it just looks more uniform, and it -- it blends
14 more into the background when it's, uh, of uniform height.

15 Um, but in this circumstance, um, I think I would
16 rather see a lower height amenity space in front of a
17 mechanical portion that's taller. Um, and in fact, it would be
18 great if the whole thing were simply just two uniform heights,
19 where you have a high section toward the north side and then a
20 low section toward the -- the, uh, uh -- the south side. And
21 again, I think it can go a little bit wider; it can go a little
22 bit further to the east and a little bit further to the west.
23 Um, I understand that that may be complicated with your
24 mechanical equipment, but if it's possible to do it, I think
25 it's worth trying to figure it out.

1 I mean, basically, uh, you know, I'm -- I'm not
2 inclined to -- to vote in favor of special exception for this
3 relief without it really being completely proven to me that
4 it's impossible to meet all of these various restrictions. I
5 think -- you know, I think what you've done is a very good job,
6 but I also think that, um, it may be possible to do something
7 that can achieve most, if -- most, if not all, of what you're
8 trying to achieve, um, with less relief required.

9 Um, again -- and it -- it's -- it's just such a
10 visible location. If we were talking about some other infield
11 building at some other location, and it wasn't, um -- you know,
12 weren't right next to a corner building on a prominent street,
13 um, I would -- I might be more amenable to it, but I -- I'm --
14 I -- I think it needs -- uh, needs another go at it, uh, and
15 I'm sorry, even if it means going back to HPRB. So. But
16 hopefully you only have to go back to staff if you do come up
17 with something that's better.

18 MR. FREEMAN: Did I -- did I understand you correctly
19 in saying that you would be more willing to grant setback
20 relief from the western edge if -- if we had it shifted west,
21 which is the rear?

22 MR. MAY: Yeah, more inclined. I mean, I think we'd
23 have to look at it and see what it -- what it -- what it is.
24 I'm not -- and I'm certainly not suggesting that you can push
25 it all the way --

1 MR. FREEMAN: Correct.

2 MR. MAY: -- to the property line.

3 MR. FREEMAN: Okay.

4 MR. MAY: But if you're going to reduce a setback in
5 any direction, it would be the -- the western side.

6 MR. FREEMAN: Thank you.

7 MR. MAY: Oh, and, uh, handrails have to be set back.

8 MR. BONSTRA: Is that proper?

9 MR. MAY: What?

10 MR. BONSTRA: Can I respond to --

11 MR. MAY: Well, I mean, you -- you -- you know,
12 you're welcome if you -- if you have further questions, and --
13 I mean, if you want to -- if you think you can prove to me by
14 just talking through it that I'm -- that I'm wrong -- Um, but
15 just be warned, I'm very skeptical.

16 MR. BONSTRA: I -- I may not be able to convince you,
17 but I just wanted to add that the -- the drawings do show the,
18 uh, amount of space that condenser units take up, and as you
19 all know, we have a new green area ratio that we deal with, and
20 it's very challenging. And I would say that I would be happy to
21 sit down with anyone to show you everything that we have to
22 consider on the tops of roofs of buildings, and how I believe
23 this is a very small penthouse given the amount of mechanical
24 and green area that we need for this building.

25 MR. MAY: I -- I -- I don't disagree, and, uh, uh,

1 you know, the -- the -- that is part of what we had to struggle
2 with, when changing the zoning regulations, because we were --
3 You know, because we have the option of -- of increasing
4 habitable space, it was also an opportunity to make sure that,
5 uh, setbacks were properly addressed in that process.

6 Because, um, you know, when you think about it,
7 having that habitable space -- and, I mean, granted, you're not
8 taking advantage of the habitable space component here to any
9 significant extent, but in other locations, you were -- you --
10 it -- it will happen and, in effect, the zoning regulations now
11 incentivize use of rooftops for these other possibilities: for
12 accessory recreation space, or for housing, or even,
13 potentially, for office use. All of these things are now
14 incentivized, so at the same -- so in the process of
15 incentivizing that, we had to make sure that all of the
16 controls were in place, as well.

17 And so -- I mean, granted, you're dealing with a very
18 slender building here, and it's a -- and it's an es -- and it's
19 a special challenge. Um, and if you wind up that -- that you
20 have to make compromises to, you know, the -- the amount of
21 amenity space that you have, or, I mean, I don't know, even --
22 potentially, even GAR. I don't know if that's -- well, I've
23 never heard of a variance from GAR requirements, but, um -- I
24 mean, that is a zoning requirement, right?

25 (Off-mic speaking)

1 MR. MAY: We had one a couple of weeks, and so the --
2 they had one a couple of weeks ago. I mean, if -- if that
3 really becomes the -- the -- what gets sacrificed, um, I -- You
4 know, I -- I'm more inclined, uh, to grant relief on GAR than I
5 would be on penthouse setbacks. I mean, uh, this is a new era,
6 where we're incentivizing the use of rooftops, and I can tell
7 you, I'm going to be as strict as I can possibly be in the
8 enforcement of setbacks and other restrictions because that's -
9 - that's what goes in hand -- hand in hand with incentivizing
10 this kind of use.

11 So, maybe you're -- you're in a -- you're only
12 getting the, uh, um -- the, uh -- the strict treatment here.
13 You're not really taking advantage of that incentive for -- for
14 rooftop space. That's, you know, I guess, the difficulty of --
15 of how this is timed, um -- But I have great confidence that
16 with a little bit more exploration, you might come up with
17 something that's a little bit more palatable. So.

18 Um, and as I was about to say, um, uh, handrails do
19 also have to be set back under the current regulations, so --
20 and -- and it's clear, under the current regulations. I thought
21 it was clear under the old regulations, but, you know, other
22 people didn't seem to understand. They seemed to think that
23 handrails could somehow be invisible.

24 MR. FREEMAN: What we'd --

25 MR. MAY: That's not the case.

1 MR. FREEMAN: What we'd like to do is to have -- have
2 an opportunity to revise the roof plan, submit it, um --
3 revise, to the greatest extent possible, submit it, um, just un
4 -- under the current regulations, which we're subject to, um,
5 and -- and hopefully we can do that and -- and get back before
6 your, um -- for -- for your next decision. I think that's
7 something we could -- we should be able to do relatively
8 simply. If -- if I understand that -- if I understand that,
9 that's the -- the main issue at this point.

10 MR. MAY: Well, it's my only issue, but we're not all
11 the way through the hearing.

12 CHAIRPERSON HEATH: Right.

13 MR. MAY: Um, other people might have other issues.

14 CHAIRPERSON HEATH: Um, so, given that, like to
15 proceed on with the rest of the hearing. Um, since we do have
16 Office of Planning and DDOT here, um, we'll hear from them, and
17 then we'll come back and determine what else we need, um, as we
18 continue the case, because it sounds like we're at a point
19 where we're going to need to continue, so, um -- All right.
20 So --

21 MR. FREEMAN: The only question that -- that we had
22 is whether you could vote on everything other than the roof
23 structure at this point.

24 (No audible response)

25 MR. FREEMAN: No? Okay.

1 CHAIRPERSON HEATH: Mm-mmm. We don't want to split
2 it, so. All right. So, uh, with that, we'll hear from Office of
3 Planning.

4 MS. FOTHERGILL: Good afternoon, Madam Chair and
5 Members of the Board. For the record, I'm Anne Fothergill with
6 the Office of Planning, and, uh, in terms of the variance
7 request, we found that the, um, requested relief for off-street
8 parking and rear yard and public space at the ground level met
9 the variance test. And we, um, uh, did recommend two
10 conditions, um, for, uh, uh -- for the approval, um, one
11 related to the additional TDM that -- that DDOT, uh,
12 recommended, and they will discuss, and the other regarding
13 that setback that the applicant mentioned, and, um, just
14 ensuring that that, uh, was part of the final building plans.
15 And, uh, we rest on the record in support of the application.

16 CHAIRPERSON HEATH: Okay. Thank you. Um -- oh, before
17 you proceed, any questions of Office of Planning?

18 (No audible response)

19 CHAIRPERSON HEATH: Okay.

20 MR. WESTROM: All right. Ryan Westrom, uh, good
21 afternoon. Uh, I'm here with DDOT. Good afternoon, Members of
22 the Board. Uh, DDOT does not object to the variances being
23 sought here, conditional upon the -- the agreement to the
24 conditions that we noted, and as was already discussed, uh, we
25 are -- are pleased to see that the applicant has agreed to the

1 conditions that we brought forward. And we believe, with those
2 conditions, uh, that the project certainly becomes more
3 palatable, and we appreciate their -- their effort in that
4 regard. I'm happy to take any questions.

5 CHAIRPERSON HEATH: Okay. Thank you. Um, Board, any
6 questions of DDOT?

7 (No audible response)

8 CHAIRPERSON HEATH: Does the applicant have any
9 questions of Office of Planning or DDOT?

10 MR. FREEMAN: No.

11 CHAIRPERSON HEATH: Okay. All right. Um, is there
12 anyone here from ANC 1B? ANC 1B?

13 (No audible response)

14 CHAIRPERSON HEATH: We do have their, um, letter in
15 support, and, uh, we also -- as we noted, we have the letters
16 from both the Historic Preservation Review Board and from --
17 another letter in support from the adjacent condo building, the
18 Lincoln Condominium Unit Owners' Association. All right.

19 So, then, unless the applicant has anything else
20 you'd like to speak to today, um, I would recommend that we
21 continue this hearing until December 15th.

22 (Off-mic speaking)

23 CHAIRPERSON HEATH: That's ser -- your next date. Um,
24 does December 15th give you enough time to work through the
25 additional drawings at the penthouse to test w -- other

1 solutions and try to come back with something?

2 MR. FREEMAN: Yes. Well, w -- well, December 15th for
3 a decision is fine. What we're trying to -- if -- if we have
4 to. What we're trying to understand is, if we are able to come
5 up with a fully-compliant penthouse, then we wouldn't
6 necessarily need to come back on December 15th. So, the goal
7 would be -- and a -- again, Madam Chair, I know you said you
8 don't want to piecemeal it, but if we can -- if -- if you were
9 to say, "Okay, we can approve everything else," um, we know the
10 penthouse isn't approved. We'll either come back on December
11 15th with the revised penthouse, or we'll just file a building
12 permit with, uh, a conforming penthouse.

13 CHAIRPERSON HEATH: Okay. Um, so, we're -- we're okay
14 with that. Um --

15 MR. FREEMAN: Thank you.

16 CHAIRPERSON HEATH: So --

17 (Off-mic speaking)

18 MR. MAY: Okay. So, um, you know, I -- I think that,
19 uh, given everything that you've done to try to design this
20 site and to make things work, I think that the relief that's
21 being requested, um, eh, with the exception of the -- the
22 penthouse setback, is all reasonable.

23 I understand completely why, um, the parking
24 requirement can't be met. Um, the -- and the rear yard, I
25 understand how that developed in the process of designing the

1 building, and I think that that's a -- a significant
2 improvement as -- in the development of the design. Uh, I --
3 you know, I think that the, um -- I mean, the -- the -- eh, the
4 -- the tightness of the site, and the difficulty of access to
5 it, um, in -- in my mind, merits granting the relief. You know,
6 I think I could -- you know, you could argue that a smaller
7 building, if you kept the rear yard, you might be able to get
8 in there and park, and you might be able to be in a parking
9 requirement, but, um, it's -- it's zoned for a lot of
10 development. I'm sure you wouldn't get anywhere close to the
11 amount of development that -- that the site is otherwise
12 entitled to. So, um, I -- I think that's good.

13 I think, you know, a -- at this point, it's just a
14 matter of, uh -- of trying to address the -- the -- the
15 penthouse issue. So, um, I'm supportive of the, uh -- the rear
16 yard and the parking relief.

17 CHAIRPERSON HEATH: Okay. Do you have anything you
18 want to add? Do you want to make a motion, Mr. May?

19 MR. MAY: Yeah. So, um -- give me one sec.

20 MR. FREEMAN: And -- and there was a third variance:
21 um, public space at the ground floor.

22 MR. MAY: Oh, right.

23 CHAIRPERSON HEATH: 633, right?

24 MR. MAY: That's why I have to pull up the right
25 report, so I can make sure I mention all of the relief. Uh, so,

1 uh, I would recommend a -- um, sorry, I would move that we
2 approve variance relief under 21.0 -- sorry, 2101.1 for off-
3 street parking, uh, 636.3 for rear yard, 633 for public space
4 at the ground level.

5 MR. HILL: I second the motion.

6 CHAIRPERSON HEATH: The motion's been made and
7 seconded. Any further discussion?

8 (No audible response)

9 CHAIRPERSON HEATH: Um, all those in favor?

10 (Chorus of ayes)

11 CHAIRPERSON HEATH: Any opposition?

12 (No audible response)

13 CHAIRPERSON HEATH: So, the motion carries.

14 MR. MOY: Staff would record the vote as 3-0-2, this
15 on the motion of, uh, Mr. Peter May for the, uh, uh, granting
16 of the three area, uh, points of relief. Seconded the motion,
17 uh, Vice-Chairperson Hill. Also in support, uh, um,
18 Chairperson, um, Heath. Board seat vacant and, uh, Board Member
19 not present today. The motion carries, ma'am.

20 CHAIRPERSON HEATH: Thank you. Uh, we can do a
21 summary for that.

22 MR. FREEMAN: And then, for December 15th, we'll
23 submit something saying we have a compliant roof plan, or,
24 "Here's a revised roof plan," and describe the relief, if
25 necessary. Thank you.

1 MR. MAY: As -- as much as we like seeing you all,
2 um, I hope not to see you on December 15th.

3 (Laughter)

4 CHAIRPERSON HEATH: Thank you.

5 MR. FREEMAN: Thank you.

6 CHAIRPERSON HEATH: All right.

7 MR. MAY: I -- I have one last question for Mr.
8 Bonstra. Is -- are you -- is this a joint venture with Freelon,
9 or --

10 MR. BONSTRA: Yes.

11 MR. MAY: I see. Okay.

12 MR. BONSTRA: Freelon is the design architect --
13 (Off-mic speaking)

14 MR. MAY: Got it.

15 CHAIRPERSON HEATH: Okay. So, he's still doing work
16 under Freelon. Interesting. Not Perkins & Will.

17 (Off-mic speaking)

18 CHAIRPERSON HEATH: Mm-hmm. Mm-hmm. Mm-hmm.

19 (Off-mic speaking)

20 CHAIRPERSON HEATH: Yeah, I was confused by that,
21 too.

22 All right. So, our next case, Mr. Moy.

23 MR. MOY: Yeah, the -- to the table parties to
24 Application Number 18979. This is the application of, uh,
25 Tiblez Adal. Um, this, uh, application, uh, was originally

1 scheduled for, uh, variance relief from the non-conforming and
2 structure provisions under 2001.3, and, um, I believe, in the
3 record, Madam Chair, there are, uh, revised drawings.

4 CHAIRPERSON HEATH: There are revised drawings. Okay.
5 Uh, evidently. Let's -- Let's see --

6 (Off-mic speaking)

7 CHAIRPERSON HEATH: I think that's 66 and 67 --

8 (Off-mic speaking)

9 CHAIRPERSON HEATH: Did they? I thought they --

10 (Off-mic speaking)

11 CHAIRPERSON HEATH: All right. Would you all please
12 introduce yourselves?

13 MR. BELLO: Uh, Madam Chair, Toye Bello, representing
14 the applicant.

15 MS. ARSEMA ADAL: Hi, good afternoon. My name is
16 Arsema Adal. I am a member of the family who owns the property.
17 Thank you.

18 MR. KUBROM ADAL: Good afternoon, and I am the member
19 of the family, and my name is Kubrom Adal.

20 CHAIRPERSON HEATH: Okay. Thank you. So -- I'm having
21 a hard time opening that document, but can you, Mr. Bello, just
22 clarify for us the revised plans that were recently submitted:
23 remove the shower from the second floor? Is that correct?

24 MR. BELLO: Yeah, that -- that's, um -- that's
25 correct. And --

1 CHAIRPERSON HEATH: Okay.

2 MR. BELLO: We -- we also submitted a site plan, um,
3 uh, that, uh, reflects the instructions from, uh, DDOT, wh --
4 which is to reduce the paved area in front of the carriage
5 house to a lead walk size. We have a site plan to -- to --

6 CHAIRPERSON HEATH: Okay.

7 MR. BELLO: -- that effect.

8 CHAIRPERSON HEATH: Okay. All right. Okay. All right.
9 So -- okay. So you've added the green space. Okay. Okay. So,
10 uh, then, if you're okay, I'd like to see where OP and DDOT
11 stand on this based on your revisions.

12 MR. BELLO: Uh, well, the -- the -- the option of,
13 um, not having the shower on the second floor is submitted as
14 an option, too, in the event that the Board, uh, is not
15 inclined to consider our brief --

16 CHAIRPERSON HEATH: Okay.

17 MR. BELLO: -- uh, to determine whether the shower
18 actually, uh, makes the building a habitable space, because we
19 believe that, uh, the property will be difficult to market to
20 an artist, uh, um, for their purpose. Um, so we do have that on
21 the -- in the event that the Board, uh, disagrees with us.

22 CHAIRPERSON HEATH: Okay, so your position is still
23 that you'd like to keep it, but -- keep the shower --

24 MR. BELLO: We'd like --

25 CHAIRPERSON HEATH: -- but --

1 MR. BELLO: We'd like to keep it, uh --

2 CHAIRPERSON HEATH: Okay.

3 MR. BELLO: -- but -- but if, uh -- if approval of
4 the case hinges on that, then --

5 CHAIRPERSON HEATH: Then you have this other option.

6 MR. BELLO: That's correct.

7 CHAIRPERSON HEATH: Okay. All right. Okay. All right.
8 Do you all have any questions of the applicant?

9 (No audible response)

10 CHAIRPERSON HEATH: Um, then I'd like to hear from
11 Office of Planning, your position at this point. I know you
12 were recommending denial previously.

13 MS. VITALE: Um, good morning, Madam Chair -- good
14 afternoon, rather -- and Members of the Board. Elisa Vitale
15 with the Office of Planning.

16 Um, the applicant did submit additional materials
17 into the record, um, quite recently. Um, I think there were
18 three outstanding issues, um, and these were also identified in
19 our communications with the Zoning Administrator. Um, they
20 related to, um, parking relief required, um, and it's, um, OP's
21 understanding and the Zoning Administrator's position that
22 parking relief is required for the artist's studio use. Um, we
23 -- we, um, as stated previously, uh, would recommend a
24 condition that the parking pad, um, be removed. And then, also,
25 um, the Zoning Administrator indicated that the presence of the

1 shower, um, in the bathroom on the second floor in the carriage
2 house would constitute a dwelling unit, um, and would require
3 that that shower be removed, and we would also, um, recommend
4 inclusion of a condition that would require removal of that
5 shower.

6 CHAIRPERSON HEATH: Okay. Board, any questions of
7 Office of Planning?

8 (No audible response)

9 CHAIRPERSON HEATH: Applicant, questions of Office of
10 Planning?

11 MR. BELLO: Uh, no.

12 CHAIRPERSON HEATH: Okay.

13 MR. BELLO: Thank you.

14 CHAIRPERSON HEATH: All right. Okay. And we do have
15 DDOT here, um, to speak on this case. Do you want to let us
16 know your comments or thoughts?

17 MR. WESTROM: Sure. Thank you. Again, good afternoon,
18 Ryan Westrom with DDOT, and, uh, we do want to note that based
19 on the original application, uh, we did not object to the
20 variances being sought from a transportation perspective. Uh,
21 however, obviously, eh, subsequent to that part of the process,
22 we did become aware of some of these transportation-related
23 elements, uh, and certainly we support OP in seeking that the
24 correct zoning relief be sought, and, uh, if there are
25 questions related to the transportation re -- requirements, in

1 terms of what is or isn't allowed in the public space, I would
2 be happy to take those, as well. Thanks.

3 CHAIRPERSON HEATH: All right. Thank you. Um, Board,
4 any questions of DDOT?

5 (No audible response)

6 CHAIRPERSON HEATH: Or, um, Applicant, any questions
7 of DDOT?

8 MR. BELLO: No, thank you.

9 CHAIRPERSON HEATH: Okay. All right. Okay. Um, do we
10 have a representative from ANC 6C here? Excellent. Please tell
11 us your name.

12 MR. ECKENWILER: Good afternoon, Madam Chair, uh,
13 Members of the Board. My name is Mark Eckenwiler. Uh, I'm the
14 Commissioner for ANC 6C04 and the duly appointed representative
15 ANC 6C for purposes of, uh, this case.

16 Um, I had a lot to say. Uh, I think much of it has
17 been mooted by these 11th-hour filings by the applicant, so let
18 me, uh, cut to the chase. Uh, I have given to Mr. Moy -- and I
19 think he'll be distributing now -- Uh, these are simply better
20 copies of the photographs that appeared in Exhibit 54, the
21 ANC's, uh, supplemental report of, I believe, November 3rd. Uh,
22 just to further -- so -- so you could see more clearly the
23 Google Street images that we had submitted. I think they were
24 degraded a little bit in the course of, uh, processing for --
25 uh, and -- and uploading to IZIS.

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1 Uh, there's -- you know, there -- there's a fairly
2 clear timeline here, uh, I -- I could walk through for the
3 Board, if you wish, starting with July 2009, going all the way
4 up to, uh 2014 and even, uh, the present date, but, uh, I think
5 what I'll do, in the interest of, uh, efficiency, is, I'll --
6 I'll just trust you to ask questions if you have questions and
7 go straight to the issue of the, uh, requested relief.

8 Uh, the ANC's position is that the request for, uh,
9 zoning relief, uh, for the artist's studio use should be
10 denied. Uh, part of the reason here is, I think this is
11 something of a Trojan horse. Uh, we saw, in the very original
12 application, there was a request for a kitchen. Uh, we saw both
13 in the, uh, form letter that was circulated to the neighbors
14 soliciting support -- uh, for example, Exhibit Number 39 -- and
15 in, uh, Applicant's statements before this Board at the, uh,
16 initial hearing on September 22nd, uh, the reference was to
17 this space as a work/live space. I think the applicant's intent
18 has been very clear from the beginning.

19 Uh, for that reason, uh, we support the position
20 taken by both OP, uh, and the Zoning Administrator that the
21 carriage house, uh, would be a dwelling unit. Uh, we can spend
22 some time talking about the definition in Section 199.1 if you
23 want, but I think that's gilding the lily. Uh, to be a dwelling
24 unit, it doesn't have to have cooking facilities. I think this
25 clearly was intended, from the beginning, to be a dwelling

1 unit, and that's what it has been designed to be. So, we fully
2 support, uh, the position, uh, from OP and, uh, the Zoning
3 Administrator that the, uh, bathing facilities need to be
4 removed. Otherwise, that would constitute a dwelling unit.

5 And I would urge the Board to reject the suggestion
6 in the, uh, supplemental filing by Applicant that the Board
7 merely impose some sort of no habitation condition, uh, in its
8 order, because, frankly, that -- that approves too much. You
9 could do just about anything and ask the Board, "Well, just,
10 you know, require us not to, you know, use it for this use,"
11 when something is clearly constructed, uh, toward a particular
12 use.

13 Um, similarly, uh, parking -- there's this additional
14 parking requirement that now, uh, flows from the request for,
15 uh, the artist's studio. Uh, I think the Zoning Administrator
16 has gotten it exactly right. Uh, there is a trigger here for
17 relief, and the truth is, this is -- eh, th -- eh, to the
18 extent there's any extraordinary condition or practical
19 difficulty here, it is entirely self-inflicted. Everything
20 that's being sought here is being sought because of the work
21 that was already done that was at variance with the initial
22 building permit, which required that the roof not be added to
23 the carriage house.

24 So, you know, the -- we -- we have the lot occupancy
25 request -- talk about that in a moment -- but then, on top of

1 that, you have all these supplementary requests for the
2 artist's studio and parking, and the ANC sees no justification
3 whatsoever. It simply does not meet the variance test, and I
4 would respectfully urge the Board to take even a cursory look
5 at, uh, BZ0 -- BZA Order 17526.

6 Uh, helpfully attached by Applicant is Exhibit Number
7 63. I think it proves exactly the opposite proposition from
8 what, uh, the applicant suggests. Uh, that case stands for the
9 proposition that if you have a grandfathered property that was
10 single family that is converted to a flat, that that, uh, so-
11 called parking credit is consumed by the increase in use, the
12 change in use from, uh, single family going to, uh, a flat, a
13 two-unit. Uh, you don't get to then reuse that credit a second
14 time if you add yet another use, uh, in this case, artist's
15 studio. So, uh, I -- I -- I think it's incorrect, as suggested
16 by Applicant, that, uh -- that grandfathered credit somehow
17 also solves their issue with respect to the parking attendant
18 to the requested artist's studio use.

19 Um, I do see that, uh, the applicant has now filed,
20 uh, at very long last, uh, uh, a revised plan indicating a
21 willingness to, uh, remove the illegal parking pad on, uh, 4th
22 Street, and I -- I find that very encouraging. So, uh, let me
23 just sum up with a few observations.

24 One, ANC 6C fully supports the rehabilitation of
25 vacant buildings. We have far too many of those, uh, in my ANC.

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1 Uh, it's commendable, but our position is, that's not a blank
2 check. The fact that you're doing that, and you are making the
3 property better, and you are improving the neighborhood,
4 doesn't let you run hog wild.

5 And unfortunately, I think the relief sought here,
6 uh, reaches way too far, and for that reason, ANC 6C would urge
7 the Board to deny the request for the artist's studio variance,
8 to deny the required associated relief, uh, for parking for
9 that artist's studio. Uh, it's an entirely self-created
10 condition. But in addition to that, we would urge that, uh, the
11 Board, in its order, require the removal of, uh, any bathing
12 facilities in the carriage house and also require removal of
13 the parking pad, uh, eh, consistent with what's depicted in
14 Exhibit 66.

15 A couple points here: Uh, I'm not sure what OP or the
16 ZA would say about having a sink in the carriage house. Uh, we
17 would not object to having a sink, uh, including even a slop
18 sink, and I think that would be entirely consistent with, you
19 know, a variety of uses, uh, as part of this as an accessory
20 structure to use as a flat. But bathing is, uh, I -- I think, a
21 bridge too far.

22 And similarly, uh, we're not asking for the carriage
23 house to be, uh, raised, or to have the roof ripped off. That's
24 really a total, false dichotomy. Um, uh, it's good to see these
25 properties restored, um, and so we are not opposing the request

1 for lot occupancy relief.

2 And with that, I'll conclude my remarks. Uh, I'm
3 happy to take any questions that the Board may have.

4 CHAIRPERSON HEATH: Okay. Go ahead.

5 MR. MAY: So, um, I heard a lot of deny, deny, deny,
6 and -- and a support, generally, of -- of, uh, rehabilitation
7 of vacant properties, uh, but the -- the -- you know, right
8 now, what's before us is the applicant's request that we allow
9 the project, more or less as built, to be used and -- and have
10 the carriage house be, um, used as an artist's studio. I -- eh,
11 I clearly understand you oppose that. Uh, and you also said
12 that you support removal of the parking pad and removal of the,
13 uh -- the bathtub so it's no longer a habitable unit.

14 So, if those two conditions are met, does the ANC --
15 then are you okay with it being an artist's studio, or are you
16 just thinking that it has to be extra space that's associated
17 with one or the other of the other units on the side?

18 MR. ECKENWILER: Uh, the latter.

19 MR. MAY: Only in that circumstance.

20 MR. ECKENWILER: Only in that circumstance. We do not
21 support the, uh -- the variance for the artist's studio use.

22 MR. MAY: So, I mean, essentially, that's no relief
23 at all.

24 MR. ECKENWILER: Well, it -- it's relief, uh, on -- I
25 mean, the -- the Board could still, consistent with that, grant

1 relief for the lot occupancy --

2 MR. MAY: Right.

3 MR. ECKENWILER: -- because, recall, what we had here
4 was -- what was a non-conforming structure. The understanding
5 was, it would become conforming by reason of the removal of the
6 carriage house roof, and that way, they could build their third
7 story.

8 MR. MAY: Right.

9 MR. ECKENWILER: But in fact, they ate their cake and
10 still had it by also putting a roof on the carriage house.

11 MR. MAY: Mm-hmm.

12 MR. ECKENWILER: And, um, frankly, that's, uh --
13 that's an area where ANC 6C has consistently, uh, supported
14 other applicants. We've had two cases just in the last year,
15 from Lexington Place on Capitol Hill, where we supported owners
16 who had non-conforming structures who wanted to do, uh, a
17 setback pop-up on the top story. Um, we -- we did not object
18 to, uh -- in fact, we supported both of those applications.
19 They were not increasing the footprint. Of course, we also had
20 our historic preservation concerns, but those were equally
21 addressed.

22 So, there -- there's no opposition here to the idea
23 of the additional space, notwithstanding the fact that that
24 requires zoning relief, but everything else seems, um -- well,
25 we -- we do not support -- in fact, we oppose -- the other

1 areas of requested relief. I'll leave it at that.

2 MR. MAY: Okay. So, um, if -- if parking relief were
3 not requested -- I mean, if it were not necessary, and they
4 could have the artist's studio, um, would that -- I mean, would
5 that be acceptable to the ANC?

6 MR. ECKENWILER: Um, eh, with respect, Mr. May, I --
7 I think it's pretty clear that parking relief is requested.
8 That's certainly our -- our position. And so, um, you know, I
9 just -- I suppose I don't really have an answer for that,
10 because we think parking relief is -- is required.

11 MR. MAY: Right. Okay. Um, so, Mr. Westrom, I have a
12 question for you. If -- if the, um -- the ground floor of the
13 carriage house were -- were -- still had a garage door on it,
14 and it -- I don't even know if it can fit a car, but if it
15 could, um, is there, um -- the access to it is strange, because
16 you don't -- you can't really get a curb cut there, next to the
17 alley, um, and -- does -- you know how sometimes people will
18 sort of go in off of the alley and through a little bit of a
19 side yard, which is public space, and then into a garage space.
20 Is that the sort of thing that -- that DDOT would ordinarily
21 approve, or is that too speculative, as well?

22 MR. WESTROM: Uh, it probably is -- is a hair
23 speculative. I mean, we'd have to see plans. We'd need to see
24 turning movement analysis of -- I would say that it's possible.
25 Uh, we certainly have seen people be able to get into spaces.

1 Furthermore, I would add that -- that we're not
2 necessarily seeking to see the parking that -- that would be
3 required, but we would want them to go through the variance
4 process, uh, that is appropriate. And so --

5 MR. MAY: Right. Right. I understand.

6 (Simultaneous speaking)

7 MR. WESTROM: -- supportive of --

8 MR. MAY: Yeah.

9 MR. WESTROM: -- of that.

10 MR. MAY: So, I mean, what I'm trying to get at is
11 whether it's actually possible to provide a parking space on
12 this site --

13 MR. WESTROM: Yeah --

14 MR. MAY: -- at all.

15 MR. WESTROM: -- I -- we wouldn't be able to tell
16 yet. I mean, we would need to do turning movement --

17 MR. MAY: Yeah.

18 MR. WESTROM: -- analysis, uh --

19 MR. MAY: Right.

20 MR. WESTROM: -- with AutoTURN, or whatever software
21 the applicant would like to see. And so, yes, could not
22 speculate on that yet. That would be part of a public space
23 permit application if it did encroach on the public space.

24 MR. MAY: Okay. Thanks. I -- I may have another
25 question. I have to think about this for a minute.

1 MR. HILL: Madam Chair?

2 CHAIRPERSON HEATH: Mm-hmm.

3 MR. HILL: I mean, I'm -- I'm sympathetic to the ANC,
4 um, and I have some other things that I kind of wanted to talk
5 about with the applicant, but -- but, uh, I'm definitely, um,
6 uh, more hospitable to the whole thing now that they -- I mean,
7 the whole parking pad thing that they had, and that, you know,
8 there was green space -- now it's gone, and it -- it's gone
9 today, or whenever these plans came in, last night, so I can
10 see the -- the frustration that the ANC might have had, where,
11 like, you know, there was just a parking s -- no parking sign,
12 there was, and so, you know, that's -- that was what was
13 supposed to keep people from parking there. Um, the fact that,
14 you know, there was a kitchen, that there was a shower, you
15 know, again, indicates to me as though it was -- it was always
16 supposed to be a habitable, uh, place.

17 The -- what has never been terribly clear to me --
18 and even when we first heard this, that -- and I don't know if
19 you know this or not, uh, um, being on the ANC, but there
20 wasn't a roof there in July of '09.

21 MR. ECKENWILER: Um, well, looking at, uh -- and this
22 is the new handout, which, I -- I think, shows more clearly the
23 photographs in our, um, supplementary report. Um, uh, it does
24 not appear, to me, from this photograph -- I -- I realize that
25 it's not dispositive, but it does not look, to me, as if there

1 is a roof. Uh --

2 MR. HILL: Because to me, then, even just from that
3 photo, it --it -- it -- I don't see why there wouldn't be a
4 roof there is what I'm getting at. Like, it just seems as
5 though, you know, you would just have four walls there.

6 MR. ECKENWILER: There certainly was a time, um -- I
7 don't recall if it was before the taking of this photograph or
8 after this photograph, but I've lived in the area long enough
9 that I can recall very clearly this being, um -- this structure
10 being open to sky.

11 MR. HILL: Okay. And again, realizing you -- the
12 frustration that the ANC has had with trying to get to a
13 resolution with this, you know -- What -- what do you think the
14 ANC would like to -- I mean, you don't want -- you -- you said,
15 eh -- you know, just a little while ago, you don't want to see
16 it torn down, or -- I mean, what -- what is it that you would
17 want it to be?

18 MR. ECKENWILER: Um, frankly, uh, we think they
19 should be allowed to retain the structure, minus the bathing
20 facilities, and use it in the same way that I would use, for
21 instance, my garage, but if I'm not parking a vehicle in there,
22 I could use it as a storage shed. Um, you know, there are --

23 MR. HILL: You know, people using it -- but I'm just
24 saying, people using it as an artist's studio, if they were
25 actually using it as an artist's studio, the ANC wouldn't

1 necessarily have an issue with that.

2 MR. ECKENWILER: I -- I think I'm not quite following
3 the question. Could you -- could you run that past me again,
4 please?

5 MR. HILL: Uh, if it were used as an artist's studio
6 -- not storage space, people going in there and painting, you
7 know -- would that be okay with the ANC?

8 MR. ECKENWILER: Uh, the ANC's official position is
9 that we are opposed to that area of requested relief.

10 MR. HILL: Okay.

11 MR. ECKENWILER: And I'm not sure -- to be honest,
12 I'm not sure why. I mean, a -- as I said before, it seems to me
13 that that was always really just sort of a Trojan horse, and,
14 uh --

15 MR. HILL: Well, I understand, but now the shower's
16 gone, and now, you know --

17 CHAIRPERSON HEATH: The kitchen's gone.

18 MR. HILL: -- the kitchen's gone, and so there's not
19 a whole lot they can do with it now, other than write -- store
20 things in there or maybe somebody actually paints in there.

21 MR. MAY: So, I -- you're s -- when you said you're
22 not sure why, you're saying you're not sure why they call it an
23 artist's studio, or you're not sure why you didn't support it?

24 MR. ECKENWILER: Oh, no, definitely the former.
25 I'm --

1 MR. MAY: Okay.

2 MR. ECKENWILER: -- I'm not sure -- eh, I -- I -- my
3 -- my sense of this application is that there was -- this was
4 never really intended to be an artist's studio.

5 MR. MAY: Right.

6 MR. ECKENWILER: I mean, that may be what they end up
7 with.

8 MR. MAY: So -- so, in -- in other -- uh, just to
9 sort of imagine what could happen in the future if you wind up
10 with, um, a couple of occupants of the main building, and one
11 of them happens to be an artist, they could be using that space
12 themselves, and it would be part of their lease. It's -- it's
13 that third --

14 MR. ECKENWILER: Yes.

15 MR. MAY: -- leased property.

16 MR. ECKENWILER: This could be the kids' playroom. I
17 mean, there --

18 MR. MAY: Yeah.

19 MR. ECKENWILER: -- are a lot of different uses that
20 you can have --

21 MR. MAY: Right.

22 MR. ECKENWILER: -- that are pertinent to, uh, a flat
23 that, you know -- and -- and that's an inherent part of, you
24 know, that use, as opposed to a separate use under the zoning
25 regs.

1 MR. MAY: Right. Okay.

2 CHAIRPERSON HEATH: Okay. So, I think we're sort of
3 stuck here. Um -- All right. So, um, I think we've beat this --
4 the -- the questions to you, um, as much as we possibly can. I
5 feel like, uh, this structure's been stripped back as much as
6 it possibly could with res -- not including the removal of the
7 roof that's there, but everything else has been stripped back
8 as much as it could, um -- the shower, the kitchen, the parking
9 pad, and, uh, so, um -- Board, is there anything else that you
10 want to ask of the ANC or hear from the applicant at this
11 point?

12 (No audible response)

13 CHAIRPERSON HEATH: Um, Applicant, is there anything
14 else that you want to say before we close?

15 MR. BELLO: Well, certainly. Um, I -- I think it's
16 important to, uh, point out that the proposed artist's studio
17 is not here for any relief. It's, uh, used as permitted in an a
18 -- accessory structure in -- in -- in the underlying zone. So,
19 really, what we're left with is, um, if we all agree that, um,
20 the two-story carriage house is unique, in -- in the sense that
21 it's the only one of its kind on this block and that it is
22 impractical to, um, demolish in totality that -- uh, that
23 structure.

24 Um, then what we're left with is whether the use, um,
25 uh, imposes a substantial adverse impact on -- uh, on the

1 neighborhood. Uh, DDOT, um, doesn't seem to have a problem
2 with, uh -- with, um, uh, the impact from, um, additional, uh,
3 uh, vehicular demand or parking demand. Um, I don't necessarily
4 agree that, um, uh, parking relief is required, because if you
5 -- if you, uh, read the -- the text of 2100.4, that text
6 basically requests additional parking where a use change
7 requires additional parking.

8 Uh, in this case, both a single-family dwelling and a
9 two-family flat are subject to the same parking requirement,
10 one, so we get to preserve our credit. And so, to the extent
11 that the artist's studio requires an additional parking, that
12 credit can be used, um, is my position. Um --

13 CHAIRPERSON HEATH: But you are asking. Your -- you
14 have revised your self-certification to --

15 MR. BELLO: Well, again -- well, in the abundance of
16 caution --

17 CHAIRPERSON HEATH: Mm-hmm. Okay. You can keep going
18 if you had anything else you wanted to say.

19 MR. BELLO: Uh, that's it pretty much, um, but, um, I
20 think the application can be approved without, uh, substantial
21 adverse impact on the neighbors. And we have 40, uh, uh -- over
22 40, uh, neighbors in proximity who support the application, uh,
23 no opposition at all except the ANC.

24 (Laughter)

25 CHAIRPERSON HEATH: That's pretty significant.

1 MR. ECKENWILER: And -- and I would just remind the
2 Board that -- that the letter to which, uh, Mr. Bello adverts,
3 uh, does, in fact, pose this false dichotomy: you know, do we
4 have to tear down this carriage house or not? Uh, I -- I think
5 that's really not a -- not a fair way to present it, and
6 therefore, uh, those signatures are not really, uh, indicative
7 of, uh, informed opinion.

8 (Off-mic speaking)

9 MR. MAY: Okay. So, um, you know, I appreciate the,
10 uh, Mr. Bello has a different opinion about the, uh -- the
11 parking requirement, and that's all well and good, except that,
12 um, the Zoning Administrator would have to make that call, and
13 if we decided that we didn't need to -- to grant relief on that
14 and -- and said, "Okay, you can have an artist's studio," uh,
15 but not grant parking relief, then you wouldn't be able to use
16 it as an -- as an artist's studio because you wouldn't have the
17 parking relief that the Zoning Administrator has said is
18 necessary. So, um, thanks for your opinion, but I don't think
19 it really matters.

20 Um, the, um -- you know, I think that -- that -- I
21 mean, this is really difficult because if this came to us in a
22 different way, and if everything had been thoroughly thought
23 out, and if the parking relief was requested up front and the
24 uses were understood, and this was done, you know, from the
25 beginning in the proper manner, I think that you very well

1 could have gotten, if not exactly what you wanted, something
2 pretty close.

3 Uh, but instead, what we see is, um, multiple
4 attempts to skirt the regulations, and I -- I will -- I'm not
5 going to -- I'm not saying that anyone here is particularly
6 responsible for that. Um, you know, it -- it can be because of
7 what the original architect did or whatever. It doesn't really
8 matter to me. I'm not --

9 It -- it -- it's just that the -- you know, we have
10 this pattern, whereby the -- the, uh, a -- a -- an
11 understanding -- there was not a clear understanding of what
12 the zoning regulations were, or there was a deliberate attempt
13 to avoid them. And you wind up here because you can't occupy
14 the building because you haven't gotten the relief that you
15 have to have in order to get there.

16 So, um, eh, you know, at this point, I can -- I can
17 appreciate that it does not make sense to -- to tear down the,
18 uh -- the carriage house, but I'm kind of in the same, um,
19 state of mind as the ANC, where, uh, it's okay to grant the
20 relief for lot occupancy, on the condition that the, uh, uh,
21 the parking pad be removed and that the bathroom be removed,
22 because that's the only way it becomes just sort of generic
23 outbuilding space, uh, and you're not, um -- and -- and you
24 address the -- the -- the parking pad that's -- that's going to
25 become illegal parking.

1 Um, I -- I mean, that's about the only way that I can
2 see moving forward here, uh, and -- and -- and -- you know,
3 again, if -- if there -- even if -- even if sort of partway
4 through what we had seen was an honest attempt to get -- to
5 resolve all this stuff instead of trying to play this -- uh,
6 you know, the -- the game of trying to explain it away this way
7 and that way, and -- and say, "Okay, well, it's not a -- it's
8 not an apartment anymore; it's an artist's studio." Well, it's
9 got a bathroom in it. It's got a kitchen in it. Of course it's
10 a housing unit.

11 Um, so, I -- I mean, I -- I'm -- I'm inclined to
12 agree with the ANC and -- and grant only lot occupancy relief,
13 and -- and state those two conditions.

14 (Off-mic speaking)

15 CHAIRPERSON HEATH: Mm-mmm. Do you have any other
16 comments?

17 MR. HILL: And I'm kind of torn a little bit. Um, so,
18 uh, Mr. May, so the -- the bathroom, you're saying -- the --
19 the shower -- or you'd also like to see the bathroom -- the
20 bathroom gone as well, or it doesn't --

21 MR. MAY: I'm sorry, the -- the -- it's the shower
22 removal is the key thing.

23 MR. HILL: Yeah. And -- and even when I was going
24 over this again, my issues that I had with it was, again, the
25 fact that there was, you know, a place that parking was going

1 to be, and there -- there was an area that was easily to park
2 in front of. Then, also, it was going to be a habitable space.

3 However, I'm also very sympathetic to the family and
4 how, you know, they've come into a place, they've -- they've
5 purchased a place, they've developed it. I'm sure the ANC and
6 the neighborhood is happy to see these places get developed.

7 So, I'm -- I'm kind of on the fence, I suppose, also,
8 as to, uh, how, um, I would be leaning in terms of a vote. I
9 mean, I definitely don't -- I mean, I think the structure's --
10 you know, I -- I -- I like the structure. I think the structure
11 looks good. I -- I'm sure that there was a roof on there. I
12 don't understand why there wasn't a roof on there at some point
13 in time, um, and so, I guess even to my colleagues -- so, like,
14 if -- if the -- if the parking variance isn't granted, all that
15 means is that they say -- they just have additional space, is
16 that correct? They couldn't rent it as an artist's studio, is
17 that -- Okay.

18 CHAIRPERSON HEATH: Yeah.

19 MR. MAY: Presumably, it would be, um -- you know, be
20 rented as part of one of the units, um, that occupy the main
21 house. Or maybe it gets split between them. I don't know.

22 MR. HILL: Right, and if they had the parking relief,
23 then they could rent it as an artist's studio.

24 MR. MAY: Right.

25 CHAIRPERSON HEATH: All right. So, I -- I tend to

1 agree that I want to see this structure used, um, and I also
2 don't understand why it wouldn't have had a roof. Seems very
3 absurd to have had full-height walls and no roof. But, um, at
4 any rate, I, um -- I think if the applicant is fine to proceed
5 with plans that no longer have the shower, and the kitchen's
6 removed, as we've seen in the most recent submission, um, I'm
7 fine to approve the lot occupancy and allow this to exist as --
8 as an occupied structure, um, but not to allow it the parking
9 relief, which would allow the use as an artist's studio.

10 So, um, I think we're -- it sounds like we're all
11 close to agreement on this?

12 MR. MAY: Um, yeah, and I think if -- if, uh -- if
13 Mr. Bellos (sic) is correct in s -- in his interpretation of --
14 of, you know, artist's studio being allowed as a matter of
15 right, if we go down this path and he manages to convince the
16 Zoning Administrator that the parking is not required, then
17 that could be permitted as a matter of right.

18 CHAIRPERSON HEATH: Right.

19 MR. MAY: Right?

20 MR. BELLO: Well, um, the argument that I made in my
21 supplemental statement is that, in fact, the BZA is the
22 interpreter of the zoning regulations, not the Zoning
23 Administrator, so the -- the Zoning Administrator, uh,
24 administers the zoning regulations with respect to issuing
25 building permits and certificates of occupancies, but the

1 interpreter of the zoning regulations is the BZA, so the BZA
2 does have the discretion, uh, to, um, decide --

3 MR. MAY: To simply say that zoning relief is not
4 needed. Right?

5 MR. BELLO: Well, I mean, uh, the -- the BZA can
6 weigh on that, man, uh, on that issue, and what we've done is
7 actually file, um, a Supplemental Form 135, um, to be, again,
8 on the safe side if you disagree with the brief that I provided
9 that, uh, parking relief be, uh, granted so that the carriage
10 house can be used as a carriage house.

11 Um, what -- what the ANC is, uh, essentially saying
12 is that they're speculating on, uh -- on a violation of the
13 zoning regulations that hasn't occurred. The enforcer of the
14 zoning regulations is the ZA, so if -- if the applicants, uh,
15 use the property outside of the order of the BZA, the ZA has
16 the authority to enforce that. So, a condition, um, is
17 applicable in this instance where the users specify.

18 CHAIRPERSON HEATH: Well, in the instance that we
19 have here, where you've filed a self-certification, we -- the
20 BZA no longer, uh, treats this as an interpretive issue. You
21 are self-certifying that you know what relief you need, and you
22 -- if you're wrong, then you have to address that with the ZA.
23 So, um --

24 MR. BELLO: Which is not -- not -- which is why we
25 filed the Supplemental 135 to include parking variance.

1 CHAIRPERSON HEATH: Sure. Okay. Um, understood. So,
2 with that, um, does someone want to make a motion? Or do we
3 want to deliberate on this any further?

4 MR. MAY: All right. So, what -- I mean, at this
5 moment, the -- the far -- as far as I'm willing to go is to --
6 is to grant the relief from lot occupancy, but conditioned on
7 the removal of the -- of the -- the bathtub and the removal of
8 the parking pad. That's as far as I'm willing to go.

9 CHAIRPERSON HEATH: Okay.

10 MR. MAY: Now, if somebody wants to make a different
11 motion, then I'll listen to that.

12 MR. BELLO: Madam Chair, may I --

13 CHAIRPERSON HEATH: One last comment.

14 MR. BELLO: Okay. Um, I think, uh, in order to, uh,
15 save the time of the Board, the Board can actually, um,
16 consider whether there's merit in granting the parking
17 requirement. This is a carriage house that has never stored an
18 automobile. There is no curb cut, and as far as I know, it is
19 illegal to cross sidewalk to park a vehicle, under DDOT
20 regulations.

21 So, there's no reason why the Board can't consider
22 that relief, um, even as we see it, because if we go back to
23 the ZA and apply for an artist's studio, he's already told us
24 what his opinion is. So, we'll be right back here filing an
25 application for variance from parking requirement. So, the

1 question is, um, would it not be a more judicial use of the
2 Board's time to consider that question now?

3 CHAIRPERSON HEATH: Mm-mmm. I'm still in the same
4 place.

5 MR. MAY: Um, this goes back to what I said in the
6 beginning, which is that if everything had been done right from
7 -- from the start, and you had, you know, pursued this project
8 holistically with a -- you know, with a clear vision of what
9 was going to be done with the entirety of the property, instead
10 of do it a little bit here, doing a little bit there, getting a
11 permit for this, doing a lot more --

12 I mean, this whole -- it's -- it's -- it's a -- it's
13 been a moving target from the start, and honestly, I don't feel
14 like we're being, um -- you know, that -- that the -- the
15 applicant, for whatever reason, is, um, making a good, um,
16 clear case for the relief that's needed. And largely what we're
17 seeing is evidence that the relief is being triggered, um,
18 because of actions taken by the applicant as opposed to actions
19 that are imposed by the site itself. Uh, this is not a
20 discussion, okay?

21 So, um, I -- I'm -- I'm just not inclined to be
22 there. I mean, uh, if -- uh, like I said, lot occupancy, okay.
23 Take out -- you know, conditioned on -- on eliminating these
24 other anomalies about the property, which, I think, are -- um,
25 cause problems and create the opportunity for, uh, if not

1 current, you know, abuse of -- uh, of -- of the, uh -- or
2 rather, bypassing the zoning regulations by this owner, but
3 perhaps by somebody in the future. Eliminate those temptations
4 by removing the bathtub and removing the, uh -- uh, or the
5 shower, whatever, and -- and removing the parking pad, and --
6 And now, if you want to come back and apply -- uh,
7 you know, file an application to convert this into an artist's
8 studio, and make the case for -- for, uh, parking relief, um,
9 then I'd rather see it as a separate case than deal with this
10 now, because I think it's all being thrown in at the last
11 minute, and it's just a dodge to try to avoid the
12 responsibility for -- for the steps that have already been
13 taken with this property.

14 CHAIRPERSON HEATH: So, I think we've had a motion.
15 It's been --

16 MR. MAY: Well, I mean, that was a motion I was
17 willing to make. I didn't actually make it.

18 CHAIRPERSON HEATH: Okay. All right.

19 MR. MAY: So, I would -- Um, let me just -- I -- I --
20 I -- I want to pull up the exact right report, uh -- Sorry
21 about this. Give me a second. I just want to make sure I know
22 exactly what relief has been requested, and I'm looking for the
23 OP report, and I wasn't finding it. There we go. Sorry, there
24 it is. So --

25 CHAIRPERSON HEATH: 2001.3.

1 MR. MAY: Yeah. So, um, I would move that the, uh --
2 the Board, um, grant the, uh, lot occupancy relief requested
3 under 2001.3, 75.5 percent existing and proposed, uh, relief
4 for the non-conforming structure at 400 K Street, uh, and, uh,
5 deny the most recent request for parking relief. Um, that was
6 -- that was actually formally requested, I guess. Uh, and, um,
7 it's conditioned on the removal of the, um, bathtub or shower
8 on the second floor and the removal of the parking pad in the,
9 uh, um -- in the yard, in the public space along 4th Street.

10 CHAIRPERSON HEATH: Second. So --

11 MR. HILL: Can I say something?

12 CHAIRPERSON HEATH: Sure, go ahead.

13 MR. HILL: I mean, I was also just going to say if
14 the applicant -- you know, if you came back again and the ANC
15 was, you know, more, um, amenable to the -- the artist's
16 studio, obviously, or the parking, then you might be better off
17 now, again, with it going through that process, you know, but
18 -- Yeah. So, there you go.

19 CHAIRPERSON HEATH: All right. So, any further
20 discussion?

21 (No audible response)

22 CHAIRPERSON HEATH: All those in favor?

23 (Chorus of ayes)

24 CHAIRPERSON HEATH: Anyone opposed?

25 (No audible response)

1 CHAIRPERSON HEATH: Nope? The motion carries.

2 MR. MOY: Staff would record the vote as 3-0-2, this
3 on the motion of, uh, Mr. Peter May to -- to grant the relief
4 for the lot occupancy, 2001.3, and deny the, uh, uh, parking
5 relief requested, uh, conditioned on the removal of the -- the
6 bathroom shower and the parking pad to be removed. Um, also in
7 support, uh, Vice-Chair Hill, and, uh, Member not present,
8 Board seat vacant. Motion carries.

9 CHAIRPERSON HEATH: All right. Full order.

10 MR. BELLO: Thank you.

11 CHAIRPERSON HEATH: Thank you.

12 MR. MOY: Thank you.

13 CHAIRPERSON HEATH: We could take a 2-minute break
14 and then come back with our last case.

15 (Off the record, 1:56 p.m. to 1:58 p.m.)

16 CHAIRPERSON HEATH: All right. You can get us started
17 on the last case.

18 MR. MOY: Yes, thank you. That would be -- Excuse me,
19 I'm getting choked up here on this last case. This would be
20 Application Number 19093 of Warder, LLC, and, um -- Let's see,
21 there's been, um, some amendments to the, uh, requested relief,
22 which I'll leave for the Board, but, um, it's back, and I
23 believe that supplemental information was requested, and it's
24 filed in the record.

25 CHAIRPERSON HEATH: Okay. And, uh, also, the witness,

1 um, has not taken the oath, so you're going to have to
2 administer that.

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

6 (Whereupon, the witness was sworn in.)

7 CHAIRPERSON HEATH: Okay. Thank you. Please introduce
8 yourselves.

9 MS. MOLDENHAUER: Good morning --

10 CHAIRPERSON HEATH: Afternoon.

11 MS. MOLDENHAUER: Sorry. Good afternoon.

12 CHAIRPERSON HEATH: Good to the afternoon.

13 (Laughter.)

14 MS. MOLDENHAUER: My name is Meredith Moldenhauer,
15 um, and I'm here on behalf of the applicant.

16 MR. HEMINGER: Good afternoon. Uh, Trent Heminger,
17 uh, one of the owners in the project.

18 MS. AGBOOLA: Good afternoon. Ajoke Agboola. I'm here
19 on behalf of the applicant, as well.

20 CHAIRPERSON HEATH: Okay. All right. So, can you just
21 confirm the relief being requested, how it's been revised?

22 MS. MOLDENHAUER: Yes. So, uh, the new area of relief
23 that was requested -- um, we had supplemented the record
24 previously -- is court relief, and so that was, uh, posted at
25 the property. We included the new, um, posting notification in

1 Submission, uh, Number 31. Um, we also, uh, went back to the
2 ANC. The -- nothing in the project had changed from our initial
3 application. We went back to the ANC and presented it to them,
4 as well, and they, uh, reissued, uh, a letter of support
5 identifying both areas of relief.

6 CHAIRPERSON HEATH: Okay. All right. So, I think --
7 we -- when you were here before, we went through most of the
8 hearing procedures, um, and as you noted, we asked you to
9 revise the application, to repost based on the additional
10 relief requested, and so it sounds like all of that has been
11 met.

12 One of the things we didn't do was hear from DDOT at
13 that time, so, um, I would like to just make sure we -- there's
14 --

15 MS. MOLDENHAUER: I --

16 CHAIRPERSON HEATH: -- nobody here, but we --

17 MS. MOLDENHAUER: I just spoke with DDOT before they
18 left --

19 CHAIRPERSON HEATH: Okay.

20 MS. MOLDENHAUER: -- and they indicated that they're
21 resting on the record since there's no -- they had no objection
22 --

23 CHAIRPERSON HEATH: Okay.

24 MS. MOLDENHAUER: -- and they didn't believe that
25 this was a project where they needed to stay.

1 CHAIRPERSON HEATH: It's probably not. Um -- Okay.
2 So, then, um, I would like to hear from Office of Planning
3 based on the revisions if Ms. Thomas has any other comments.

4 MS. THOMAS: Good afternoon, Madam Chair. Karen
5 Thomas with -- with the Office of Planning. We have no, um --
6 no questions or no concerns regarding the revi -- visions.

7 CHAIRPERSON HEATH: Okay. All right. And you listed
8 some conditions.

9 MS. THOMAS: Uh, yes, um, and as, um, I said, um, in
10 the past hearing, we -- we, um -- we wanted them to respect
11 what the ANC said with respect to the materials for the court,
12 uh, the brick materials, and, um, the restoration of the front
13 porch, and we will stand on that, uh --

14 CHAIRPERSON HEATH: Okay.

15 MS. MOLDENHAUER: -- as a part of the conditions.

16 CHAIRPERSON HEATH: Okay. And you've addressed those.

17 MS. MOLDENHAUER: Yes. We have. We've provided a -- a
18 letter to the ANC, as also part of the record, that we have
19 proffered to make the front facade all brick, including the
20 addition, um, and also to refurbish the porch, um, to its
21 original condition.

22 CHAIRPERSON HEATH: Okay. All right. And you have the
23 window on the east facade?

24 MS. MOLDENHAUER: Yes.

25 CHAIRPERSON HEATH: Okay.

1 MS. MOLDENHAUER: And -- and that was then provided
2 for in, uh, Exhibit 28, which are the revised plans, which then
3 show that front elevation.

4 CHAIRPERSON HEATH: Okay. Okay. Then, I am fine on
5 this one. Board, do you have any questions or comments here?

6 (Off-mic speaking)

7 MR. MAY: Sorry, give me one sec.

8 CHAIRPERSON HEATH: Mm-hmm.

9 MR. MAY: Okay. So, um, I'm looking at the plan,
10 Exhibit 28, and I'm seeing a porch that extends partially
11 across the front of the facade, and it stops in the middle of
12 the window, the ganged windows, which is not the way it was
13 originally. So, it's not -- you're not restoring.

14 Because originally, the, um, porch went from --
15 essentially, from sidewall to sidewall. You can see from the
16 color photo -- that is, um, Exhibit 9. Okay, so -- so that's
17 even smaller. So, you're talking about putting, uh, in a porch,
18 but nothing that's close to what was there before. Yeah, there
19 you go. See that? See the ghost of the -- of the previous
20 porch? Sidewall to sidewall.

21 (Off-mic speaking)

22 MS. MOLDENHAUER: Okay. The -- the reason for
23 modifying -- just going back up to the -- is for access to the
24 lower-level unit, um, and the ANC -- one of the things we
25 talked with ANC about was to put back a porch, but not to have

1 to put back the porch in the same, exact condition. Uh, so it
2 was more of the fact that we were recreating a porch.

3 MR. MAY: So -- so -- so do we have that in writing
4 from the ANC?

5 MS. MOLDENHAUER: The ANC saw all of the proposed
6 images that we're providing you.

7 MR. MAY: So, that does -- so, the answer is, no,
8 they didn't put it in writing. What you're saying.

9 MS. MOLDENHAUER: It's not in writing, but it's what
10 we presented to the ANC. These images --

11 MR. MAY: Okay.

12 MS. MOLDENHAUER: -- are what the ANC saw --

13 MR. MAY: All right.

14 MS. MOLDENHAUER: -- and --

15 MR. MAY: So are -- enough with the ANC. It's a
16 condition of the -- of the Office of Planning's recommendation
17 that, uh, the -- the building's former front porch shall be
18 restored. It does not say, "A porch shall be installed." It
19 says, "The former front porch shall be installed -- or
20 restored." Right?

21 (Off-mic speaking)

22 MR. HEMINGER: I mean, but I think everyone was on
23 the same page -- maybe not -- that it's how you enter that
24 lower level with the --

25 MR. MAY: Right. So, there are ways to make that

1 work. Um, you know, it is still possible to have a stairway
2 down to that -- uh, that cellar, I assume. It looks more like a
3 cellar than a basement. Yeah, it's a cellar. So, I mean, you
4 can -- granted, it may be difficult to get all the way down so
5 that you could clear under the current concrete porch deck, but
6 the concrete porch deck, or the deck, whatever it's made of,
7 doesn't need to extend across the entire front. In fact, I've
8 seen other porch treatments where the -- you know, the -- the
9 roof of it extends across the entire front, and then the, um --
10 uh, but the actual deck is only 2/3 of it.

11 Um, there may be other ways to do it. I mean, if you
12 -- ideally, if you could actually push the entrance -- you
13 know, make the entrance work with the front yard and get
14 yourself (sic) all the way down to the level so you could go
15 under that entire porch, that could work, as well. Um, I mean,
16 there -- there are a number of ways to handle it.

17 Um, I -- I think the key -- I mean -- I -- I don't
18 know. I mean, this is -- this is a -- a -- a tradeoff. Do you
19 -- do you do a -- a full, complete porch that spans, you know,
20 2/3 of the facade, or do you do a porch that -- that -- where
21 the roof spans a hundred percent of the facade and the deck is
22 2/3 of it?

23 You know, honestly, I think what you're showing there
24 with the -- with the porch and the column, um, blocking the
25 ganged window, that's bad. And furthermore, not covering up

1 the, um -- or -- or not spanning across that entire face -- I
2 mean -- I'm -- maybe it's just because I'm particular about
3 these things, and I -- and I look at the details of it, but
4 when you see porches that have been removed from houses, one of
5 the things that's really bad about that is that nobody actually
6 restores the brick underneath.

7 And very often, you've got a nicer, finished brick
8 that's used everywhere in the facade except where it's covered
9 by the construction of the porch. And so, they use cheap,
10 sidewall brick in that location, and it just looks bad. And you
11 paint it over, and you can just still see the ghost of the
12 former porch.

13 So, I -- you know, I -- I don't really have strong --
14 that strong feelings one way or another, but I -- I -- I don't
15 like the -- the -- the junior porch when it -- when it blocks
16 that ganged window. I think that's -- that's not a good
17 treatment. I don't know how the rest of the Board feels.

18 CHAIRPERSON HEATH: Is this -- so this is the
19 current.

20 MR. MAY: That's the current design.

21 CHAIRPERSON HEATH: That's the current design.
22 Because the -- the one we're looking at is a little different
23 than that. The porch comes across a little farther.

24 MR. MAY: Oh yeah, you're right.

25 CHAIRPERSON HEATH: In this one, it looks like the

1 porch is stopping just short of the -- the window at the front
2 facade. But in the --

3 MR. MAY: It's covering half the window.

4 CHAIRPERSON HEATH: Right. You know, half the first
5 window. Right. But in this one, it's coming into the second
6 portion of the window. So, it's extending a little farther.

7 MS. MOLDENHAUER: We would -- Yes, you know,
8 obviously, we would be willing to pull the -- the top all the
9 way across in order to address Commissioner's (sic) May's
10 concerns regarding whether or not the -- you don't see the -- I
11 guess, the -- the ghost of the old, uh, facade. We would be
12 fine proffering that and -- and supplementing that at a later
13 date.

14 CHAIRPERSON HEATH: Okay. So, the roof structure
15 itself would extend all the way across the porch, though would
16 stop about midway to -- to just before -- where it is in this.

17 MS. MOLDENHAUER: I -- I might ask for flexibility
18 from the Board to study that, and I think that that would mean
19 -- that that would be appreciated. So, we -- we would study
20 whether we could bring the -- the lower portion all the way
21 across. I think that'd be preferred, but we'd have to study it.
22 So, we would just ask the Board for flexibility.

23 CHAIRPERSON HEATH: Okay. All right.

24 MR. MAY: Yeah. I -- I mean, you gotta figure out
25 where it makes sense to see, um, particularly depending on the

1 treatment of it. Um, you know, right now, there's an existing
2 brick pier -- uh, that -- that is on the one side of the, uh,
3 uh -- of the stairway, the -- the inside of the stairway, and,
4 uh, you know, when you're dealing with brick piers -- I don't
5 know how you intend to construct that, but if you were to -- if
6 you were to -- I mean, if you're doing something like that with
7 a metal rail, and the metal rail is just sort of continuous
8 around it, I think that'll be fine. Because then you're not
9 really calling to -- attention to the fact that the porch deck
10 is not continuous across the entire front. I think that's a
11 better treatment. Um -- although you may have trouble doing --
12 it -- it looks like just a plain old horizontal rail. That
13 might not meet code, but that's -- that's your problem.

14 Um, the, um, uh -- and -- and -- and just having that
15 -- that porch run all the way across and -- you know, where it
16 is, how tall it is -- you know, what you're showing there -- I
17 actually hope these are not the final version of it, because I
18 think the -- the one that we have that was submitted was a
19 little bit more refined. Um, because you've just got to make
20 sure that the -- the new, uh, porch roof aligns with where the
21 porch roof used to be, and it extends that full width and that
22 it's the same height, and -- and it -- at -- lands at the same
23 location on the facade. Okay?

24 CHAIRPERSON HEATH: Okay. So, you're -- you'll study
25 this -- extend the roof, but study what can be done for access

1 down to the basement unit, um, and what that means to the porch
2 slab itself.

3 MS. MOLDENHAUER: Yes, we would -- we would be
4 willing to agree and have it as a condition where the roofline
5 should be extended in the location of the -- you know, as shown
6 on Tab D or Tab -- not -- rather, Exhibit 9, uh, to the, uh,
7 BZA application.

8 CHAIRPERSON HEATH: Okay. All right. Um, one issue
9 here is that we don't want to have drawings come in after a
10 decision's made, um, like to be able to see the drawings before
11 we conclude, um, so--

12 Mr. Moy, if we continue this just for decision, so
13 that we can see the revised drawings, and make a fin -- come a
14 final conclusion then?

15 MR. MAY: Yeah. We don't need to wait until I come
16 back. I mean --

17 CHAIRPERSON HEATH: Okay.

18 MR. MAY: -- you -- you could do it -- are you here
19 next week? So, if you're here --

20 CHAIRPERSON HEATH: Can you get us drawings that
21 quickly?

22 MS. MOLDENHAUER: I -- I just -- I -- before we -- we
23 -- we can. I do know that there's a gentleman in the audience
24 who lives next door who's here to testify on the case, so I
25 don't know if the Board wants to --

1 CHAIRPERSON HEATH: We --

2 MS. MOLDENHAUER: Okay.

3 CHAIRPERSON HEATH: We would hear from him. We can
4 hear from him today, certainly.

5 MR. MAY: Yeah, and --

6 MS. MOLDENHAUER: We can have the drawings by next
7 week, yes.

8 MR. MAY: Well, it wouldn't have to be --

9 MS. MOLDENHAUER: By this Thursday, so that way --
10 yeah.

11 MR. MAY: Yeah. And then, um, so long as I can see
12 it, then I -- I can --

13 MS. MOLDENHAUER: Okay.

14 MR. MAY: -- either come in just for this case, or I
15 could, uh, um, do an absentee ballot.

16 CHAIRPERSON HEATH: Okay. All right. So, then, uh,
17 I'll ask for anyone -- because we didn't do this before --
18 either, um, anyone who's wishing to speak in support of this
19 application or in opposition.

20 (No audible response)

21 CHAIRPERSON HEATH: Okay. Please come forward. Please
22 state your name, and we'll give you, uh, up to 3 minutes, if
23 you need it, to make your statement.

24 MR. SULIMAN: Uh, my name is Abubaker Suliman. I'm
25 the owner of 2710 Sherman Avenue, which is, uh, just, uh, where

1 we can share a wall. It's connected to each other. And before I
2 start, I want to comment about the, uh, uh -- be sure that you
3 are talking about and, uh, it has to be consistent with my
4 house because we are sharing everything together, and I, uh,
5 suggest, if it is full and similar to what used to be, before.
6 Thank you if you do that.

7 Uh, the second one, the main thing I came here is,
8 uh, I have met with them, uh, about 10 days ago, and we have
9 discussed several issues that concerns me.

10 Uh, number one, my main concern is the structural
11 damage because, uh, they are going to dig about two feet in the
12 basement, so when that happens, definitely it might affect my
13 building, and I need an assurance for that.

14 Uh, the second one is, this is a rental property for
15 me, and I have posted it for 4 months. People come and see
16 that, uh, because, uh, uh, a lot of things -- uh, you know, the
17 owner before cleans out, cut the grasses, throw away all dirt
18 (sic), and now, after they took over, uh, there are weeds,
19 grasses are grown, uh, mattresses are on the -- on the floor,
20 and there are reclining chairs all over the place. So, when
21 tenants come -- prospective tenants come and see that, they
22 didn't like it, and they keep going, uh, back. I couldn't rent
23 this.

24 I am paying from my pocket, and it seems to me
25 sometimes, uh, it's, uh, not actually forcing us to sell our

1 building, because we can pay 2-, 3-, 4-, 5 months, and then we
2 may run out of money, and we'll be forced to sell that
3 building. I don't know whether it's intentionally done that way
4 or not, because we talked to -- with him and other -- uh, the
5 other owner. They have promised they will clean it up. And I'm
6 losing income, not only losing income, I am paying from my
7 pocket. That's, uh, my main concern.

8 Uh, other than that, uh, I do not care how many
9 building -- I mean, floors they build. Uh, that's, uh, up to
10 them and up to the regulation, uh, the Zoning Committee has.
11 But, uh, since they are going to convert into condominium and
12 sell it, they are going to make money, but in the meantime, I
13 don't have to lose money.

14 So, it doesn't seem fair, to me, and, uh, that's why
15 I'm -- I have been last week -- last time here, on the 27th,
16 and I'm here again, and I told them my concern, and, uh, they
17 just didn't do anything. So, I have two issues: financial and
18 structural.

19 CHAIRPERSON HEATH: Okay. Thank you. And thank you
20 for coming down both times, and taking the time. I know this
21 has been a long day for you to sit and wait until the very last
22 case.

23 MR. SULIMAN: That's all right.

24 CHAIRPERSON HEATH: Um, and, uh, you may have heard
25 earlier, um, while we certainly sympathize with you, uh, on the

1 structural concerns related to any digging they might have to
2 do, that is not -- that's a construction-related issue and not
3 one that, uh, is before the Board. So, uh, that is something
4 that the applicant will have to deal with as they go through
5 permitting, and so DCRA will have oversight over what they're
6 doing regarding any structural issues. Um, and I hope that, as
7 the applicant, you will be a good neighbor and address the
8 other issues that are affecting him financially.

9 MR. HILL: You know, I -- I would like to hear from
10 you just a little bit. I mean -- so, you were here -- we were
11 here, what? Whenever this was here last --

12 CHAIRPERSON HEATH: Twenty-second.

13 MR. HILL: -- 2 weeks ago? Two weeks ago? And so,
14 there are -- what -- Some of the concerns that he has, when
15 would you be able to clean up the area there?

16 MR. HEMINGER: Yes. Actually, we -- so we met -- we
17 talked, uh, whatever it -- what, 2 weeks ago? And then we met
18 on that Saturday, and -- and -- and -- with my partner, and I
19 -- actually, I thought that my partner honestly had cleaned it
20 up, so if he hasn't we'll -- we can call him together. I'm
21 sorry about that. I do know, though, all the debris that's in
22 the back, I think it -- we all talked about it. It actually
23 came from the previous owners, but they had put it there when
24 they were moving out, I believe, so it -- it was actually there
25 when we settled, but we said we could come up and get it

1 cleaned out. We even offered to put a fence up, like a -- a
2 large fence so, you know, when he's trying to rent it, they
3 won't see what's going on during the construction. I don't -- I
4 think that your concern was really more about getting it rented
5 and having the, um -- the notice about to build out front. He
6 thought that was deterring, but that notice had -- you'd been
7 trying to rent it out the month of September, before, I think,
8 the notice went up. But, um -- but, you know --

9 (Simultaneous speaking)

10 MR. HILL: My -- my main concern just if there's
11 couches or mattresses --

12 MR. HEMINGER: Yeah.

13 MR. HILL: -- or the --

14 MR. HEMINGER: Yeah.

15 MR. HILL: -- lawn's not cut.

16 MR. HEMINGER: It's -- it's -- I --

17 MR. HILL: You know, he's trying to rent the space
18 next door.

19 MR. HEMINGER: We're going to -- it -- if it hasn't
20 been done, we'll -- like I said, we'll take care of it, because
21 I thought, uh, my partner had already taken care of it. But we
22 -- we're all together in that, yes.

23 CHAIRPERSON HEATH: Okay. All right. Thank you. Okay.

24 MS. MOLDENHAUER: I -- I'll just -- Can I provide
25 quick, uh, closing remarks --

1 CHAIRPERSON HEATH: Sure.

2 MS. MOLDENHAUER: -- just to kind of address that?

3 Um, we also have been -- we met with other neighbors who live
4 on the block, who actually own and live there with their child,
5 and Mr. Sullivan (sic) actually has com -- took -- take -- took
6 all of the trees out of the rear of his property, and the
7 neighbor was actually concerned about that and wanted to keep a
8 lot of the trees, because his lot is actually very, very deep.
9 And so we've agreed to keep some of the trees in the rear of
10 our property, uh, to maintain that appearance, and we've worked
11 with them.

12 So, we are working with a lot of the neighbors. Um,
13 there were some financial concerns that, uh, you heard, uh,
14 that we were not able to resolve, um, for Mr. Sullivan (sic).
15 So.

16 CHAIRPERSON HEATH: Okay. All right. Thank you. Then
17 we will conclude this hearing and continue this until -- is it
18 next week?

19 MR. MOY: I believe it's next week, which would be
20 November 17th. Um, can the applicants make a submission by --
21 which is better for you, Thursday or Friday?

22 MS. MOLDENHAUER: We'll -- we'll provide it by
23 Thursday.

24 MR. MOY: Oh, perfect. All right.

25 CHAIRPERSON HEATH: Okay. So, we're on for decision

1 next week. Okay.

2 MR. MOY: Next Tuesday, November 17th.

3 CHAIRPERSON HEATH: All right. Very good. Thank you.

4 MR. MOY: Thank you.

5 CHAIRPERSON HEATH: Are there any other matters
6 coming before the Board today?

7 MR. MOY: Uh, not from the staff, Madam Chair.

8 CHAIRPERSON HEATH: Thank you. Then we're adjourned.

9 (Whereupon, the above-entitled matter was concluded
10 at 2:25 p.m.)

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