

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA

2 Office of Zoning

3 Board of Zoning Adjustment

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9 PUBLIC MEETING OF THE BOARD OF ZONING ADJUSTMENT

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12
13 9:57 a.m. to 1:35 p.m.

14 Tuesday, January 26, 2016

15
16 441 4th Street, N.W.

17 Jerrily R. Kress Memorial Room

18 Second Floor Hearing Room, Suite 220 South

19 Washington, D.C. 20001

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1 Board Members:

2 MARNIQUE HEATH, Chairperson

3 FREDERICK L. HILL, Vice-Chairperson

4 MICHAEL TURNBULL, Zoning Commission

5

6 Office of Planning:

7 ANNE FOTHERGILL

8 STEPHEN MORDFIN

9 STEPHEN GYOR

10 BRANDICE ELLIOTT

11

12 Department of Transportation:

13 RYAN WESTROM

14

15 Also Present:

16 CLIFFORD W. MOY, Secretary to the Board

17 SHERRY GLAZER, ESQ.,

18 Office of Attorney General

19 Participants:

20 MARTY SULLIVAN

21 CHRIS PASHBY

22 PATRICK COOKE

23 LORI BETTINGER

24 CHRISTOPHER WRIGHT

25

1 Participants:

2 BENJAMIN FULLER

3 SHAWN BUEHLER

4 TOM BORGER

5 STEVE DICKENS

6 JAMES SUH

7 ANDREW SO

8 ZDENEK BECKA

9 CARRIE TRIEU

10 PHONG TRIEU

11 ALMA H. GATES

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

2 CHAIRPERSON HEATH: All right, the hearing
3 will please come to order. Good morning, ladies and
4 gentlemen. We're located in the Jerrily R. Kress
5 Memorial Hearing Room at 441 4th Street Northwest.
6 Today's date is January 26th, 2016, and we're here
7 for the public meeting and hearings of the Board of
8 Zoning Adjustment of the District of Columbia.

9 My name is Marnique Heath, Chairperson.
10 Joining me today is Fred Hill, Vice Chairperson, and
11 Michael Turnbull sitting in as a member of the Zoning
12 Commission today. Or a member of the Zoning
13 Commission sitting in as a member of the Board today.

14 Be advised that this hearing is being
15 recorded by a court reporter and is also being
16 webcast live. Accordingly we must ask you to refrain
17 from any disruptive noises or actions while in the
18 hearing room. The Board's hearing procedures and how
19 we will process applications can be found on the
20 table at the back of the room.

21 All individuals wishing to testify today will
22 need to do two things. The first is prior to
23 testifying, each person who wants to address the
24 Board must complete two witness cards per person.
25 That's two witness cards per person. And give those

1 to the court reporter who is seated to my right.

2 The second is I'll need you to now stand and
3 take the oath administered by the Board Secretary,
4 Mr. Moy.

5 MR. MOY: Good morning.

6 [Oath administered to the participants.]

7 MR. MOY: Ladies and gentlemen, you may
8 consider yourselves under oath.

9 CHAIRPERSON HEATH: Good morning, Mr. Moy.
10 Do you have any preliminary matters coming before the
11 Board today?

12 MR. MOY: Yes, I do, Madam Chair. Members of
13 the Board, good morning. We made it through the snow
14 day so that's good.

15 Several things, four cases, to clarify which
16 cases are on the docket for today. Let's see. Okay.
17 Two cases that will not be heard today for sure is
18 Application No. 19088 of Joes Ayala. That
19 application has been postponed and rescheduled to the
20 hearing of February 23rd, 2016. Application No.
21 17703A, Sidwell's Friends School has been rescheduled
22 to March 1st, 2016. 19075, Michelle Munn, has been
23 withdrawn. That application has been withdrawn.
24 Let's see, 19169. This is the application of 311 K
25 Street, LLC. There's a request to postpone and has

1 been rescheduled to February 9th, 2016. Application
2 No. 19149, this is the application of Romi Satoh.
3 There is a request to postpone that was submitted
4 January 21st, and that is being rescheduled to
5 February 23rd, 2016. And finally, yes, 19147 of Symi
6 Rom-Rymer, which was on the expedited review
7 calendar.

8 Madam Chair, there was a letter filed by ANC
9 3C in opposition so per the regulations for expedited
10 review cases that has been pulled from the calendar
11 is now rescheduled to a public hearing on February
12 23rd, 2016. February 23rd, yes.

13 CHAIRPERSON HEATH: Okay.

14 MR. MOY: That's it for me, Madam Chair.

15 CHAIRPERSON HEATH: All right. Thank you.

16 [Pause.]

17 CHAIRPERSON HEATH: All right. So when
18 you're ready, Mr. Moy, you can call our first meeting
19 case.

20 MR. MOY: Yes. Thank you, Madam Chair. The
21 first and only case for decision in the meeting
22 session would be, there's a request for a time
23 extension to Application No. 18511A of Alleyoop, LLC.
24 This is property located at 1018 Irving Street
25 Northwest, Square 2851, Lot 837.

1 The applicant filed the request for a time
2 extension on January 7th, 2016. And I believe as of
3 this morning there have not been any responses
4 received from any of the parties to the original
5 application, where I believe there is a 30 day
6 requirement to respond from January -- the filing of
7 January 7th.

8 CHAIRPERSON HEATH: That's correct.

9 MR. MOY: Okay. Good.

10 CHAIRPERSON HEATH: So we will put this on
11 for a new date.

12 MR. MOY: Okay. All right. So --

13 CHAIRPERSON HEATH: Given that they've
14 requested the extension and we don't have any
15 correspondence from any of the parties.

16 MR. MOY: Yes. So using that as my criteria
17 for scheduling a future public hearing date would be
18 February the -- the earliest would be February --

19 CHAIRPERSON HEATH: So responses are due by
20 February 6th.

21 MR. MOY: Yes.

22 CHAIRPERSON HEATH: So --

23 MR. MOY: So the earliest would be February
24 9th.

25 MS. GLAZER: Madam Chair, I'm sorry to

1 interrupt but there was a report filed by OP and
2 they're not technically a party but I don't know if
3 the Board wanted to address the statement in the OP
4 report regarding additional documentation. If the
5 Board is continuing the matter anyway.

6 CHAIRPERSON HEATH: Yeah, I think -- okay.
7 Yes, I would like to address that now since this
8 could be a potential issue when this comes back.

9 I think one of the things that is at issue
10 here with this request for extension is the applicant
11 is saying that they need the extension because they
12 haven't been able to secure tenants for the artist
13 studio, and I think the Board as well as the Office
14 of Planning would like to request that the applicant
15 provide more information on what they've done, what
16 efforts they've made so far in order to try to secure
17 tenants so that we have a little bit more backup and
18 justification for granting the extension.

19 So if we could request that the applicant
20 submit that prior to the next hearing or meeting date
21 for this?

22 MR. MOY: Yes, okay. Well, staff will also,
23 given the circumstance of today, Madam Chair, the
24 staff will reach out to the applicant to --

25 CHAIRPERSON HEATH: Okay.

1 MR. MOY: -- inform them of that fact.

2 [Discussion off mic.]

3 MR. MOY: Okay. I think he is, but let me
4 check.

5 [Pause.]

6 MR. MOY: Yes, it's Mr. Sullivan, I believe,
7 Madam Chair.

8 MR. SULLIVAN: Good morning, Madam Chair and
9 members of the Board. Mary Sullivan on behalf of the
10 applicant in the case being discussed.

11 We've also filed a request to modify the
12 approval. It's a separate request, so it may make
13 sense to schedule the decision on the same day, and
14 maybe even after because there may not be a need for
15 an extension depending on the outcome of the
16 application.

17 CHAIRPERSON HEATH: Okay. We had some
18 question about that and whether it made sense to
19 schedule them on the same day or on different days.
20 If you're fine with us putting this off, it looks
21 like the case will come back to us for hearing
22 sometime in March. I don't have that date.

23 MR. SULLIVAN: I'm looking at the file now.
24 I've found it -- hope to find the date here in a
25 second.

1 CHAIRPERSON HEATH: Okay.

2 MR. SULLIVAN: I don't think a hearing notice
3 has gone out, actually.

4 CHAIRPERSON HEATH: Okay.

5 MR. SULLIVAN: Maybe I --

6 CHAIRPERSON HEATH: So we could have the
7 staff coordinate the timing of these and have the
8 next application heard first, and then put this one
9 on after.

10 MR. SULLIVAN: Okay.

11 CHAIRPERSON HEATH: If you're okay with that.

12 MR. SULLIVAN: Yes.

13 CHAIRPERSON HEATH: And then if you could
14 also work on getting us proof of what's been done to
15 secure tenants.

16 MR. SULLIVAN: More information.

17 CHAIRPERSON HEATH: Right.

18 MR. SULLIVAN: Yeah.

19 CHAIRPERSON HEATH: That would be helpful.

20 MR. SULLIVAN: Got it. Yeah, thank you.

21 CHAIRPERSON HEATH: All right. So we'll put
22 this on for some time in March.

23 MR. MOY: Yes, it will be the -- it will
24 coincide with the same hearing date as the request
25 for modification, Madam Chair.

1 CHAIRPERSON HEATH: Okay. He's asked if we
2 could even put it on later, so --

3 MR. MOY: Later than March?

4 CHAIRPERSON HEATH: Later than the next
5 hearing because if we don't approve the --

6 MR. MOY: Oh.

7 CHAIRPERSON HEATH: -- next application then
8 this time extension is sort of moot.

9 MR. MOY: Okay. So --

10 MS. GLAZER: Madam Chair, I would suggest
11 putting them on the same date and you could hear them
12 sequentially. But it does need to be extended or the
13 order will lapse, regardless of whether it's --

14 CHAIRPERSON HEATH: In the next --

15 MS. GLAZER: -- modified.

16 CHAIRPERSON HEATH: In the next two months.

17 MS. GLAZER: You could put it off until
18 March.

19 CHAIRPERSON HEATH: Okay.

20 MS. GLAZER: It's told as long as the filing
21 was prior to the expiration, which I believe it was.

22 CHAIRPERSON HEATH: Right. Okay. I'm fine
23 with them being on the same date.

24 MR. MOY: Okay. I'm sorry. I was looking to
25 see whether or not -- I had my records, what that

1 date was going to be for the record now. But I don't
2 have that date yet. But staff will move ahead and
3 put it for the same hearing date in March.

4 CHAIRPERSON HEATH: That's fine.

5 MR. MOY: All right?

6 CHAIRPERSON HEATH: Okay.

7 MR. MOY: Okay.

8 MS. GLAZER: I thought I saw the date
9 somewhere.

10 MR. MOY: Yeah, that's what I thought too.

11 CHAIRPERSON HEATH: It said March.

12 MR. MOY: I was looking.

13 CHAIRPERSON HEATH: But I didn't see the -- I
14 saw the month but not the date.

15 MR. MOY: Okay. Well, staff will take care
16 of that, Madam Chair.

17 CHAIRPERSON HEATH: Okay. All right. Okay.
18 So if -- before we get started with our hearing cases
19 we do have a party status request on Application No.
20 18983. Are the parties for that application here?
21 That's -- if you could please come forward? Both the
22 applicant and any parties in opposition, requesting
23 party status.

24 If you could have a seat at the table? This
25 is 18983. If you could please give us your names,

1 and start with you?

2 MR. BECKA: Sure, Zdenek Becka.

3 CHAIRPERSON HEATH: Make sure your microphone
4 is on when you introduce yourself.

5 MR. BECKA: Zdenek Becka.

6 MS. TRIEU: Carrie Trieu.

7 MR. TRIEU: Phong Trieu.

8 CHAIRPERSON HEATH: Okay. And are you the
9 party who has requested party status?

10 MR. BECKA: Yes.

11 CHAIRPERSON HEATH: Okay. And the motion to
12 waive the 14-day riling requirement since your party
13 status request was --

14 MR. BECKA: Yes.

15 CHAIRPERSON HEATH: -- later than the
16 specified date.

17 What I'd like to request now, this isn't --
18 we're not calling you up for a hearing at this point.
19 But I would like to request that you spend the time
20 throughout today communicating further. I assume
21 you've already had conversations. But if you could
22 use this time to talk through your issues and try to
23 come to some resolution on your own, the Board will
24 hear this application later in the day and we can --
25 we may make a decision on this today. But at some

1 point we'll make a decision that if we make it is
2 going to make somebody unhappy.

3 So I would encourage you to try to reach
4 resolution that reaches a compromise between the two
5 parties. So you can either go out into the hallway
6 or talk to the receptionist in the Zoning Office and
7 see if there's a room where you can spend some time
8 meeting.

9 This has proven to work in the past. So I
10 like to give applicants and parties in opposition the
11 opportunity to use this time rather than sit here and
12 watch all of the cases to do something productive.
13 So --

14 MR. TRIEU: What time would we --

15 CHAIRPERSON HEATH: I don't know what time,
16 but it's going to be towards the end of the day. And
17 I don't know what that means. It just depends on how
18 fast we go through applications today.

19 MR. TRIEU: Okay.

20 MS. TRIEU: So if you get to ours, you'll
21 find us?

22 CHAIRPERSON HEATH: We will. We'll let you
23 know. We'll let you know. All right?

24 MS. GLAZER: Madam Chair, is anybody from the
25 ANC present? There was a notation that they -- from

1 OP I think, that they had some issues and concerns.
2 So if they were here --

3 CHAIRPERSON HEATH: Evidently not since they
4 didn't come forward.

5 MS. GLAZER: Uh-huh. Okay.

6 CHAIRPERSON HEATH: And maybe they'll show up
7 later, you know, given the weather and the snow
8 conditions. I think some people may be late today.
9 So we'll see if the ANC shows up at some point later
10 today we'll have them join the discussion. All
11 right. Okay. Thank you.

12 MR. BECKA: Thank you.

13 CHAIRPERSON HEATH: Okay. So then we will
14 proceed with the order as it's listed on the agenda
15 for today. And so, Mr. Moy, if you could call our
16 first hearing case?

17 MR. MOY: Yes. Thank you, Madam Chair. That
18 would be Application No. 19226 of Christopher Pashby.
19 This applicant -- application has been revised and I
20 believe the current relief that the Board will be
21 hearing is a special exception relief under Section
22 223, not meeting lot occupancy under Section 403.
23 And there's also revised self-certification in your
24 case folders, Madam Chair, under Exhibit 54.

25 But I would ask the applicant to confirm what

1 I've just stated. Thank you.

2 CHAIRPERSON HEATH: Okay. If you could
3 please introduce yourselves?

4 MR. SULLIVAN: Thank you, Madam Chair and
5 Members of the Board. My name is Marty Sullivan with
6 Sullivan and Barros on behalf of the applicant.

7 MR. PASHBY: Hi, I'm Chris Pashby. I'm the
8 applicant.

9 MR. COOKE: Patrick Cooke, Thompson and Cooke
10 Architects on behalf of the applicant.

11 CHAIRPERSON HEATH: Okay. And are the
12 opposition parties here?

13 MR. SULLIVAN: We don't see them anywhere,
14 no.

15 CHAIRPERSON HEATH: Okay. Have you had any
16 further discussions with them since you were here
17 last?

18 MR. SULLIVAN: Yeah, I reached out to their
19 counsel and before the holidays, and he said he would
20 get back to me after the holidays and I haven't heard
21 back from him. And I think Mr. Pashby has had some
22 conversations.

23 MR. PASHBY: Yeah, I did have conversations
24 with one of the neighbors, Lisa Terry, and we didn't
25 come to any kind of agreement. I explained our

1 landscaping plans and gave her some other things I
2 hoped would mitigate some of her concerns, and she
3 never really accepted them as saying that she was
4 removing her opposition, but so we haven't gotten any
5 farther beyond that.

6 CHAIRPERSON HEATH: Okay.

7 MR. HILL: Madam Chair. What were some of
8 the things that you suggested for the landscaping?

9 MR. PASHBY: Yeah, there was a few things.
10 One is that originally when this went in front of our
11 ANC they complained about this holly that was being
12 removed. So one of the things on our plan is that we
13 have a fairly large River Birch that's going to go in
14 that same spot. So that was on our plan.

15 There was a fair amount of screening that we
16 were doing along the back of the property. And then
17 on Ms. Terry's side of the garage specifically,
18 there's a three foot stretch of our property that was
19 originally Mr. Meredith's. And he has eased it to
20 her. It was basically his access to the alley, this
21 little three-foot strip that went down to the alley.
22 And we offered -- we had our landscape designer
23 actually draw up plans for putting landscaping in
24 that space. And we even offered to pay for some of
25 it and she didn't seem so inclined. She said she had

1 other plans for that space, I believe were here exact
2 wordings.

3 But right now that space is actually enclosed
4 within our fence, and it's -- you know, I cut the
5 grass and maintain the property but it's actually not
6 ours, so.

7 MR. HILL: Okay.

8 MR. SULLIVAN: Madam Chair, the page I'm
9 handing out is just from the property quest map. You
10 can see the strip that Mr. Pashby is talking about to
11 the north of the rear of his property.

12 CHAIRPERSON HEATH: Okay. All right. So
13 when you were here last the parties in opposition
14 were here and I know there was quite a bit of
15 confusion as to what the request was as a part of
16 this application because it's changed and there were
17 several applications on this property, one for a rear
18 addition. And then this one for the garage.

19 Do the lot occupancy calculations for the
20 garage include the addition, which we recognize has
21 been approved but not built yet?

22 MR. SULLIVAN: So the site plan I've just
23 passed up now shows existing and proposed. And the
24 lot occupancy with the addition is 36.4 percent
25 without the garage. And then, so it's the garage and

1 that's why our request has been changed. The
2 addition has been approved. And so the request is to
3 go from 36.4 percent with no garage to 43.7 percent
4 with the garage.

5 CHAIRPERSON HEATH: Okay.

6 MR. SULLIVAN: I'll also note, as of
7 September 6th we won't need this relief anymore
8 because we'll be under 40 percent. Somewhere around
9 37 percent, because of the change in the definition
10 of building area not including the nonconforming side
11 yards anymore.

12 CHAIRPERSON HEATH: Okay. All right. Give
13 me one moment.

14 [Pause.]

15 CHAIRPERSON HEATH: All right. So we sort of
16 anticipated that we would have cases like this where
17 we have opposition who either wasn't able to make it
18 or wasn't sure if the hearings were going to proceed
19 today. And so because we do have opposition parties
20 we can't go forward with the hearing without them
21 being present or sending us something that
22 acknowledges that they're either withdrawing or -- so
23 what we'll do is --

24 MR. SULLIVAN: I'm sorry. Does that change
25 if they have counsel? Should they be held to a

1 different standard if they do have counsel?

2 CHAIRPERSON HEATH: I don't think so.

3 MR. SULLIVAN: Because at this point, you
4 know, we'll be close to being matter of right by the
5 time an order comes out.

6 CHAIRPERSON HEATH: Sure.

7 MR. SULLIVAN: And since the addition was
8 already approved he wanted to do all the construction
9 at one time rather than --

10 CHAIRPERSON HEATH: Understood. But what
11 we'll do is -- and this will require more time from
12 you today, but we'll call you back. We'll have staff
13 try to reach them. We'll call you back later today
14 in hopes that maybe they'll get here at some point
15 later. We just can't -- procedurally we can't go
16 forward unless we know something from them, since
17 they are a party to this case. So.

18 MS. GLAZER: Madam Chair, I'm sorry to
19 interrupt again.

20 CHAIRPERSON HEATH: Sure.

21 MS. GLAZER: But I know you obtained
22 clarification from the applicant about lot occupancy
23 calculations. But I'm noticing the OP report has
24 43.7 percent. Oh, that's close to what you're
25 saying, 43.4 percent. So it's only -- okay.

1 CHAIRPERSON HEATH: You're saying OP has
2 43.4?

3 MS. GLAZER: Yeah.

4 CHAIRPERSON HEATH: Yeah, they're saying
5 43.7.

6 MS. GLAZER: It's a minor discrepancy but
7 it's still under -- okay.

8 CHAIRPERSON HEATH: Yeah. They'd still have
9 to apply. Okay. All right.

10 So unfortunately we'll need to call you back.
11 So if you could give us a little time we'll see if
12 staff can make contact with the opposition. All
13 right. Thank you.

14 [Pause.]

15 MR. MOY: All right.

16 CHAIRPERSON HEATH: So you can call our next
17 case.

18 MR. MOY: Next application, I believe then,
19 is application No. 19156, of Brad Edwards. Again,
20 with this, Madam Chair, this request for zoning
21 relief has been revised, amended. So there are
22 revised plans in the record. We do not have a
23 revised self-certification to that affect, but I
24 believe now it's special exception, under Section
25 223, not meeting lot occupancy, rear yard, court

1 width, and nonconforming structure provisions.

2 CHAIRPERSON HEATH: Okay. Thank you, Mr.
3 Moy. Would that applicant please come forward?

4 No applicant for 19156? All right. Okay.
5 So this is -- appears to be similar to the last case
6 where the parties are either delayed or aren't sure
7 that the hearings are happening today. So we will --
8 we'll come back to this one.

9 Can you come forward, please? Wait until you
10 get your mic on.

11 MS. BETTINGER: My name is Laurie Bettinger.

12 CHAIRPERSON HEATH: Push the push button.

13 MS. BETTINGER: Okay. My name is Laurie
14 Bettinger and I'm a resident at 1725 Swan Street
15 Northwest.

16 CHAIRPERSON HEATH: Okay.

17 MS. BETTINGER: One of the adjacent houses.

18 CHAIRPERSON HEATH: Okay.

19 MS. BETTINGER: And we submitted a joint
20 letter with the house on the other side, 1721, Jamie
21 and Amy Butler, who also couldn't be here in person
22 today.

23 CHAIRPERSON HEATH: And so, just in case you
24 have to leave before the applicant is here, your
25 issues appear to be with respect to privacy. And it

1 said security, I think.

2 MS. BETTINGER: Yes.

3 CHAIRPERSON HEATH: But it's mostly privacy.

4 MS. BETTINGER: It's privacy, noise, security
5 to some extent. I know there's been a modified -- a
6 modified proposal submitted and we've submitted
7 another letter on that that it doesn't address the
8 privacy noise and security issue because you still
9 have the access to the second floor.

10 CHAIRPERSON HEATH: Okay.

11 MS. BETTINGER: And I know that the ANC was
12 also opposed.

13 CHAIRPERSON HEATH: They were. And it
14 sounded like their position was your position.

15 MS. BETTINGER: That's correct.

16 CHAIRPERSON HEATH: They're in support of
17 you. Have you talked to the applicant about anything
18 that you would recommend?

19 MS. BETTINGER: We have. We had a meeting
20 actually before the ANC, with the ANC, and we said
21 that we were happy to support a first floor deck or a
22 roof deck, or even sort of a cut-out deck. But they
23 did not like any of those options. They said they
24 didn't -- because we actually have a first floor
25 deck, as do our neighbors immediately next to us.

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1 And we said we were more than happy with that. And
2 again, more than happy with the roof deck.

3 CHAIRPERSON HEATH: Okay.

4 MS. BETTINGER: Or, and I can -- I think the
5 picture is in the application. There are a couple of
6 houses of the same style that actually have a cut-in
7 deck, so everything is flush. And we said we would
8 be happy to support a cut-in deck. You do lose part
9 of your bedroom when you do that, but it keeps
10 everything flush.

11 CHAIRPERSON HEATH: Okay. And that prevents
12 them from being on their second floor deck and
13 looking either into your --

14 MS. BETTINGER: That's correct.

15 CHAIRPERSON HEATH: -- residence or down on
16 to your deck.

17 MS. BETTINGER: That's correct.

18 CHAIRPERSON HEATH: Okay.

19 MS. BETTINGER: So we were -- you know, any
20 of the other options that different neighbors have
21 tried, usually roof deck or floor deck, we were fine
22 with.

23 CHAIRPERSON HEATH: Okay.

24 MS. BETTINGER: But as you can see if the
25 photo is there -- I actually have one -- all of the

1 houses -- I can bring this up -- have exactly -- no
2 one has an outstanding deck and this is the deck, the
3 picture in question.

4 CHAIRPERSON HEATH: Okay.

5 MS. BETTINGER: So it's a complete outlier.
6 So we were happy to support anything that was -- that
7 everyone else has done.

8 CHAIRPERSON HEATH: Okay. All right. Well,
9 thank you for coming. Sure, go ahead.

10 MS. BETTINGER: Sure.

11 MR. HILL: Thank you, Madam Chair. So I want
12 to understand this. On the row, there's nothing on
13 the second floor right now except you're saying one
14 of the homes does have this cut-out deck?

15 MS. BETTINGER: That's correct.

16 MR. HILL: Okay. And then the other homes,
17 they have the first floor deck?

18 MS. BETTINGER: That's correct.

19 MR. HILL: Okay.

20 MS. BETTINGER: So like we have, when you
21 walk out of our house, a little deck on the first
22 floor and then --

23 MR. HILL: Right.

24 MS. BETTINGER: -- park right next to it.

25 MR. HILL: Right. But it's not taking away

1 from space inside that first floor deck? That's
2 completely outside of the existing --

3 MS. BETTINGER: That's completely outside.

4 MR. HILL: Okay. And then you have seen the
5 revised plans of the smaller balcony?

6 MS. BETTINGER: Yes.

7 MR. HILL: And so you're opposed to that
8 again because they still can, you know, obviously
9 look into people's yards. But is the smaller
10 balcony, are they able to look into your bedroom's
11 window?

12 MS. BETTINGER: Yes, we think so. They can
13 still look into the bedrooms.

14 MR. HILL: Okay.

15 MS. BETTINGER: And you still have noise
16 right outside the bedroom at the bedroom level.

17 MR. HILL: Right. Okay. Okay. Okay, thank
18 you.

19 MS. BETTINGER: Sure.

20 CHAIRPERSON HEATH: Okay. All right.

21 MS. BETTINGER: And also you have the columns
22 coming straight up and blocking light in our kitchen,
23 because the way it's going to be supported, there
24 will be columns coming out of like the ground, up to
25 the second floor. And so that's straight outside our

1 kitchen window and our neighbors as well.

2 CHAIRPERSON HEATH: Okay.

3 MR. MOY: Yeah, excuse me, Madam Chair.

4 Sorry to interrupt. Just for the transcript, I
5 believe Ms. Bettinger's testimony is reflected in the
6 letter from Jeffrey Francer under Exhibit 30. Okay?

7 CHAIRPERSON HEATH: Okay.

8 MR. TURNBULL: Yeah, we have referenced -- we
9 have those drawings that show the revised deck. And
10 one of the peculiar things is the rather large
11 structural element to hold up this small deck, which
12 really looks imposing. So your concerns are noted.

13 MS. BETTINGER: Okay. And we actually --
14 yeah, and you can see the picture. We tried to take
15 a picture of the ladder that's there right now to
16 show sort of what an object would look like.

17 CHAIRPERSON HEATH: Okay. All right. Well,
18 we thank you for taking the time to come down this
19 morning and if the applicant is -- shows up and
20 you're still here, we'll call you back.

21 MS. BETTINGER: Okay.

22 CHAIRPERSON HEATH: But otherwise we have
23 heard what you've said and we will take it into
24 account.

25 MS. BETTINGER: Okay.

1 CHAIRPERSON HEATH: Things we evaluate.

2 MS. BETTINGER: Thanks very much.

3 CHAIRPERSON HEATH: Thank you.

4 MS. BETTINGER: Bye.

5 CHAIRPERSON HEATH: All right.

6 MR. MOY: All right, next up then, Madam
7 Chair, would be Application No. 19164 of Christopher
8 J. Wright. This, I believe, application -- well,
9 first of all this is a property on 17 U Street
10 Northwest, Square 3117, Lot 3. This is a request for
11 variances, multiple variances, in fact, from lot size
12 -- lot occupancy, rear yard, open court, and
13 nonconforming structure revisions, and has been
14 revised to I believe, add special exception to
15 Section 400 for height. And I believe there's also a
16 revised self-certification in the record under
17 Exhibit 32.

18 And again, if the applicant wouldn't mind
19 confirming the relief that he's seeking. Thank you.

20 CHAIRPERSON HEATH: Okay. Thank you. Please
21 introduce yourselves.

22 MR. WRIGHT: Yes, ma'am. I'm Christopher
23 Wright, the owner of 17 U Street.

24 MR. FULLER: I'm Benjamin Fuller, the
25 designer on the project.

1 CHAIRPERSON HEATH: Okay. And if you could
2 first address the Board Secretary's question about
3 the relief that you're seeking, just to confirm that?

4 MR. WRIGHT: Right. And I guess I can go
5 into more detail a little bit further.

6 CHAIRPERSON HEATH: Sure.

7 MR. WRIGHT: But just to be clear. The
8 additions that occurred were done in consultation
9 with the Office of Planning. Mostly to make it clear
10 that I did in fact need to request a special
11 exception -- or exception, excuse me, on top of the
12 area variances that I have had to request, given the
13 existing structure that I have in place. And like I
14 said, I'll walk through that.

15 So I believe, at least in the revised public
16 hearing notice, you can see where it's underlined,
17 the additions to add for that special exception under
18 the height requirements under Section 400. So in
19 addition to that, and I'll cover this a little bit,
20 and maybe the Office of Planning can weigh in. It is
21 actually possible that I might need additional relief
22 for another subsection regarding rear lot occupancy,
23 on top of what's listed right now.

24 And if you like, I can go into more detail
25 right now on that.

1 CHAIRPERSON HEATH: Sure. So correct me if
2 I'm wrong. You're seeking a variance for lot size,
3 401.3.

4 MR. WRIGHT: Correct, ma'am.

5 CHAIRPERSON HEATH: Lot occupancy, 403.2.

6 MR. WRIGHT: Yes, ma'am.

7 CHAIRPERSON HEATH: Rear yard, 404.1.

8 MR. WRIGHT: Right, which is the setback for
9 a rear yard. Yes.

10 CHAIRPERSON HEATH: Okay. Open court, 406.1,
11 nonconforming structure, 2001.3.

12 MR. WRIGHT: Correct, ma'am. Although
13 originally the submission was under 2001.3 because
14 the existing structure had so many nonconformities.

15 CHAIRPERSON HEATH: Okay.

16 MR. WRIGHT: I would say that the changes now
17 are actually now being addressed more specifically.

18 CHAIRPERSON HEATH: Okay. And then the
19 special exception, as you mentioned, for height,
20 under Section 400.

21 MR. WRIGHT: Correct.

22 CHAIRPERSON HEATH: Okay. And I haven't
23 missed anything, did I?

24 MR. WRIGHT: Well, just as I noted before, in
25 discussions with the Office of Planning, and I

1 haven't received a final call from anybody, it's
2 possible that there's also, under Section 2500, the
3 need to request a relief from the rear lot occupancy,
4 which is 30 percent of the rear lot. Currently
5 because there's an existing garage I'm over 50
6 percent in occupancy in the rear lot.

7 CHAIRPERSON HEATH: Okay. All right. So
8 we'll talk about that.

9 What's the existing condition, or the
10 existing use of this?

11 MR. WRIGHT: It's currently a single-family
12 residence. The condition is dilapidated, if that's a
13 -- I'm not sure of the exact definition but it in
14 fact is dilapidated. The roof itself leaks quite a
15 bit. So if -- I'll just show you the image itself to
16 maybe orient you a bit better. I'm sure it's in some
17 of the exhibits but the top left is the existing
18 structure as is. It's three stories above grade with
19 a basement. Like I said, the roof itself is
20 dilapidated, but the interior as well has some
21 structural issues that require repair, sooner rather
22 than later.

23 The backside here, which is on the bottom
24 left, you can see obvious issues with paint and stuff
25 like that. But the structure, the proposed changes,

1 are just to the right in terms of what the difference
2 would look like from the left to the right. A modest
3 change to the roofline in the front and maintaining
4 the architectural character of it. And then an
5 expansion of that current third level above grade
6 with a roof deck on the back. All the changes being
7 done on top of the current structures. And then no
8 increase in lot occupancy.

9 CHAIRPERSON HEATH: Okay. Are there
10 questions from the Board?

11 MR. TURNBULL: Well, yeah. Have you seen the
12 OP report, the latest report?

13 MR. WRIGHT: If it's the one submitted last
14 week, yes, I've seen that one. And I know Anne is
15 over here to discuss. So at first off, great thanks
16 to Anne for the ongoing discussions that we've had.
17 If possible, actually, I think it might be helpful
18 for me to run through a little bit of the lot itself
19 to show some of the reflections from the OP report
20 and why there's been some --

21 MR. TURNBULL: Well, I guess one of the
22 things is it looks like they're still looking for
23 more information.

24 MR. WRIGHT: Right. And again, maybe I'll
25 just defer to OP to speak to what they need. I have

1 tried to maintain constant interaction. There
2 certainly was an issue. If you hold up the last
3 image before the actual image.

4 There was some issue with regard to the
5 precision of the height measurement.

6 MR. TURNBULL: Right.

7 MR. WRIGHT: Which was in fact refined with
8 DCRA and making sure that it was done exactly
9 correctly. And that only came in last week, the
10 final characterization of exactly the grade, above-
11 grade plane height, and that was mostly an issue of
12 whether it was measured to the gable or to the roof
13 line. So Office of Planning has received that now.

14 MR. TURNBULL: We don't have anything in the
15 record that the Board can look at.

16 MR. WRIGHT: The submission, the last
17 submission that says update to case whatever, and I
18 apologize, I don't know the exhibit number. But it
19 would have been my last update, includes the
20 breakdown of how height is measured from grade plane.

21 MR. TURNBULL: But there's no additional
22 drawings that would show that to us.

23 MR. WRIGHT: The drawings are also updated,
24 sir.

25 CHAIRPERSON HEATH: Is that Exhibit 29 with

1 all of your plans and elevations, sections?

2 MR. WRIGHT: There was an updated one that
3 was submitted last week with the final update. I'll
4 hold it up right now to make sure that it is in fact
5 that.

6 MR. MOY: Madam Chair, it may be Exhibit 31
7 because it's entitled update to BZA Application
8 19164, from the applicant, I believe.

9 CHAIRPERSON HEATH: Okay.

10 MR. WRIGHT: And you would see within that,
11 that it shows the updated and very clearly defined
12 distances between the ground to the first floor
13 floor, to the second floor floor, the ones that DCRA
14 told me showed the exact elevations for.

15 CHAIRPERSON HEATH: Okay.

16 MR. WRIGHT: Yeah, it would actually be 29.
17 Twenty-nine is correct. Twenty-nine is the plans,
18 the written update is Exhibit 31.

19 CHAIRPERSON HEATH: Okay.

20 MR. WRIGHT: Which breaks down the actual
21 write-up of how the heights are being calculated.

22 CHAIRPERSON HEATH: Okay.

23 MR. HILL: So the proposed height doesn't
24 change. Is that --

25 MR. WRIGHT: Well, in actuality, sir -- so

1 this is something where I would consider that my
2 precision hasn't been always there, but I have still
3 accurately reflected it. If you can pull this up
4 again, the main drawing. Or, excuse me, the
5 overlays.

6 The height, DCRA just last week gave me very
7 specific instructions on making sure that the gable
8 was actually not included in the height measurement.
9 And so that change meant that what I was always
10 characterizing as the roofline going up to the gable
11 remains true. However, in terms of precision about
12 what the current existing state is, is at -- it's
13 34.9 feet and to the top of the gable is 37.2 feet.
14 I'm requesting relief to 37.2 feet.

15 Right. So at the top of what he's showing
16 you right now is the side view. The gable -- the
17 section, excuse me. The gable obviously sticks up.
18 The proposal is to make the roofline also -- so I can
19 actually make usable space the roofline would go to
20 the top of that gable.

21 MR. FULLER: Easily seen here, the gable
22 would go back and then the roofline behind that. So
23 keeping the same overall height from the street view.

24 CHAIRPERSON HEATH: Okay.

25 MR. WRIGHT: So that is a -- for the parallel

1 roofline that you can see increase, that's a modest
2 two foot four inches of distance from the -- at the
3 front, which also allows for some roof slope to the
4 back. Which, again, makes usable space on the
5 existing third level, but more usable space.

6 CHAIRPERSON HEATH: Okay.

7 MR. WRIGHT: And that changes, in fact, the
8 genesis of all the requested variances, is that
9 change, the implications of that are for the existing
10 dog leg if you look at the plat. My lot occupancy
11 calculations are quite high. Some of that is very
12 much due to this dogleg, which has to be included in
13 the lot occupancy. However, the existing home
14 itself, built in 1906, along with the garage, makes
15 the lot occupancy well over the current regulations.

16 So no proposed -- again, every alteration is
17 going to be maintained within the footprint. So no
18 proposed increase in lot occupancy. But it currently
19 sits at 83.2 percent.

20 My neighbors both to the left and the right
21 have very similar, if not more, lot occupancy. They
22 also have a garage in the back. And just to be
23 explicit they are very supportive of this, given the
24 state of the home over a very long period of time.
25 It's been dilapidated.

1 CHAIRPERSON HEATH: Okay. Board, any other
2 questions before we talk to Office of Planning? All
3 right.

4 So then because there's still quite a bit of
5 concern regarding Office of Planning's
6 recommendation, or their thoughts about this
7 application, we'll come back to you in a moment but
8 we'd like to hear from them.

9 MR. WRIGHT: Yes, ma'am.

10 CHAIRPERSON HEATH: All right.

11 MS. FOTHERGILL: Good morning. For the
12 record I'm Anne Fothergill from the Office of
13 Planning. As the applicant described, there's been a
14 lot of back and forth discussion about sort of
15 clarification of measurements and what relief is
16 needed. And since this is self-certified Office of
17 Planning had advised that they meet witness the
18 Zoning Administrator to get the relief clarified
19 because we were doing a lot of interpretation that we
20 don't do.

21 And the -- I did meet with the Zoning
22 Administrator staff and the Zoning Administrator and
23 got some of this clarified. There's still some
24 problems down to the wire last week so that's why the
25 report couldn't -- I couldn't do an analysis in time

1 for my deadline. But there were still some
2 uncertainties. And I have discussed those with the
3 applicant.

4 But at this point we haven't done an analysis
5 because it is still some moving parts. And the
6 applicant has really been cooperative. I mean, it's
7 been a cooperative process but we just -- Office of
8 Planning isn't quite there yet, to do an analysis.

9 CHAIRPERSON HEATH: Okay. So it sounds like
10 you need more time.

11 MS. FOTHERGILL: I mean, and I have a few
12 things that I've discussed with the applicant that
13 are still outstanding that I can raise on the record
14 if you want.

15 CHAIRPERSON HEATH: Sure.

16 MS. FOTHERGILL: There is a little bit of a
17 question about -- and I know the applicant has an
18 explanation about whether their basement counts as a
19 fourth story, and if in fact it does, then they might
20 need relief from having four stories in the R-4.
21 It's a question of how much of that story is above
22 grade.

23 Then there's a question about the top story,
24 the expansion, whether or not if they increase that
25 lot occupancy over 60 percent, whether or not they

1 need relief from that. And the special exception if
2 they're going within 70 percent. And so I think
3 those are the last two that are still sort of under
4 discussion. But the Zoning Administrator staff did
5 suggest that they could do a referral memo and
6 outline all this. And I think that might be the best
7 route just so that it's clear.

8 CHAIRPERSON HEATH: Okay. All right. Any
9 questions of Office of Planning, Board? You look
10 like you have a question. Okay. All right. So you
11 have a question for -- go ahead.

12 MR. HILL: No, just for applicant. So do you
13 know if you're going to need four stories? Have you
14 done the measurements?

15 MR. WRIGHT: I have done the measurements,
16 yes, sir. Anne and I have been in discussions --

17 MR. HILL: Sure.

18 MR. WRIGHT: -- and we've acted both in good
19 faith. And I apologize for some of this getting to
20 her later than it probably should have because like I
21 said, the refined height measurement only came back
22 last week from DCRA.

23 However, I'll be very explicit. The
24 direction from DCRA and the measurements in the
25 Exhibit -- excuse me, Exhibit 31, where it marks

1 everything out. I am certain by following their
2 directions that I do not need a fourth story.

3 MR. HILL: Okay.

4 MR. WRIGHT: I have three stories above grade
5 plane with a basement. The directions from DCRA were
6 to make sure that if it's over six feet underneath
7 the finished first floor, if that's where grade plane
8 sits, then the basement is a story. That measurement
9 from my house is five feet, 6.5 inches. So the
10 basement is not supposed to, according to
11 international building or residential --

12 MR. HILL: Sure. That's okay. Okay. Great.

13 MR. WRIGHT: -- code, count.

14 MR. HILL: Thank you.

15 MR. WRIGHT: Okay. Do you mind, just for the
16 top story, the discussion. So I think Anne raised
17 two points outstanding, potentially outstanding,
18 where the height measurement, whether it was in fact
19 four stories, I think that that's resolved. And if
20 somebody looked at the calculations I think that
21 would be clear.

22 But she also raised the fact that the top
23 story, the expansion that's being proposed, that that
24 would increase the lot occupancy of that individual
25 story above 60 percent. And we just had this

1 discussion too. The problem with the home, and it's
2 not a problem, it's very charming and I love the
3 home, but it is in fact just the measurements, the
4 width being 17 feet, and the depth of it already
5 sitting at 60 some feet. Once I increase the lot
6 occupancy or that -- once I expand that story at all,
7 the problem is that the calculations themselves
8 insist on me including the dogleg, including the
9 nonconformities. It's already above 60 percent.
10 There's really no way to expand that area and stay
11 below 60 percent without raising part of my home.

12 CHAIRPERSON HEATH: Okay. Do you have a
13 question?

14 MR. TURNBULL: No, just a question. Just a
15 comment. You know, I mean, one of the things we're
16 concerned about is obviously any kind of height
17 changes in the R-4 neighborhood --

18 MR. WRIGHT: It's all right.

19 MR. TURNBULL: -- the Zoning Commission has
20 gone through a great extent trying to preserve the
21 character. So in order for us -- and especially
22 sitting on the Board to analyze your case very
23 thoroughly, we really do need a more thorough report
24 from the Office of Planning that carefully goes
25 through all of these issues that you're talking

1 about. But we really need the Office of Planning to
2 accurately come back to us and fill us in with their
3 analysis based upon, you know, your latest drawings
4 and the discussions and any changes that you've made.

5 And I think whether it's a cellar or a
6 basement makes a difference, depending upon how you
7 measure the height. So --

8 MR. WRIGHT: Okay.

9 MR. TURNBULL: We need to be clear on what's
10 included in all that, so I think that needs to be
11 discussed with the Office of Planning very thoroughly
12 and she needs to understand whatever additional
13 drawings you can provide her to clarify that is going
14 to be a benefit to not only her, but to ourselves,
15 because right now I think -- I mean, it's up to the
16 Chair, but I would need more information from the
17 Office of Planning to go forward with this.

18 MR. WRIGHT: Yes, sir.

19 CHAIRPERSON HEATH: Yeah.

20 MR. WRIGHT: Do you -- sorry, ma'am.

21 CHAIRPERSON HEATH: I agree. I think that it
22 appears that you could get there, but we do need that
23 additional analysis. And I appreciate the work
24 you've done already with the Office of Planning. It
25 sounds like you've had a lot of back and forth. But

1 it also sounds like you just ran out of time and a
2 lot of information was coming in at the last minute
3 and hasn't been able to be thoroughly analyzed. So I
4 think what would be beneficial for you and for the
5 Board is if we give you more time to work with the
6 Zoning Administrator, Office of Planning, and get
7 your application cleaned up.

8 And so unless the Board would like to do
9 otherwise, I would recommend that we put this on for
10 continued hearing.

11 MR. WRIGHT: Can I just make one statement
12 and --

13 CHAIRPERSON HEATH: You can.

14 MR. WRIGHT: Just with regard specifically to
15 the sort of the architectural characteristics, the ZC
16 Case 14-11, regarding maintaining the character, I
17 will say that obviously it's in the record. ANC has
18 been supportive unanimously. My neighbors have, my
19 direct neighbors have. And even within the Civic
20 Association, somebody who is trying to propose
21 historic designations for Bloomingdale, even said
22 that he thought this would pass muster for that type
23 of test.

24 So I have taken measures to make sure that I
25 do maintain the character. It's one of the reasons

1 why I purchased the home. So I just wanted to
2 respond to that directly and then I'll obviously,
3 however much time the Office of Planning needs to do
4 a full report, we can do that.

5 CHAIRPERSON HEATH: Okay. One additional
6 thing is if your relief changes through the analysis
7 that you do with Office of Planning, you may need to
8 readvertise depending on the changes. Particularly
9 if you're going from a lesser degree of relief to a
10 greater degree, from special exception to variance,
11 with respect to some aspect of what you're
12 requesting, you'll need to readvertise. So just
13 posting on your property so that --

14 MR. WRIGHT: Yes.

15 CHAIRPERSON HEATH: -- your neighbors are
16 aware of what it is that you're trying to do.

17 So if you could pay close attention to that
18 as you go through your analysis with OP, that will
19 save you some time when you come back.

20 MR. WRIGHT: I certainly will. I will say
21 that one of the things, and somebody can correct me
22 if I'm wrong, but the original application was always
23 for a variance by special exception. So a higher
24 burden of proof as far as I've heard. And despite
25 the fact that, you know, some of the precision of

1 these height measurements have changed, the
2 characterization to all of my neighbors and to every
3 -- even the Board of Zoning, as well as Office of
4 Planning, Office of Zoning, has always been accurate
5 in terms of where I was raising the height. So I do
6 think that there were still -- there's no
7 misperception among anybody who has seen the plans.
8 But I'll make sure to be mindful.

9 CHAIRPERSON HEATH: Okay. All right. So,
10 Mr. Moy.

11 MR. MOY: Okay, a date. Also, not to pile on
12 but of course with the pages and relief I believe
13 staff had reached -- because we didn't get a
14 completed fee application submission, like another
15 check. So you might want to keep that in mind.

16 MR. WRIGHT: Okay.

17 MR. MOY: So according to the --

18 CHAIRPERSON HEATH: You can talk to the staff
19 about that.

20 MR. WRIGHT: I will. I'm sorry. I didn't
21 hear that that was necessary, but I'll pay.

22 MR. MOY: Yes. I know you will. No, so, Mr.
23 Turnbull, you're next with the Board on March the
24 1st. So I think given the circumstances maybe you'll
25 need that time to pull your arguments together. I

1 think that would be a good time if that's good with
2 the Board.

3 CHAIRPERSON HEATH: Sure.

4 MR. MOY: Mr. Turnbull. So that's March 1st.

5 CHAIRPERSON HEATH: Okay.

6 MR. MOY: I mean, you can make any additional
7 filings, including I suppose, a supplemental from
8 Office of Planning, but a week prior which then would
9 be -- so we're talking March 1st.

10 MR. WRIGHT: Is there any way I can request
11 that that be a shorter period of time? Or is this
12 not -- is that not a reasonable request of the Board?

13 MR. MOY: Okay. Well, so you want this in
14 February. So February the --

15 MR. HILL: I guess my question, Madam Chair,
16 is I mean, if you need to -- it sounds like to me
17 again, you're almost there. Right? So now it's just
18 making sure that you've advertised for what you need
19 to, and that will take 30 days, right?

20 CHAIRPERSON HEATH: Fifteen.

21 MR. HILL: Fifteen? No, is that?

22 MR. WRIGHT: Fourteen, 15, something like
23 that.

24 MR. HILL: And so, you know, how long will OP
25 take to get something?

1 MS. FOTHERGILL: Ideally what we are looking
2 for is a referral memo from the Zoning Administrator
3 to make the relief entirely clear so that we can do
4 our analysis. And my understanding is they have
5 offered to do that and I would think, you know, a
6 reasonable amount of time. I don't know how long
7 those take.

8 So let's say it takes them two weeks, and
9 then I have a week. So three weeks.

10 CHAIRPERSON HEATH: It sounds like March 1st
11 is reasonable. So given the number of parties who
12 need to weigh in on this. So I'd hate for us to put
13 this on and still not have it complete. So March
14 1st.

15 MR. MOY: Okay. March 1st. And then if all
16 the -- if the applicant and OP can file by Monday,
17 February 22nd.

18 CHAIRPERSON HEATH: Okay. Are we all set?

19 MR. WRIGHT: Okay. Sorry. Thank you.

20 CHAIRPERSON HEATH: All right. Thank you.

21 [Pause.]

22 CHAIRPERSON HEATH: All right. Could we take
23 a -- we'll take five minutes and then we'll come back
24 with our next application, 19165.

25 [Off the record from 10:52 a.m. to 10:58

1 a.m.]

2 CHAIRPERSON HEATH: All right. Mr. Moy, when
3 you're ready we can resume.

4 MR. MOY: Yes. Thank you, Madam Chair.
5 Again, to the table the parties to Application No.
6 19165 of 3317 16th Street, LLC. This is a request
7 for multiple variance relief, off-street parking,
8 parking aisle width and loading berth, special
9 exception under 1320.4F, which is the HS overlay
10 requirements. And what else? I think the applicant
11 filed a motion to waive the filing to submit revised
12 plans which I believe is Exhibit 35. And that's it,
13 Madam Chair.

14 CHAIRPERSON HEATH: All right. Thank you.
15 Once you get settled please introduce yourselves.

16 MR. SULLIVAN: Thank you, Madam Chair,
17 Members of the Board. My name is Marty Sullivan with
18 Sullivan and Barros, on behalf of the applicant.
19 Thank you.

20 MR. SIMON: Lee Simon, 331 --

21 CHAIRPERSON HEATH: Make sure your mic is on.

22 MR. SIMON: I'm green. Yeah? Good?

23 CHAIRPERSON HEATH: There you go.

24 MR. SIMON: Lee Simon.

25 CHAIRPERSON HEATH: Just wasn't entering.

1 MR. SIMON: 3316 16th Street, LLC., the
2 applicant.

3 MR. BUEHLER: Shawn Buehler, Bennett, Frank,
4 McCarthy Architects. I'm the architect representing
5 the client.

6 CHAIRPERSON HEATH: All right. One
7 preliminary issue. How was this advertised? Was it
8 advertised as special exception?

9 MR. SULLIVAN: Special exception and
10 variance.

11 CHAIRPERSON HEATH: Oh, both?

12 MR. SULLIVAN: Yes.

13 CHAIRPERSON HEATH: Okay.

14 MR. SULLIVAN: Yeah, there were no changes
15 made.

16 CHAIRPERSON HEATH: Okay.

17 MR. SULLIVAN: After.

18 CHAIRPERSON HEATH: All right. Okay. That's
19 good. All right. So I'm not certain we're going to
20 need a full presentation on this but we'll have a few
21 questions or quite a few conditions from Office of
22 Planning. I believe DDOT and the ANC. And so you're
23 familiar with all of those and you're okay with
24 adhering to all of those. Do you have any issues
25 with any of the conditions?

1 MR. SULLIVAN: The only comment I'd like to
2 make about the conditions is that we would like
3 specific conditions to apply to the specific relief,
4 with the changing regulations it might be possible
5 that we could comply with matter of right parking at
6 some point if the application isn't filed. And so
7 there's conditions relating to RPP and the
8 restriction on using anything other than H Street as
9 an address, which is an RPP related requirement. And
10 the covenant and DMV notification requirements, also
11 in RPP.

12 We just think it would be clear -- and I
13 think this may be the way the Zoning Administrator
14 would see it anyway. But just to be clear that those
15 -- any conditions related to parking relief wouldn't
16 apply if we do no -- if we no longer need parking
17 relief after September 6th.

18 CHAIRPERSON HEATH: All right.

19 MR. SULLIVAN: But other than that, no, and
20 if we need the relief then we're okay with all the --

21 CHAIRPERSON HEATH: Okay.

22 MR. SULLIVAN: -- conditions.

23 CHAIRPERSON HEATH: All right. And it looks
24 like Office of Planning is sort of split on this one.
25 They're recommending approval of loading and aisle

1 widths, not the off-street parking variance, but
2 approval of the HS overlay, the special exception
3 with conditions applied to that. Have you had any
4 more recent conversations with Office of Planning? I
5 know they're here and we'll talk to them in a just a
6 moment.

7 MR. SULLIVAN: No, we have had some
8 discussions with them about that and our position is
9 that I don't really understand where the request for
10 three more spaces is coming from. I think the unique
11 condition and the practical difficult are there, and
12 with DDOT support and the ANC support of the current
13 plan we think that says a lot about whether or not
14 there's a substantial detriment to the public good.

15 And we are, because of the shape of the
16 property, we're already restricted to a footprint
17 that's seven percent less than what we could have
18 otherwise provided. And so to reduce -- to add
19 additional parking under the building would reduce
20 that even further.

21 And also the design has been approved by the
22 ANC and the ANC's design committee, which we had a
23 couple meetings with them. Three meetings, I
24 believe. We had two formal meetings and then an
25 informal meeting to go through the design. And there

1 were a lot of changes made to the design, and there's
2 a lot of support for the design. So to change
3 anything I think could upset that approval as well.

4 CHAIRPERSON HEATH: Okay. Sure. Go ahead.

5 MR. HILL: Madam Chair, thank you. And I
6 don't know, maybe this will get into your design
7 presentation or not, but I don't know where OP wants
8 the three extra spots and to what loss that is in
9 terms of I kind of -- it seemed like one of the
10 three-bedroom units now. I'm not really clear.

11 MR. SULLIVAN: Yeah, and I think the
12 architect can talk to that because there are some
13 internal configuration issues with doing that as
14 well.

15 MR. BUEHLER: Excuse me. Not speaking for
16 OP, but I think the configuration they were asking
17 for was for the ground floor of the building to have
18 some parking on the back leg of the L. So it
19 wouldn't impact the residential units. It would
20 impact the commercial space. But there are other
21 challenges beyond just losing some commercial space.
22 The circulation core of the building extends into
23 that zone, and shifting it forward has fairly large
24 ramifications to the floorplan of the residential
25 floors as we start to approach the H Street façade

1 and getting entry on H Street and things like that.
2 And so it's not a -- unfortunately it's not a simple
3 change.

4 CHAIRPERSON HEATH: Okay. All right. Well,
5 do you have a question, Mr. Turnbull?

6 MR. TURNBULL: Yeah. That space that you're
7 pointing to, on the plan that I've got you've got
8 highlighted in there very lightly -- it looks like
9 it's a big just open space, which I'm assuming would
10 get that whole third floor gets divided into one
11 retail, two retail, three retail spaces.

12 MR. BUEHLER: You're asking about the first
13 floor?

14 MR. TURNBULL: Yeah.

15 MR. BUEHLER: Yeah. I don't know that we
16 have a tenant in mind yet.

17 MR. TURNBULL: Okay.

18 MR. BUEHLER: And so we're trying to
19 configure it so that it could be one or it could be
20 several.

21 MR. TURNBULL: Well, in the plan that I'm
22 looking at it shows that that area is also a place
23 for dumpsters.

24 MR. BUEHLER: That's correct.

25 MR. TURNBULL: So I'm assuming that that

1 little dogleg might be more back of the house clean-
2 up, storage, not active retail. I mean, because
3 you've got a dumpster there so you're going to have
4 to have four to five feet in front of that, be able
5 to access it. Or no, I'm not sure.

6 MR. BUEHLER: The dumpsters would be accessed
7 from the exterior, I presume.

8 MR. TURNBULL: From the exterior.

9 MR. BUEHLER: Yeah.

10 MR. TURNBULL: So there might be a wall,
11 then, on the other side of the dumpster, then? Is
12 that what we're possibly looking at?

13 MR. BUEHLER: You mean between the dumpster
14 and the retail space?

15 MR. TURNBULL: Yeah.

16 MR. BUEHLER: That's correct.

17 MR. TURNBULL: Okay. Because the plan
18 doesn't really show it. It just shows an outline of
19 that whole first floor of space. So it's hard to
20 define exactly where --

21 MR. BUEHLER: Are you looking at the site
22 plan or the first floor plan? Yeah, there's a -- I
23 think on the next sheet there's a first floor plan
24 that continues to show the commercial as one large
25 open space, but --

1 MR. TURNBULL: With another little dogleg
2 that goes to the north or just to the left of that.
3 Okay.

4 MR. SIMON: Yeah, that's our egress.

5 MR. TURNBULL: Okay. Thank you.

6 CHAIRPERSON HEATH: So I assume that in order
7 to pick up any additional parking you would just lose
8 that dogleg and just keep what you need for
9 dumpsters.

10 MR. BUEHLER: We would lose that dogleg and
11 we'd have to figure out how to configure the
12 dumpsters. Correct. But again, the dogleg is only,
13 I believe, 20 feet wide. Which is not three car
14 spaces. And then when we factor in the dumpsters,
15 which I know the residents are anxious to have the
16 dumpsters facing to the side of the lot and not to
17 the -- to the row houses directly next to us on 13th
18 Street. And then we get to a point where we are
19 overlapping with the circulation core, which the H
20 Street overlay requires a 14 foot first floor. And
21 so the stairs start to get pretty large. And
22 suddenly we're spanning from the parking all the way
23 to the H Street façade, which takes away building
24 permitter and impacts entry and so forth and so
25 forth.

1 CHAIRPERSON HEATH: Okay. Board, any other
2 questions? All right. I'd like to talk to Office of
3 Planning a little bit about this parking issue. So
4 we may come back to you with more questions.

5 MR. MORDFIN: Good morning, Chair, Members of
6 the Board. I'm Stephen Mordfin. And the Office of
7 Planning is recommending that the applicant provide
8 additional parking spaces. We were looking if the
9 applicant can provide all of the residential parking
10 spaces that are required, because those are the ones
11 that are more likely to park long-term on the street
12 because they're residents and we were trying to keep
13 those cars off of the street to free it up for other
14 people that may need to park there; people in the
15 neighborhood that already live that that don't have
16 parking, or for retail uses and things like that. So
17 we were looking for the applicant to provide
18 additional parking.

19 CHAIRPERSON HEATH: Looks like three may be
20 challenging for them. I assume you were looking at
21 that area back by where the two parking spaces are,
22 correct?

23 MR. MORDFIN: That is correct. And wasn't
24 that -- I mean, we did put in that, you know, five
25 because that's -- the rationale for that number comes

1 from that's the number that's required for the
2 residential.

3 CHAIRPERSON HEATH: If they were able to get
4 closer to that with four, would you be -- would that
5 be acceptable to you?

6 MR. MORDFIN: Yes.

7 CHAIRPERSON HEATH: Okay. And since we have
8 DDOT here on this one, it would be interesting to
9 hear your perspective.

10 MR. WESTROM: Yes. Thank you. Good morning,
11 Members of the Board.

12 And I think that it would be fair to say, we
13 probably slightly differ than OP in regards to our
14 consideration of the parking variance. I think that
15 this is an example of a case where we would be
16 comfortable with the level of parking that is
17 proposed. We would of course be comfortable if the
18 modification were made as well.

19 And the rationale would be that we would not
20 see these three spaces as flipping it one way or the
21 other in terms of an undue hardship for the
22 neighborhood or this particular street. These would
23 be residents who would in all likelihood, as was
24 noted by Mr. Mordfin, not be going in and out
25 frequently. And usage of the street spots and they

1 did do a parking utilization study, which showed that
2 there do appear to be residential parking spaces
3 available in this area. And utilizing those spaces
4 seems reasonable. And thus the variance request
5 seemed reasonable and we were content with what they
6 were proposing.

7 DDOT's larger concern was the loading issue.
8 And you know, we tried our best to detail it in our
9 report. But essentially our requirement, and
10 ultimately this will be something that will be worked
11 out during public space permitting, will be that the
12 loading be taken care of at the curbside space that
13 currently is signed as a motor coach zone, which is
14 for the use of the Rock and Roll Hotel.

15 And we believe the uses are complimentary. I
16 think that both uses can go back and forth, but we
17 would need to have the curbside signage updated by
18 the applicant after coordination with us and with the
19 Rock and Roll Hotel to mutually amenable solutions
20 such that both of the uses could be used in the same
21 space.

22 And I think that's very possible. We didn't
23 see a concern with it and thus we do not object to
24 the variances sought. But we certainly want to flag
25 it because that's something that will be a

1 requirement before the building can actually be
2 completed.

3 CHAIRPERSON HEATH: Okay. All right. Any
4 questions?

5 MR. HILL: No, so I mean, but applicant would
6 not -- the people, the residents, wouldn't be able to
7 apply for a street parking anyway. Isn't that part
8 of the discussion?

9 CHAIRPERSON HEATH: I think that may be one
10 of the requests from the ANC.

11 MR. HILL: Yeah, that was one of their
12 questions. ANC.

13 MR. SULLIVAN: Yes, there's multiple
14 requirements that relate to RPP --

15 MR. HILL: Right.

16 MR. SULLIVAN: -- restrictions regarding the
17 parking space relief.

18 MR. HILL: Right. So those three people
19 couldn't park on the street anyway. Supposedly.

20 MR. WESTROM: Well, you know, certainly that
21 condition is something that could change it. But
22 DDOT would be comfortable with them parking there.
23 But if it becomes a condition you're exactly right.

24 MR. HILL: Okay. Okay. Okay. Okay. Okay.
25 Thank you.

1 CHAIRPERSON HEATH: They can park but they'll
2 get tickets.

3 MR. WESTROM: Right. Yes.

4 CHAIRPERSON HEATH: Okay. All right. Did
5 you look at -- well, I guess question first. You've
6 noted on your site plan that you have a five foot
7 easement on the right side of those two parking
8 spaces. But it looks like you've left more than well
9 over five feet there. Did you look at putting
10 another space there to get three?

11 MR. BUEHLER: Yeah, you need a certain amount
12 of space for a car to actually back out so that
13 they're not reversing the entire way down the alley.

14 CHAIRPERSON HEATH: So you can't fit a third
15 there?

16 MR. BUEHLER: No, we're actually -- we're
17 already up against fairly tight parameters as it is.

18 CHAIRPERSON HEATH: Okay.

19 MR. BUEHLER: I think the preference is not
20 to create a condition where vehicles can only back
21 out on to the street.

22 CHAIRPERSON HEATH: Okay. You have another
23 question?

24 MR. TURNBULL: No. The only thing is, so the
25 alley -- the access drive, does that continue down

1 past your property line?

2 MR. BUEHLER: No, it does not.

3 MR. TURNBULL: It does not. Okay.

4 CHAIRPERSON HEATH: Okay. All right. Okay.
5 Any other questions?

6 Did the applicant have any questions of
7 Office of Planning or DDOT?

8 MR. SULLIVAN: No. Thank you.

9 CHAIRPERSON HEATH: All right. I think we
10 may have mentioned this but we do have a letter of
11 support from ANC 6A with conditions. And they listed
12 four conditions that RPP restrictions shall be in
13 place. The second is provided the applicant receives
14 DCHD approval the applicant shall record a covenant
15 in the land records requiring that each lease or
16 contract for sale of a residential unit require the
17 tenant or owner of the unit to update their address
18 info with the D.C. DMV within 60 days of the
19 settlement date and as required under D.C. law.

20 The third is that the building shall use an H
21 Street address. And the fourth is that the applicant
22 shall use a consistent design on the 13th Street side
23 of the building that faces row houses. And I assume
24 that fourth one, the ANC feels that you've adhered to
25 through your discussions with them and the revisions

1 to the drawings.

2 MR. BUEHLER: That's correct. They were
3 asking for us to use more brick on that side of the
4 building, which we've done.

5 CHAIRPERSON HEATH: Okay.

6 MR. TURNBULL: And I'm assuming that that's
7 reflected in Exhibit No. 35. That's the latest
8 perspective view where the sort of the diagonal brick
9 facing is gone and now you just have it on the top,
10 which is the drawing that you have in front of us.
11 That is the latest approved drawing by the ANC.

12 MR. BUEHLER: This is the latest approved
13 drawing but the façade in question is actually not
14 the 13th Street façade. It's the façade that faces
15 the access alley. Previously -- yeah, it's not
16 street visible.

17 MR. TURNBULL: And what does that look like?

18 MR. BUEHLER: I believe it's in the package
19 we sent you. It's -- this is the area in question.
20 We originally showed --

21 MR. TURNBULL: Okay. But --

22 MR. BUEHLER: -- the masonry only for the
23 first floor.

24 MR. TURNBULL: -- this set is not in color.
25 I'm assuming that the colors match what we're looking

1 at on the 13th Street elevation.

2 MR. BUEHLER: That's correct.

3 MR. TURNBULL: Okay.

4 MR. BUEHLER: Yeah.

5 CHAIRPERSON HEATH: Okay. I assume there's
6 no one here from ANC 6A. I didn't call them, but --
7 all right. Okay. Is there anyone here wishing to
8 speak in support of this application? Anyone in
9 support? Anyone wishing to speak in opposition to
10 this application? No opposition? Okay.

11 Then we'll turn back to the applicant for any
12 closing statement you might want to make.

13 MR. SULLIVAN: Thank you, Madam Chair. Just
14 briefly on the parking and the additional -- request
15 for additional parking spaces from Office of
16 Planning. The neighborhood is okay with the current
17 proposal. They're actually very much in favor of
18 this and there were several community members very
19 much involved with the committee of the ANC in both
20 the design and the variance request.

21 DDOT supports it as is. The ANC supports it
22 as is. And I guess I struggle to find -- to see the
23 source of OP's request. I don't think there's a
24 nexus between requesting three more spaces and the
25 variance test. I think the variance test is met as

1 currently provided. We could provide 10 spaces if we
2 burdened the property even further by moving it back.
3 But it's already burdened to seven percent below the
4 lot occupancy, in addition to the other concerns that
5 were discussed by the architect.

6 And also we have a parking and traffic study
7 independently done in addition to DDOT's opinion. So
8 that's our response to the Office of Planning. And
9 other than that I don't have anything further to add.
10 Thank you.

11 CHAIRPERSON HEATH: Okay. Sure.

12 MR. HILL: So other than, right, the
13 additional three spots, you're in agreement with
14 everything else. The H Street address. Because I
15 got a little confused there.

16 MR. SULLIVAN: No. Yes, we're fine with all
17 other conditions other than that.

18 MR. HILL: Okay.

19 MR. SULLIVAN: Yes.

20 MR. HILL: Okay.

21 CHAIRPERSON HEATH: Okay. Any other
22 questions from the Board?

23 MR. TURNBULL: No, the only thing would be,
24 I'm not sure how OAG will write the order considering
25 Mr. Sullivan's comments about possible changes. So I

1 think that -- I mean, if they're agreeable to all the
2 conditions that's fine. But he also had a corollary
3 that talked about possibly amending it for certain --
4 just for certain elements. So I'm sure OAG will have
5 to work with and figure out how to write that order.

6 MR. SULLIVAN: Well, I'm sorry, but I think
7 that's normally how you might do it anyway if it
8 wasn't specifically called out in an order. But so
9 that's all we were asking for that this -- it would
10 be, here's the parking relief and these are the
11 conditions that relate to the parking relief and here
12 is the loading relief, and here is the aisle width
13 relief.

14 But parking now actually could be thrown
15 together as well. I think they might both -- they
16 would both go away under the new regulations.

17 MR. TURNBULL: It just sounds like -- it just
18 sounds a little more complicated than what we usually
19 do. But I'm sure it can be worked out.

20 CHAIRPERSON HEATH: Okay.

21 MS. GLAZER: Mr. Turnbull, if you want OAG to
22 respond I would really have to look into that. I
23 think that's -- I'm not sure that that would be
24 legally proper to do that the normal -- the normal
25 procedure would be to request modification of the

1 condition at the time that the new law went into
2 effect.

3 CHAIRPERSON HEATH: Okay.

4 MS. GLAZER: I'm not saying that it wouldn't
5 be considered, but I think that would be a legal
6 matter that we'd have to take up.

7 MR. TURNBULL: Right. I think -- well, we'll
8 proceed. I mean, if we're going to approve this.
9 But based upon the conditions that we are assuming,
10 that the applicant has agreed to, and leave it OAG's
11 hands on how to resolve that, then.

12 CHAIRPERSON HEATH: Okay. All right. So is
13 the Board ready to deliberate on this?

14 MR. HILL: Sure.

15 CHAIRPERSON HEATH: Okay. Given the
16 testimony that we've heard today, the conversation
17 that we've had with Office of Planning and DDOT and
18 my understanding of the hardship and practical
19 difficulty of the parking request, and in addition to
20 that the fact that the ANC is in support of this and
21 the applicant has agreed to adhere to the ANC's
22 conditions, I am okay to approve this.

23 I don't know what getting to five parking --
24 I don't know that getting to five parking spaces
25 makes that much of a difference for me to deny this

1 on the basis of them having two, rather than five.
2 So I am okay to approve this as the application
3 currently stands. Anybody else have any thoughts?

4 MR. HILL: Yeah, I'm in the same place. I
5 mean, as far as you know, the ANC was in agreement I
6 thought the nexus in terms of like why everything
7 meets the standard is appropriate. I think that it's
8 a little confusing in terms of OP approving and --
9 I'm sorry, OP having the issue with the parking and
10 DDOT not. But I can also see both of their points.
11 However, I know the site and I know where it is. And
12 I think that, you know, it's a great addition to the
13 neighborhood.

14 But beyond that, that's not what I am here to
15 do, I think that it meets the standard and so I would
16 be in agreement with approving.

17 CHAIRPERSON HEATH: Okay.

18 MR. TURNBULL: I would agree with the two of
19 you. I would be in favor of going ahead with this.
20 And I also just want to think that in response to the
21 ANC, the architectural changes I think, in the
22 context of fitting in with the neighborhood I think
23 are very good. I think architecturally it's a big
24 change since the first drawings we saw, so I have no
25 problem going ahead with this.

1 CHAIRPERSON HEATH: Okay. Then with that
2 I'll make a motion that we approve Application No.
3 19165 for variances and special exception, including
4 the applicant's TDM measures, and the ANC's
5 conditions. I mean, I think that's it.

6 MR. HILL: I second the motion.

7 CHAIRPERSON HEATH: Okay. The motion has
8 been made and seconded. Any further discussion?

9 [Vote taken.]

10 CHAIRPERSON HEATH: So the motion carries.
11 Thank you.

12 MR. MOY: Staff would record the vote as
13 three to zero to two. This is on the motion of
14 Chairperson Heath to approve the application for the
15 relief requested, as well as the conditions provided
16 by the ANC 6 and the TDM measures as well.

17 Seconding the motion Vice Chairman Hill.
18 Also in support, Mr. Turnbull. We have a board
19 member not present with us today and a board seat
20 vacant. Motion carries, Madam Chair.

21 CHAIRPERSON HEATH: Full order, Mr. Moy?

22 MS. GLAZER: Summary order. There are no
23 parties in opposition.

24 MR. MOY: There's no parties and ANC was in
25 support, I believe.

1 MS. GLAZER: The ANC supported with
2 conditions and --

3 CHAIRPERSON HEATH: But OP wasn't in support
4 of the full --

5 MS. GLAZER: Correct. OP is not a party.

6 CHAIRPERSON HEATH: Okay. Okay. I
7 thought --

8 MS. GLAZER: It's in the Board's discretion,
9 I think.

10 CHAIRPERSON HEATH: Okay. All right.

11 MS. GLAZER: You could do an order explaining
12 why you don't agree with OP, but --

13 CHAIRPERSON HEATH: Okay.

14 [Pause.]

15 MR. MOY: Okay, Madam Chair, I believe the
16 next case is Application No. 18995A of James Walker.
17 This application is the subject property located in
18 the R-4 District at 1107 Penn Street Northeast,
19 Square 4059, Lot 800. And I believe, Madam Chair,
20 that -- well, let's say it was captioned and
21 advertised for special exception relief under Section
22 223, not meeting the lot occupancy under Section
23 403.2 in the rear yard requirements, under 404 to
24 construct a two-story rear addition to an existing
25 one-family dwelling.

1 And, you know, I'll just leave it at the
2 moment. My understanding of this is that in the
3 record there's no affidavit of posting, nor is there
4 an ANC 5D report.

5 CHAIRPERSON HEATH: Is the applicant here,
6 for 18895A (sic). All right. So we will kick this
7 one down the road.

8 MR. MOY: Yes. Staff will follow up with
9 that as well, Madam Chair.

10 CHAIRPERSON HEATH: Okay.

11 MR. MOY: So next up then is Application No.
12 19163 of Cambridge Apartments Limited Partnership as
13 captioned and advertised for special exception relief
14 from the nonconforming use requirements under 2003.1.
15 Madam Chair, this is to allow a food market/café, use
16 in the DD/R-5-E district at 1221 Massachusetts Avenue
17 Northwest, Square 282, Lot 44.

18 CHAIRPERSON HEATH: Okay.

19 MR. MOY: There is a corrected self-
20 certification under Exhibit 16.

21 CHAIRPERSON HEATH: Okay. All right. If
22 you'd introduce yourselves, please?

23 MR. BORGER: Good morning. My name is Tom
24 Borger and I'm the general partner and owner of
25 Cambridge Apartments.

1 MR. DICKENS: My name is Steve Dickens. I am
2 an architect with Eric Colbert and Associates.

3 CHAIRPERSON HEATH: Okay. Thank you. Did --
4 so you all met with the ANC, correct?

5 MR. BORGER: Yes.

6 MR. DICKENS: Yes.

7 MR. BORGER: We met with their committee and
8 then with the full ANC.

9 CHAIRPERSON HEATH: Okay. And what was the
10 outcome?

11 MR. BORGER: They endorsed the variance.

12 CHAIRPERSON HEATH: Okay. I don't believe --

13 MR. BORGER: Special exception.

14 CHAIRPERSON HEATH: I don't believe we've
15 ever gotten a letter from them stating their
16 approval.

17 MR. BORGER: Actually, I had some
18 correspondence on that matter with the planning
19 officer and with the ANC, and they were -- they just
20 hadn't produced the letter. But I believe they did
21 talk to the Office of Planning.

22 CHAIRPERSON HEATH: Okay. Yeah, based on the
23 OP report it sounds like they did approve it but
24 we --

25 MR. GYOR: It's my understanding that they

1 have approved it, but I haven't -- the letter is on
2 the record so I haven't -- I don't believe I have the
3 letter either.

4 CHAIRPERSON HEATH: Okay. All right. And
5 during your presentations was the New Cambridge
6 Tenant's Association present?

7 MR. BORGER: Yes.

8 CHAIRPERSON HEATH: And did they raise any
9 issues? They've submitted a letter to the record.

10 MR. BORGER: Yeah, they raised a whole number
11 of issues. Much of which was answered because
12 originally we had designed this space for outdoor
13 café, which really wasn't part of the lease premises.
14 It was just something I wanted to do on that corner.
15 And there was most of the questions that they had
16 focused on that outdoor space. So we decided to
17 avoid the aggravation we would just not do that at
18 this time. So we're only dealing with the interior
19 corner of the space.

20 CHAIRPERSON HEATH: So you're not pursuing
21 the outdoor?

22 MR. BORGER: No, we are redesigning the
23 driveway and the portico share, et cetera, redoing
24 the front of the building. That has nothing to do
25 with zoning, but just with Public Space.

1 CHAIRPERSON HEATH: Right.

2 MR. BORGER: But the outdoor café has been
3 shelved.

4 CHAIRPERSON HEATH: Okay. All right. Okay.
5 That would also be something that you'd have to take
6 up with public space.

7 MR. BORGER: Correct.

8 CHAIRPERSON HEATH: And not this Board. So,
9 okay. Yeah, sounds like their concerns were about
10 noise, trash, smoking outside of the café or market,
11 loitering and safety. Just concerned about people
12 loitering outside and then parking, since they say
13 that currently cars park longer than the allotted
14 time. It sounds like they're concerned about the
15 additional traffic and people who might be parking
16 who are going to the café or market.

17 MR. BORGER: Those were brought up in advance
18 of the ANC hearing, and they were discussed with the
19 ANC at the time.

20 CHAIRPERSON HEATH: Okay. All right.

21 MR. DICKENS: There was a meeting with the
22 tenants prior to the ANC, which is where these came
23 out of.

24 CHAIRPERSON HEATH: Okay. All right.

25 MR. DICKENS: And we changed direction prior

1 to meeting with the ANC.

2 CHAIRPERSON HEATH: Okay. In order to
3 address their concerns?

4 MR. DICKENS: Yeah, primarily just getting
5 rid of the sidewalk café.

6 CHAIRPERSON HEATH: Okay. All right. And
7 how are you handling trash?

8 MR. BORGER: The tenant is responsible for
9 their trash. There's an alley in the back and
10 there's -- they will retain their trash on the
11 premises and arrange for a daily pick-up.

12 CHAIRPERSON HEATH: Okay.

13 MR. BORGER: It will go out the back.

14 MR. DICKENS: Drawing 2 in the exhibits notes
15 where this trash room would be and shows the door
16 going to the loading dock, which is immediately
17 adjacent to it.

18 CHAIRPERSON HEATH: Okay.

19 MR. TURNBULL: Is that that sort of a cross-
20 hatched area within the red --

21 MR. DICKENS: Yes, sir.

22 MR. TURNBULL: -- section at the corner?

23 MR. DICKENS: On kind of the northeast
24 corner.

25 MR. TURNBULL: Okay.

1 MR. DICKENS: And you can see the door is
2 there going out from it.

3 CHAIRPERSON HEATH: Okay. So trash is kept
4 there until --

5 MR. DICKENS: Until they do a pick-up, right.

6 CHAIRPERSON HEATH: Right.

7 MR. DICKENS: That is in the lease, actually.

8 CHAIRPERSON HEATH: Okay.

9 MR. DICKENS: Or the proposed lease, I should
10 say.

11 CHAIRPERSON HEATH: Okay. Right. Okay.
12 Okay. All right.

13 MR. TURNBULL: Maybe just go over a little
14 bit about the functioning of food store café. Sort
15 of -- more of one than the other or --

16 MR. DICKENS: Oh, it's mostly a food store.
17 This particular group is called Street's Market.
18 They already have one on 14th Street at Belmont.
19 This would be a little bit smaller version of it.
20 You might call it kind of a yuppie 7-Eleven. You
21 know, and that it doesn't have the wash of glaring
22 fluorescent lights, and fewer things are in plastic.
23 But you know, aside from that it's the same sort of
24 thing. Much as 7-Eleven does have a café component
25 to it. Except in this case everything would be a

1 good bit upscaled, you know, relative to what you'd
2 expect in a 7-Eleven.

3 MR. TURNBULL: Is it stand up or a sit down?
4 Is it some --

5 MR. DICKENS: No, there's no seating. You
6 come in and get a cup of coffee or --

7 MR. TURNBULL: That's what I thought.

8 MR. DICKENS: Yeah, it's that kind of thing.

9 MR. TURNBULL: That's what I thought.

10 MR. BORGER: Yeah. That was originally part
11 of the idea behind the sidewalk café, actually, but
12 you know, it was to provide a place, but that is no
13 more.

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

15 CHAIRPERSON HEATH: All right. Okay. Then
16 I'm clear on this one. Any other questions? Okay.
17 All right.

18 Then I think the Board is clear on the
19 information that we need. OP has indicated their
20 approval but is there anything else that you'd like
21 to add?

22 MR. GYOR: Good morning, Madam Chair, Members
23 of the Board. Stephen Gyor with the Office of
24 Planning. I have nothing additional to add.

25 CHAIRPERSON HEATH: Okay. All right.

1 Thanks.

2 We also have a letter of no objection from
3 DDOT and I assume there's no one here from DDOT on
4 this application. And as has been noted, it sounds
5 like the ANC is in support of this. If you could
6 work on getting a letter from them added to the file
7 prior to the order being issued, that would help.

8 MR. BORGER: Actually, we've had mutual e-
9 mails back and forth encouraging them to get the
10 letter, but I have not seen it.

11 CHAIRPERSON HEATH: Okay. We haven't seen it
12 either. But you can still add it. Depending on, you
13 know, how we decide on this today you can still add
14 it to the record.

15 MR. BORGER: Okay.

16 CHAIRPERSON HEATH: After the hearing. So
17 keep pushing.

18 MR. BORGER: I will.

19 CHAIRPERSON HEATH: Thanks. Is there anyone
20 here wishing to speak in support of this application?
21 Anyone in support? Anyone in opposition to this
22 application?

23 We did receive the letter from the New
24 Cambridge Tenant's Association and I believe they had
25 planned on coming but weren't able to make it here

1 today. So I think we've talked through all of their
2 issues and it sounds like you've addressed them.

3 Both concerning trash and the other issues more
4 related to the sidewalk café, which is no longer.

5 So we'll turn back to you for any closing
6 statement that you'd like to make prior to
7 deliberation.

8 MR. BORGER: No, we just think it's going to
9 be a great thing for the neighborhood and a good
10 amenity for the building.

11 CHAIRPERSON HEATH: Okay. All right. Thank
12 you. Is the Board ready to deliberate?

13 MR. HILL: Sure.

14 CHAIRPERSON HEATH: Okay. I would move that
15 we approve the special exception for change of use
16 for Application 19163.

17 MR. HILL: I second the motion.

18 CHAIRPERSON HEATH: The motion has been made
19 and seconded.

20 [Vote taken.]

21 CHAIRPERSON HEATH: So the motion carries.

22 MR. MOY: Staff would record the vote as
23 three to zero to two. This is on the motion of
24 Chairperson Heath to approve the application for the
25 relief requested. Seconding the motion Vice

1 Chairperson Hill. Also in support, Mr. Michael
2 Turnbull, we have a member not present today, seat
3 vacant. Motion carries, Madam Chair.

4 CHAIRPERSON HEATH: Thank you. Summary.

5 MR. MOY: Yes. Thank you.

6 CHAIRPERSON HEATH: Thank you.

7 [Pause.]

8 MR. MOY: Yeah. Okay, Madam Chair, the
9 additional update to Application No. 19226, which is
10 formerly 18843A, the staff did receive word from the
11 party in opposition and they have withdrawn their
12 party status position. So we're expecting
13 documentation to that affect, hopefully before the
14 end of the day. So if you --

15 CHAIRPERSON HEATH: Do we want to call the --

16 MR. MOY: Yes. And again, that's Application
17 No. 19226 to the table.

18 CHAIRPERSON HEATH: Okay. If you could
19 introduce yourselves again?

20 MR. SULLIVAN: Thank you, Madam Chair and
21 Members of the Board. My name is Marty Sullivan with
22 Sullivan and Barros on behalf of the applicant.

23 MR. COOKE: My name is Patrick Cooke,
24 Architect with Thompson and Cooke Architects.

25 MR. PASHBY: My name is Chris Pashby. I'm

1 the applicant.

2 CHAIRPERSON HEATH: Okay. All right. We
3 appreciate your patience on this. It helps
4 significantly with the procedures of the Board if we
5 can, you know, by giving us some time to get in touch
6 with the counsel of the parties in opposition. So I
7 think given that they have indicated they're
8 withdrawing their party status request, or their
9 opposition to this case, I think we've gone from
10 being highly complicated to much more simple. And I
11 think based on all the information that I've seen I
12 am clear on this now.

13 Does the board have any questions of the
14 applicant?

15 MR. TURNBULL: Well, I guess the only thing
16 is, was there resolution with the party?

17 CHAIRPERSON HEATH: They've withdrawn.

18 MR. TURNBULL: Oh, they have withdrawn
19 totally?

20 CHAIRPERSON HEATH: Yes. Yeah.

21 MR. TURNBULL: Okay.

22 CHAIRPERSON HEATH: The staff reached out to
23 their counsel, Claude Bailey, and he has indicated
24 that they have withdrawn. He's the counsel to both
25 parties and he should be supplementing the record

1 later today. So, all right. No other questions?
2 All right.

3 Then with that, if you're okay with this,
4 talking to Office of Planning at this point just to
5 see if there are any additional comments.

6 MS. ELLIOT: I guess it's just good morning.
7 Madam Chair, Members of the Board. For the record,
8 I'm Brandice Elliott with the Office of Planning.
9 Office of Planning is supportive of this special
10 exception request. We are recommending approval. We
11 -- yeah, I'm not sure that there's anything
12 additional to add to the report so I'll just leave it
13 at that, but I'm happy to take any questions.

14 CHAIRPERSON HEATH: Okay. All right. Thank
15 you. I don't have any questions.

16 Does the applicant have any questions of
17 Office of Planning?

18 MR. SULLIVAN: No, thank you.

19 CHAIRPERSON HEATH: Okay. We also have a
20 letter indicating no objection from DDOT. And I
21 assume they're not here on this one. And as we've
22 indicated there was significant opposition to this
23 that's since been withdrawn, both prior to this
24 hearing and then today. The two either parties
25 withdrawing. So we don't have any other letters of

1 support of opposition.

2 Is there anyone here wishing to speak in
3 support? Anyone in support? Anyone here wishing to
4 speak in opposition? Any opposition?

5 Okay. Then we'll turn back to the applicant
6 for any closing statement you might want to make.

7 MR. SULLIVAN: We have nothing further to
8 add. Thank you.

9 CHAIRPERSON HEATH: Okay. Is the Board ready
10 to deliberate? Okay. As I've said, I think this
11 application has come a long way with the various
12 changes and subsequent withdrawals of opposition.
13 And so the new garage that's proposed seems to me to
14 be pretty straight forward. So I would move that we
15 approve the special exception for under 223, not
16 meeting lot occupancy for Application No. 19226.

17 MR. TURNBULL: Second.

18 CHAIRPERSON HEATH: The motion has been made
19 and seconded. Any further discussion?

20 [Vote taken.]

21 CHAIRPERSON HEATH: So the motion carries.
22 Thank you.

23 MR. MOY: Staff would record the vote as
24 three to zero to two. This is on the motion of
25 Chairperson Heath to approve the relief requested,

1 special exception 223. Seconding the motion, Mr.
2 Michael Turnbull. Also in support, Vice Chair Hill,
3 board member not present, board seat vacant. Motion
4 carries, Madam Chair.

5 CHAIRPERSON HEATH: Summary.

6 MR. MOY: Summary. We can, yes.

7 CHAIRPERSON HEATH: And, Mr. -- right,
8 exactly. Summary based on the withdrawal.

9 MS. GLAZER: Madam Chair, can I suggest that
10 the record be left open to receive the withdrawal and
11 that the summary order be issued only after the
12 withdrawal has been received?

13 CHAIRPERSON HEATH: Sure. Sure. Mr. Moy,
14 can we revisit Application No. 19156?

15 MR. MOY: Yes, Madam Chair. Staff has
16 reached out to the applicant and his request is the
17 Board postpone his hearing because of the weather and
18 the Board can, on the desire or agreement with the
19 Board, can be rescheduled to February the 9th.

20 CHAIRPERSON HEATH: Okay. I'm okay with
21 postponing this.

22 MR. MOY: Okay. So I'll take that as a
23 consensus to reschedule to February the 9th.

24 CHAIRPERSON HEATH: Okay.

25 MR. MOY: Thank you.

1 CHAIRPERSON HEATH: All right. Thanks. So
2 where are we?

3 MR. MOY: And while I'm on it, the Board is
4 still reaching out to application of James Walker.
5 So once I hear word on that then I can update the
6 Board.

7 CHAIRPERSON HEATH: Okay. All right. We
8 take a quick two minute break?

9 MR. MILLER: That would be fine. Thank you.

10 CHAIRPERSON HEATH: Okay. And then we'll
11 come back with Application No. 19100.

12 MR. MOY: Yes.

13 CHAIRPERSON HEATH: All right.

14 [Off the record from 11:53 a.m. to 11:59
15 a.m.]

16 MR. MOY: The next case, Madam Chair, parties
17 to the table to Application No. 19100, 525 Longfellow
18 Street, LLC. As the Board will recall and the
19 application was amended to add variance relief to the
20 lot area and width, Section 401.3 to add a 2117.8,
21 which is the minimum distance to adjacent driveways.
22 There's a revised self-certification under Exhibit
23 24. The Board -- this is a continued hearing from
24 November 17th, 2015. And the Board has actually
25 completed its hearing procedures, and this is a

1 limited scope hearing where the Board requested
2 additional information from the applicant to address
3 financials, architectural drawings, plans for a four-
4 unit alternative, and I believe also a follow up on
5 the height or number of stories for the project. And
6 I believe that's under Exhibit 37.

7 CHAIRPERSON HEATH: Thank you, Mr. Moy.

8 MS. GLAZER: Madam Chair, can I just state
9 for the record that friendly amendment to what the
10 secretary just said, the Board also requested OP to
11 comment on a few different issues?

12 CHAIRPERSON HEATH: Uh-huh. Sure. We also
13 just received another letter from the ANC, still in
14 support of the project. And they've elaborated on
15 why they support the three lots, six units, rather
16 than the two lots, four units, based on the scale of
17 the homes that would be created in the four-unit
18 scenario.

19 It's their opinion that they would be out of
20 scale with the rest of the neighborhood. In fact
21 they called them row house McMansions based on the
22 rest of the surrounding context.

23 So that's just been added to the record.
24 They were already in support of this but are just
25 acknowledging that they're still strongly supporting

1 this. And we've received the additional information.

2 As counsel has stated, we did ask for Office
3 of Planning to respond to two questions, and we got
4 their supplemental report. But I'd be interested to
5 hear any additional comments from Office of Planning.

6 MS. ELLIOT: Thank you, Madam Chair. As
7 stated in our supplemental, we're still not in
8 support of the relief for a lot width and lot area.
9 And it's not because it isn't a project that is not
10 designed well. I mean, I think that when you line up
11 the elevations certainly the row house elevations
12 look a little bit better than the alternative
13 scenario. And I would argue that it is in scale.

14 The issue that we're having is actually
15 finding a practical difficulty with the lot itself,
16 and why it is not able to comply with the current
17 regulations for this zone. So in terms of the other
18 two -- or the second prong of the variance test
19 where, you know, it's compatible with the surrounding
20 neighborhood, I think that that argument has been
21 successfully made. It's, you know -- I think that
22 the scale is appropriate, but we're having an issue
23 with the first prong of the variance test and
24 actually finding that there is a practical difficulty
25 with developing these lots in accordance with the

1 current regulations.

2 CHAIRPERSON HEATH: What was your feeling
3 about the financials that the applicant submitted?

4 MS. ELLIOT: So, OP has a pretty difficult
5 time with assessing financial arguments. So first of
6 all none of them actually come in the same format,
7 and they're really difficult for us to reverse
8 engineer. And we don't really know the underlying
9 assumptions for those financial analysis. So sure,
10 based on what they've provided, you know, perhaps
11 there is a practical difficulty with that. But we're
12 not inclined to accept that as the sole argument.

13 CHAIRPERSON HEATH: Uh-huh.

14 MS. ELLIOT: We're looking for things like,
15 you know, something that actually makes the lot
16 difficult to develop. For instance, lot area or the
17 shape of a lot or topography. Or something
18 physically -- you know, the actual physical
19 characteristics of that lot.

20 CHAIRPERSON HEATH: Okay. All right. Any
21 other questions?

22 MS. ELLIOT: But certainly the Board has
23 decided in other cases to --

24 CHAIRPERSON HEATH: Sure.

25 MS. ELLIOT: -- you know, to use the

1 financial analysis as a practical difficulty.

2 CHAIRPERSON HEATH: Sure.

3 MR. TURNBULL: One of the things which I
4 didn't -- maybe you found it. I didn't see any
5 reference to height, which I think you had asked
6 about on the drawings.

7 MS. ELLIOT: Yeah, in the alternative
8 scenario that was submitted. There are no height
9 measurements provided, so I was a little cautious
10 about -- unless there was something submitted later
11 that I missed.

12 So I'm not really to assess what relief if
13 any would be necessary for the alternative scenario.
14 But I believe the architect confirmed through an e-
15 mail that it would all be compliant. It just wasn't
16 provided on the drawings.

17 MR. TURNBULL: So it would be 35 feet?

18 MS. ELLIOT: Based on what I've been told,
19 yes.

20 CHAIRPERSON HEATH: Okay. Any other
21 questions of Office of Planning? All right. Thank
22 you.

23 MS. ELLIOT: You're welcome.

24 CHAIRPERSON HEATH: Okay. Does the applicant
25 have any questions of Office of Planning?

1 MR. SULLIVAN: No, thank you.

2 CHAIRPERSON HEATH: Okay. All right. So is
3 the Board read to deliberate on this one?

4 MR. TURNBULL: Reluctantly, yes.

5 CHAIRPERSON HEATH: Mr. Turnbull, do you want
6 to talk about some of your hesitation?

7 MR. TURNBULL: No, I -- you know, it's --
8 the devil is in the details. I mean, the character
9 of this neighborhood is basically not 35 feet as a
10 row house neighborhood. It's a lot less.

11 CHAIRPERSON HEATH: Uh-huh.

12 MR. TURNBULL: But the R-4 neighborhood
13 allows you to go to 35 feet. So if I look at the
14 alternate proposal, which I think was made purposely
15 hideous to show what could be done, unfortunately,
16 this proposal at least shows some give as to trying
17 to create or keep the character of the neighborhood
18 by going to 35 feet. So it does have some bay
19 windows, it has some character, it's architectural
20 character. It does have the recessed feature of the
21 little mansard roof on top. There is a gesture
22 toward trying to keep the character of the
23 neighborhood.

24 So you know, it's like my arm is behind my
25 back. I don't like it totally from the concept as

1 what OP says. I would have preferred to try to keep
2 the row houses all the same height. I think that
3 would be the best intent for everybody in the
4 neighborhood. But at the same time, giving what we
5 have, and even though we adjusted the R-4
6 neighborhood heights to accommodate the more
7 character, I think that this solution is probably
8 more in keeping with what we could get as a matter of
9 right. So I guess I would be in favor of supporting
10 it.

11 CHAIRPERSON HEATH: Okay.

12 MR. HILL: I also, Madam Chair, kind of got
13 around to the same point in that kind of the nexus as
14 to how it meets the variance -- I mean, I'm not -- I
15 was not necessarily swayed by the financials because
16 it was kind of difficult to figure out how accurate
17 they were, I suppose. But I do think that -- and
18 also just kind of taking into consideration, you
19 know, whether or not they bought this before the 1411
20 came out or not, and how that might have played into
21 kind of the purchase price. And I do think that the
22 design is in keeping with the neighborhood. I'm
23 giving, actually a lot of thought into the ANC letter
24 that we just got and how they are, you know, talking
25 about this McTownhouse situation. I do think that

1 drawings just -- it looks like a prison, you know,
2 for the -- I mean, the architect do great. Those
3 things, those there are awful.

4 And so I'm sure that that design would change
5 if it were to -- because nobody would buy it. But
6 nonetheless, given everything that I've looked at and
7 the support of the ANC, and how the purchase price
8 might have taken into account before the 1411 and
9 where they are. And I think that that argument will
10 be something that will be not able to be made further
11 on going after everything gets kind of processed
12 through in terms of like the pipeline. So I'd be in
13 support.

14 CHAIRPERSON HEATH: Do you want to make a
15 motion?

16 MR. HILL: I'd make a motion that -- I have
17 to --

18 [Pause.]

19 MR. HILL: I'd like to make a motion to
20 support the amended -- proceed, 11 DCMR 3103.2 for
21 variances from lot area and width requirements under
22 401.3 and the minimum distance to adjacent driveways
23 requirement under 2117.8 to allow the construction of
24 three flats on three new recorded lots in the R-4
25 district at the premises 525 Longfellow Street

1 Northwest.

2 CHAIRPERSON HEATH: I will second. So the
3 motion has been made and seconded. Any further
4 discussion?

5 [Vote taken.]

6 CHAIRPERSON HEATH: The motion carries.

7 MR. MOY: Staff would record the vote as
8 three to zero to two. This is on the motion of Vice
9 Chair Hill to approve the application with relief
10 requested. Seconding the motion, Chairperson Heath.
11 Also in support Mr. Michael Turnbull. Board member
12 not present, board seat vacant. Motion carries,
13 Madam Chair.

14 CHAIRPERSON HEATH: So, summary.

15 MR. MOY: Summary. Thank you.

16 CHAIRPERSON HEATH: Thanks.

17 MR. MOY: And just for the record, these are
18 drawings that are identified under Exhibit 37, I
19 believe. The most recent drawings.

20 CHAIRPERSON HEATH: Okay. Thank you.

21 [Off the record discussion.]

22 CHAIRPERSON HEATH: So, Mr. Moy, it looks
23 like we have, I think two applications remaining for
24 today so if we could take Application No. 19138 and
25 then our last application --

1 MR. MOY: Okay.

2 CHAIRPERSON HEATH: -- that would be great.

3 MR. MOY: Okay. Very well. All right. So
4 next up to the table, parties to Application No.
5 19138 of James Suh as captioned and advertised for
6 variance relief from the off-street parking
7 requirements under Section 2101.1 to allow the
8 construction of a flat in the R-4 District at 441
9 Rhode Island Avenue, Northwest, Square 508N, Lot 16
10 and Lot 1235.

11 CHAIRPERSON HEATH: Good afternoon. Would
12 you please introduce yourselves?

13 MR. SUH: Yes.

14 CHAIRPERSON HEATH: Make sure your mic is on.
15 You'll have a glowing green light.

16 MR. SUH: It's green light. Okay.

17 CHAIRPERSON HEATH: There you go.

18 MR. SUH: Yes. My name is James Suh, I'm the
19 applicant for the 441 Rhode Island Avenue.

20 CHAIRPERSON HEATH: Okay.

21 MR. SO: Andrew So, project manager of the
22 property.

23 CHAIRPERSON HEATH: Okay. Prior to this
24 morning I don't think we had a letter from the ANC,
25 but we received it, the letter from ANC 6E indicating

1 their support with a vote of six in favor and one
2 opposed to support the parking relief requested. So
3 we appreciate you working with the ANC to --

4 MR. SUH: Thank you.

5 CHAIRPERSON HEATH: -- get their approval and
6 to get their letter in.

7 MR. SUH: Yeah.

8 CHAIRPERSON HEATH: Thank you for that. Does
9 the Board have any other questions for the applicant?

10 All right. And we previously didn't have
11 posing, but now we do so it's been properly noticed.
12 All right. So we've reviewed your file and based on
13 the contents of the application and the documents on
14 file we believe that it's complete. And so the Board
15 doesn't have any questions at this time. We don't
16 see a need for a full hearing on this. If you're
17 okay with us proceeding on we will ask -- we'll turn
18 to Office of Planning for any additional comments
19 that they may have.

20 MR. SO: Yeah.

21 CHAIRPERSON HEATH: Okay.

22 MR. SO: Fine with us.

23 CHAIRPERSON HEATH: Thank you.

24 MR. SUH: Thank you.

25 MS. ELLIOT: Thank you, Madam Chair. This

1 case actually has a little bit of a history. It went
2 to the Public Space Committee where the curb cut on
3 Rhode Island Avenue was denied. The reason being
4 that the curb cut would actually remove one on-street
5 parking space in order to provide one on-street -- or
6 one off-street parking space for this development.
7 But also there's a desire to limit curb cuts on Rhode
8 Island Avenue.

9 So we believe that the applicant has
10 demonstrated that there is practical difficulty in
11 this case and also there is no alley access. There
12 is a public -- it looks like a walkway. It's only
13 about five feet wide and you're not going to get a
14 car through that, so we do think that the practical
15 difficulty has been demonstrated and we are
16 recommending support of this; this application.

17 CHAIRPERSON HEATH: Okay. Thank you. Sure.

18 MR. HILL: I just have a question. Wasn't
19 there something about the tree?

20 MS. ELLIOT: Yes. Yes. So DDOT had to leave
21 because of a emergency snow removal.

22 MR. HILL: There's snow somewhere?

23 CHAIRPERSON HEATH: I can imagine.

24 MS. ELLIOT: They're all on rotation, even
25 the guys that sit behind the desks. So yes, if that

1 curb cut had been granted the beautiful, mature tree
2 would have been removed as part of that improvement.

3 MR. HILL: Okay. Thank you.

4 CHAIRPERSON HEATH: All right. Thanks. Any
5 other questions? All right.

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

8 Okay. We do have a letter of no objection
9 from DDOT and indication that they wouldn't support a
10 curb cut. So is there anyone here from ANC 6E? As I
11 said earlier, we have their letter now and they're
12 indicating their support.

13 Is there anyone here wishing to speak in
14 support of this application? Anyone, support?

15 Anyone in opposition to this application?
16 All right. Then normally we would turn back to you
17 for closing or rebuttal, but based on the proceedings
18 of this hearing there is no reason for you to rebut
19 anything and probably no reason for you to close. So
20 if you're okay with us concluding the hearing the
21 Board is ready to deliberate. All right.

22 Then I will make a motion that we approve the
23 variance request from off-street parking requirements
24 to allow the construction of a flat at 441 Rhode
25 Island Avenue Northwest as a part of Application No.

1 19138.

2 MR. HILL: I second.

3 CHAIRPERSON HEATH: The motion has been made
4 and seconded. Any further discussion?

5 [Vote taken.]

6 CHAIRPERSON HEATH: The motion carries.
7 Thank you.

8 MR. MOY: The staff would record the vote as
9 three to zero to two, that is on the motion of
10 Chairperson Heath to approve the application for the
11 relief requested. Seconding the motion, Vice Chair
12 Hill. Also in support, Mr. Michael Turnbull, board
13 member not present, board seat vacant. Motion
14 carries, Madam Chair.

15 CHAIRPERSON HEATH: Thank you. Summary.

16 MR. MOY: Thank you.

17 CHAIRPERSON HEATH: All right. So still
18 nothing from James Walker, I assume?

19 MR. MOY: We haven't heard back yet, Madam
20 Chair.

21 CHAIRPERSON HEATH: Okay. All right. So
22 let's take our -- it looks like it's our last case,
23 18983.

24 MR. MOY: Yes. So to the table, parties to
25 Application No. 18983 of Carrie and Phong Trieu.

1 Yes? And I believe that this application has been
2 amended and now the applicant is seeking special
3 exception relief under Section 223, not meeting lot
4 occupancy under Section 403. There is a revised
5 self-certification under Exhibit 34. Revised plans
6 identified under Exhibit 33. And there is a party
7 status request.

8 CHAIRPERSON HEATH: Okay. You can also come
9 forward.

10 MR. MOY: I may need to swear in the
11 witnesses on this application, Madam Chair.

12 CHAIRPERSON HEATH: Oh, okay. Go ahead.

13 MR. MOY: Want me to do that now?

14 CHAIRPERSON HEATH: Yes, please.

15 [Oath administered to the participants.]

16 MR. MOY: Thank you. You may be seated.

17 CHAIRPERSON HEATH: Okay. All right. Before
18 we address the party status request, I'd first like
19 to ask if you have come to any conclusion based on
20 your discussions today. You're still in the same
21 place you were when you got here? Okay.

22 And can you just quickly state for the
23 record, your opposition to this? Did I have you all
24 introduce yourselves?

25 We can do it again.

1 CHAIRPERSON HEATH: Okay. If you would,
2 please? Make sure your mic is on and then just state
3 your name.

4 MS. GATES: Alma Gates, ANC 3D.

5 CHAIRPERSON HEATH: Okay.

6 MR. BECKA: Zdenek Becka, homeowner, 5238
7 Sherier Place.

8 MS. TRIEU: Carrie Trieu, 5236 Sherier Place.

9 MR. TRIEU: Phong Trieu, applicant.

10 CHAIRPERSON HEATH: Okay. All right. And so
11 I'll turn back to the party requesting party status.
12 The nature of your opposition to this.

13 MR. BECKA: There's a couple of places we can
14 go with that one. First I would say, I'm unclear on
15 what exactly this structure is for. It's, the case
16 has been on for about a year now and things have
17 changed and I'm not quite sure if we're arguing the
18 same thing.

19 And then second of all, even though the
20 nature of why it's being built has changed, the
21 structure hasn't changed at all. It's the same
22 gargantuan size and that's pretty much it, that it's
23 fairly large. It will have ramifications on air,
24 light, privacy, enjoyment of use, that kind of stuff.
25 And you know, discussions about, can you make it

1 smaller have resulted in, no, we need it to be this
2 big. So I don't know where to go else -- or where
3 else to go with this, so.

4 CHAIRPERSON HEATH: Okay. So we'll come back
5 to you to address your request, but we do, as the
6 Board, have some concerns and it looks like Office of
7 Planning does as well, about the various changes that
8 have happened with the drawings and what's being
9 requested. So can the applicant just talk about what
10 -- can you describe what you're trying to achieve
11 here? What is the size of this garage? What are you
12 hoping for it to accomplish for you?

13 MS. TRIEU: It's true that when we initially
14 submitted our plans it was for a different use. But
15 currently today we have a dilapidated shed in our
16 back yard that needs to be updated. And we have a
17 growing family. We're very active. We canoe, kayak,
18 ride bikes, so we would like to update our
19 dilapidated shed into an accessory building that
20 would provide us more space for our growing family.
21 We --

22 CHAIRPERSON HEATH: When you say more space
23 for your family, do you mean as storage or as
24 habitable space?

25 MS. TRIEU: Not as habitable space, for

1 storage.

2 CHAIRPERSON HEATH: Okay. So this is car
3 storage and --

4 MS. TRIEU: Not for car storage.

5 CHAIRPERSON HEATH: Okay.

6 MS. TRIEU: It would be for canoes and
7 bicycles and lawn mowers and the like.

8 CHAIRPERSON HEATH: Okay. So are you -- and
9 we are going to need final drawings because it's my
10 understanding that what we have in the record is not
11 final at this point. So based on what you're saying
12 you want to accomplish, can this garage strictly be
13 of the same footprint as the current shed? Is there
14 any reason why it needs to be larger or taller than
15 the current shed?

16 MS. TRIEU: Yes. It does not need to be
17 taller, and I believe in the drawings it is the same
18 height as it is --

19 CHAIRPERSON HEATH: Okay.

20 MS. TRIEU: -- today. That has not changed.
21 And can you ask me a -- can you repeat your second
22 question?

23 CHAIRPERSON HEATH: Sure. I just asked, so
24 the height today is less than 15 feet. Is that
25 correct?

1 MS. TRIEU: It's 15 feet.

2 CHAIRPERSON HEATH: It is 15. Okay. And the
3 footprint, you said, does need to increase?

4 MS. TRIEU: Yes.

5 CHAIRPERSON HEATH: Over the -- to get larger
6 than the existing shed?

7 MS. TRIEU: Correct.

8 CHAIRPERSON HEATH: Okay. And where do you
9 stand with respect to lot occupancy?

10 MS. TRIEU: We're currently at 41 percent,
11 and --

12 CHAIRPERSON HEATH: With the existing shed?

13 MS. TRIEU: With the existing shed. And --

14 CHAIRPERSON HEATH: And where would your
15 proposed solution --

16 MS. TRIEU: Fifty percent.

17 CHAIRPERSON HEATH: Okay. And are you
18 providing any off-street parking?

19 MS. TRIEU: Yes, we have one parking space.

20 CHAIRPERSON HEATH: Okay. All right. So
21 you're able to adhere to most of what the ANC would
22 be willing to approve, it sounds like, and we'll hear
23 from the ANC since they're here today. But it sounds
24 like you need this garage to be, or this storage shed
25 to be larger than what the ANC would recommend.

1 MS. TRIEU: Yes. But we did offer to
2 compromise, to bring the lot, the shed line that is
3 on -- near, is on the side of near Zdenek's house in
4 two feet to give him more -- to compromise. And that
5 was not --

6 CHAIRPERSON HEATH: Okay.

7 MS. TRIEU: -- seen as adequate.

8 CHAIRPERSON HEATH: And did you bring current
9 drawings with you today? Can you pass those --

10 MS. TRIEU: I --

11 CHAIRPERSON HEATH: Oh, you have large --

12 MR. TRIEU: Yeah.

13 CHAIRPERSON HEATH: Okay.

14 MR. TRIEU: Yeah.

15 MS. TRIEU: The architect is stuck in Miami,
16 so my apologies.

17 CHAIRPERSON HEATH: Stuck. That's a nice
18 place to be stuck during a snow storm.

19 [Discussion off the microphone.]

20 CHAIRPERSON HEATH: So while they're doing
21 that, tell me your name one more time.

22 MR. BECKA: Zdenek.

23 CHAIRPERSON HEATH: Zdenek.

24 MR. BECKA: And last name is Becka.

25 CHAIRPERSON HEATH: Becka. Okay. So, Mr.

1 Becka, before we grant your party status I think it
2 was -- I thought that it would be beneficial for the
3 Board and for you to understand the nature of the
4 relief being requested, to see if you are in fact in
5 opposition to what they're proposing. And so
6 normally we would have addressed the party status
7 request first, but because we weren't clear and you
8 weren't clear, even after your conversations with
9 them today, I'd like to get some clarity around that
10 and then I'll come back to you to see if you are in
11 fact opposing what they're requesting.

12 Would you, just out of curiosity, because the
13 height, they've clarified now that the height is not
14 going to get any taller than what the shed is today,
15 are --

16 MR. BECKA: Can I --

17 CHAIRPERSON HEATH: Sure.

18 MR. BECKA: -- respond to that? I'm not
19 quite sure where they get 15 feet from. I think I
20 saw a drawing earlier that said 13.9 feet, so it is
21 slightly taller.

22 CHAIRPERSON HEATH: Okay.

23 MR. TRIEU: Do I need to bring that closer?
24 Do I need to bring them closer?

25 CHAIRPERSON HEATH: I think we can see.

1 Yeah. We can see okay.

2 MR. MOY: I'll also see if we can get the
3 camera on it.

4 CHAIRPERSON HEATH: Okay.

5 MR. MOY: That way we could get it on screen,
6 Madam Chair.

7 CHAIRPERSON HEATH: Okay.

8 MR. TURNBULL: Can I -- I mean, your address
9 is 5236.

10 MR. TRIEU: Right.

11 MR. TURNBULL: And your address is 5238?

12 [No audible response.]

13 CHAIRPERSON HEATH: So I think that these --

14 MR. TURNBULL: The higher peak, the higher
15 gable, is that going towards his house or the other
16 way? It's towards his house?

17 MR. HILL: I'm sure it's on the record, but
18 the applicant, did you hear from 5234?

19 MR. TRIEU: Yes.

20 MS. TRIEU: Yes, we have, and she is in
21 support. And we have a letter from her.

22 MR. TURNBULL: The shape of the house, the
23 slope is determined -- is there any reason why it's
24 higher at one end than the other end?

25 MR. TRIEU: One of my targets is actually to

1 harvest the rain water. And on that side it's the
2 uphill slide. And that's the longest run we can get
3 for harvesting the rain water.

4 MR. TURNBULL: And you can't harvest the
5 higher end from going back toward the alley end or --

6 MR. TRIEU: That is -- the pitch to harvest
7 that rain water is going from the middle of our --
8 well, to the front of that structure to the back of
9 the alley end.

10 MR. TURNBULL: Oh, that is going to the back
11 end? Or I don't get it.

12 MS. TRIEU: It's not -- it's not sloping
13 towards --

14 MR. TURNBULL: I guess I'm not sure why it
15 slopes one way and can't slope another way on your
16 site if you're just collecting rain water.

17 MR. TRIEU: I wanted to maximize the surface
18 area, so we decided to take the point and move it
19 down direct to that property. And we had also talked
20 to Sarah, the 5234 neighbor, working with her and the
21 design and she had requested shifting the point
22 towards that one.

23 MR. HILL: So the front of -- the part that's
24 facing your house is the double doors there with the
25 window? In the middle of the picture?

1 MR. TRIEU: Correct.

2 MR. HILL: That's facing your home?

3 MR. TRIEU: Right. Yeah.

4 CHAIRPERSON HEATH: And it appears that most
5 of this is below grade. So the 15 feet that you're
6 referring to as the height is from the top of the
7 slab to the top of the pitch --

8 MR. TRIEU: Correct.

9 CHAIRPERSON HEATH: -- of the roof. So the
10 height from finished grade to the top of the pitch is
11 what? I don't see that.

12 MR. BECKA: What do you mean by below grade?

13 CHAIRPERSON HEATH: The section drawing, if
14 you look at the drawing in the middle of what's on
15 the screen.

16 MR. BECKA: Number 3?

17 CHAIRPERSON HEATH: Four.

18 MR. BECKA: Four. Okay.

19 CHAIRPERSON HEATH: Bottom. The center at
20 the bottom.

21 MR. BECKA: Yeah.

22 CHAIRPERSON HEATH: The finish slab is on
23 grade; is on grade but it's --

24 MR. TRIEU: Yeah.

25 CHAIRPERSON HEATH: -- below the rest of the

1 finished grade of the property.

2 MR. BECKA: I don't --

3 CHAIRPERSON HEATH: Based on this drawing.

4 MR. BECKA: Yeah, I think that grade means
5 the trolley path at the back. Am I wrong on that?

6 MS. TRIEU: Our house, as you look out the
7 back windows towards the shed, behind our house is
8 the trolley tracks. And the trolley tracks are above
9 our house grade; the grade of our yard.

10 CHAIRPERSON HEATH: So they're higher than --

11 MS. TRIEU: So they're higher than. So the
12 back of the shed, when you look at it from the
13 trolley tracks looking at our house, it's only six
14 feet tall. And at the peak. From the front of the
15 house, looking at the shed, it's 15 feet from the
16 ground to the top. Or maybe 13 feet, nine inches.
17 I'm pretty sure it's 15 feet.

18 So in considering light and air, because it
19 is lower and because you're looking out at national
20 park land.

21 CHAIRPERSON HEATH: So, hold on a second.

22 MR. BECKA: And to add confusion to all of
23 this, the three lots rest upon a hill, so the highest
24 one is at 5234 and there's 5236, and then mine is the
25 lowest.

1 CHAIRPERSON HEATH: Okay. So this is most
2 imposing for you.

3 MR. BECKA: I believe so.

4 CHAIRPERSON HEATH: With your -- okay. So
5 let's take a step back, then, and does the Board have
6 any issues with granting his party status request?

7 MR. HILL: No.

8 MR. TURNBULL: No, absolutely not.

9 CHAIRPERSON HEATH: Okay. All right. So
10 then we're in support of your request, so we will
11 grant you status as a party to this case. It allows
12 you to cross-examine the applicant after their
13 testimony. It will also allow you to make a
14 presentation, to have witnesses if you wanted to, but
15 also as a party any future notices regarding this
16 application would be sent to you as well as all other
17 parties. So you'll be made aware of anything that
18 happens with this application. All right?

19 MR. BECKA: Thank you.

20 MS. GLAZER: Madam Chair.

21 CHAIRPERSON HEATH: Yes.

22 MS. GLAZER: Sorry to interrupt. I just, I
23 think you touched on this earlier. The request for
24 party status was based upon few assumptions that may
25 have changed and maybe the Board wants to address

1 whether the party proponent wants to -- party
2 opponent, rather, excuse me, wants to modify the
3 basis of his request to relate more to the roof and
4 the size as opposed to the habitability of the
5 proposed accessory structure.

6 CHAIRPERSON HEATH: Okay. Does he need to do
7 -- can he do that after the hearing? I mean, if he
8 talks about those issues today as a part of his
9 presentation can he submit that modified request
10 later?

11 MS. GLAZER: I don't think there's any
12 problem. I believe the applicant has notice to the
13 basis, but I think it should just be clear for the
14 record what the basis of the request is.

15 CHAIRPERSON HEATH: Okay. One other thing
16 that I didn't address that I thought you were
17 bringing up is your request to waive the 14-day
18 filing requirement. And we, in granting your party
19 status request, we are acknowledging that we are
20 waiving that requirement. So we're granting your
21 motion.

22 MR. BECKA: Thank you.

23 CHAIRPERSON HEATH: I just want to make sure
24 that's clear.

25 Okay. All right. So what we'll do then is

1 if -- we've heard some from you in explaining what
2 relief you're requesting and what this new shed or
3 garage is doing. But we will allow you to make a
4 presentation at this time and then the party opponent
5 will be able to ask you questions or cross-examine
6 based on the information you've presented.

7 The ANC who is also here as a party, will be
8 able to ask questions or cross-examine. And then
9 we'll allow Mr. Becka to speak, and then we'll hear
10 from the ANC. All right.

11 So if you would like to being -- how much
12 time do you think you need for your presentation?
13 Just to walk us through.

14 MR. TRIEU: Less than five minutes, I hope.

15 CHAIRPERSON HEATH: That's great. All right.

16 MR. TRIEU: You want me to do it?

17 MS. TRIEU: Yeah.

18 MR. TRIEU: Okay. So this -- the existing
19 structure has been there since before we bought the
20 house, 1975, so it's 40 plus years old. It's 15 feet
21 tall and what did we say it was, almost 15 feet wide?
22 And back in -- when we submitted the initial
23 application I had an ailing father and I would have
24 liked to convert that into a habitable place for my
25 father. So we had intentionally -- I'm sorry. I'm

1 talking too close. We had intentionally submitted
2 plans in so that we could watch over my father and
3 provide a 24-hour care there. He since has deceased
4 and we had the plans moving forward.

5 So we opted out of the habitable unit and
6 would like now, with the existing proposed footprint,
7 to convert that over to a accessory unit. As
8 mentioned by my wife before --

9 MS. TRIEU: Accessory building.

10 MR. TRIEU: -- accessory building as
11 mentioned by my wife before. We have a lot of stuff.
12 We have a lot of growing family and we would like
13 this new unit to be a temporary -- or a storage for
14 bulk items that we have.

15 CHAIRPERSON HEATH: Okay.

16 MS. TRIEU: I'll add three things. The
17 neighbor at 5232 and the neighbor at 5240, Sherier
18 Place, have also asked for a special exception
19 similar to ours, and it has been accepted. So there
20 is precedent for something similar. And I'll leave
21 it at that.

22 MR. TRIEU: As memory comes in, we do have
23 support from the surrounding neighbors. The original
24 plan that was submitted, we have over 12 signed
25 letters. And to date we have two -- we have revised

1 or updated two of them. The adjacent neighbor, 5234
2 and then the two other adjacent neighbors uphill of
3 us. Since the footprint did not change we did not
4 seek others that had supported the project prior.

5 MS. TRIEU: And the plans were simplified
6 since the letters of support were originally signed.
7 We didn't -- the letters are still back from there,
8 but I still think they should be valid since the
9 footprint didn't change and the plans are more simple
10 than they were originally.

11 CHAIRPERSON HEATH: The footprint didn't
12 change from the previous proposed design that you --
13 okay.

14 MR. TRIEU: The footprint nor the slope. So
15 the neighbors that have signed it have had
16 opportunities to walk about behind the house because
17 it is a public access area, to view the proposed
18 structure.

19 CHAIRPERSON HEATH: Okay. And so is --
20 you've talked about wanting to be able to slope this
21 roof for runoff and water collection. Is that the
22 whole reason for raising it up as high as it is at 15
23 -- raising the pitch, the highest point of the roof,
24 up to where it is? Have you looked at any solutions
25 for bringing it down a bit to address your neighbors'

1 issues?

2 MS. TRIEU: The reason why the pitch is
3 offset to the left is because the only place to put -
4 - we'd like the building to be multiuse where the
5 side closest to Mr. Becka's property is for the
6 canoes, and we have two canoes. So they need to be
7 stacked, such where you would need the height in that
8 part of the building. And then it slopes the other
9 way because the other space would be used more for
10 the lawn mowers and other equipment that you can't
11 stack or raise. So that was the original thinking
12 with the configuration of the roof pitch and such.

13 CHAIRPERSON HEATH: Okay. I don't own
14 canoes, but you can't hang them on the wall or hang
15 them from --

16 MS. TRIEU: You can, but to get them side by
17 side, the way to hang them is to have it that way,
18 and the doors would have -- you can't have the doors
19 on the side abutting the retaining wall because you
20 wouldn't be able to get the canoes in, if they're in
21 their separate space. There's a wall drawn there so
22 that they're separated. You wouldn't be able to get
23 the canoes in on that side with the retaining wall.
24 You would need that open space where you can walk.

25 CHAIRPERSON HEATH: Okay.

1 MS. TRIEU: There's a wall that splits the
2 accessory building into two distinct spaces.

3 CHAIRPERSON HEATH: Uh-huh. That separates
4 the --

5 MR. TURNBULL: Now, do you park a car in
6 there?

7 MS. TRIEU: Can you?

8 MR. TURNBULL: Or do you? No, you don't. So
9 you park the car on your driveway? There's a
10 driveway that goes up the side of the house.

11 MS. TRIEU: Correct.

12 MR. TURNBULL: So you just have a parking
13 space back there?

14 MS. TRIEU: Yes.

15 MR. TURNBULL: The three doors that face your
16 neighbor.

17 MS. TRIEU: Yes.

18 MR. TURNBULL: What are they for?

19 MS. TRIEU: They're so that we can maneuver
20 the canoes into the building to hang them.

21 MR. TURNBULL: But there's only about three
22 or so feet between his property and the --

23 MS. TRIEU: There's four feet between his
24 property --

25 MR. TURNBULL: Four feet.

1 MS. TRIEU: -- and ours. Yeah.

2 MR. TURNBULL: You can move a canoe. What do
3 you do with the canoes now? Where are the canoes?

4 MS. TRIEU: One canoe is in the shed and the
5 other one is stored off site.

6 MR. TURNBULL: Oh.

7 CHAIRPERSON HEATH: And because of the
8 topography here, is there any way that you could
9 slope the garage in a different way so that the
10 highest part of this is closer to your house? So
11 right now you've got the slope. I don't know the
12 orientation here. And I can't really say that, but
13 it's running such that it's parallel to your property
14 line and closest to Mr. Becka's property. Could you
15 change the pitch of the roof so that the highest
16 portion is closer to your property and the pitch is
17 running perpendicular to your property. The shared
18 property line.

19 MS. TRIEU: We did not explore that option in
20 the beginning because of the different use. But one
21 problem I can think of right away with that is it is
22 -- it's more obstructive to light.

23 MR. TRIEU: Turning it 180?

24 MS. TRIEU: Yeah. It's more overall
25 obstructive to light and air for everyone, and access

1 to the building because it's higher. You don't have
2 an option of utilizing the access way in the back.

3 CHAIRPERSON HEATH: Uh-huh. Okay.

4 MR. TURNBULL: I don't see that. I don't
5 understand. I think you still have the same. You'd
6 have the --

7 CHAIRPERSON HEATH: The height is still the
8 same.

9 MR. TURNBULL: The height is still the same.
10 It doesn't change. So doors, no matter where the
11 roof is, are still going to be the same height. I
12 don't think you'd have an issue. In fact, it would
13 be less impact on the trolley way if it was smaller
14 back there. And I --

15 MR. TRIEU: I'm confused at the proposal that
16 -- or the alignment of what the chair has suggested.

17 MR. TRANTHAM: I think what she suggested is
18 that if you turn this building 180 degrees so that
19 the low end of the slope is toward the trolley and
20 then the higher end is toward more your front -- your
21 back yard, and then you -- I mean, you're going to
22 have -- there is a problem right now with where the
23 peak is. If you put where it is now this neighbor
24 sitting at the table is upset. If you turn it the
25 other way your neighbor on the other side is going to

1 be upset. So I think you've got to come up with a
2 plan of changing that configuration. And I guess if
3 we really need to know -- I think you really need to
4 show us a diagram. I mean, this -- I mean, the ANC
5 would like to keep this shed the same size. Now, we
6 might be inclined to make it a little bit bigger.
7 But we really need to show -- you need to really show
8 us exactly what's going on in this plan, and we don't
9 really see that.

10 And I think there's still a little tweaking
11 that you can do with your plan to make it more
12 acceptable to the neighbors and the ANC. I think
13 there might be a little bit more finessing with a
14 design that might maybe make it more compact. You
15 think about how you arrange things, think about how
16 things fit in to make it more acceptable to this
17 neighbor and your other neighbor, and the ANC.

18 So my gut feeling right now is, after looking
19 at all these issues is that, you maybe need to go
20 back and put together a little program for your
21 little shed, and really analyze how things are going
22 to fit in and make it as tight and as compact as you
23 can, that doesn't impact everybody.

24 MR. TRIEU: Now that I understand it, turning
25 180 degrees would face the next property. And so we

1 can't maneuver all the bulky stuff in through that
2 four feet area. So we'd have to pick up --

3 CHAIRPERSON HEATH: The canoes in that four-
4 foot area. That was what made me think that you
5 could potentially do that.

6 MS. TRIEU: The three doors on the side right
7 now are to maneuver the canoes in. That's the reason
8 why we built it that way. So that it's turned this
9 way. What you lose is access to the single room.

10 MR. TRIEU: Okay.

11 CHAIRPERSON HEATH: Unless you were to have
12 some sort of stepdown and lower area on that side
13 facing your house. So right now the side that we'd
14 be talking about facing the back of your house would
15 be elevation 5. And if you were to manipulate the
16 grade there, such that now you've got a little bit
17 more ability to access --

18 MR. TRIEU: Uh-huh.

19 CHAIRPERSON HEATH: -- any doors along that
20 side, I mean, I'm just trying to find a way that you
21 could still do this, still do the water collection,
22 and meet your neighbor's requests.

23 MS. TRIEU: If we turn the building the 180,
24 the problem becomes, if we still have the separate
25 rooms for the separate storage needs, the problem

1 becomes that the larger of the two rooms, which is
2 the room where a person --

3 CHAIRPERSON HEATH: Is on the wrong side.

4 MS. TRIEU: -- would spend time doing their
5 hobbies, it's -- there's no light that comes into it
6 pretty much at all. You would have an opportunity
7 for a window only on his side.

8 When we originally designed the building we
9 tried really hard to make sure that when you were
10 working within that building that you weren't looking
11 directly into his house, or he wasn't looking
12 directly into the shed for -- out of his property's
13 concern you wouldn't want somebody to be looking
14 right into their house.

15 CHAIRPERSON HEATH: Sure. I think one of the
16 things that you just said sort of conflicts with what
17 was my understanding of what you were doing here. I
18 didn't expect, based on what you said initially, that
19 you were -- that this was habitable space or any use.

20 MS. TRIEU: It's not habitable space.

21 CHAIRPERSON HEATH: So if this becomes a
22 workshop we run into the issue of this becoming
23 habitable space. And so it's a different --

24 MS. TRIEU: My own --

25 CHAIRPERSON HEATH: It's a different -- it's

1 a different use based on the understanding of --

2 MS. TRIEU: My understanding from talking
3 with the architect and with the Office of Planning is
4 because there's no kitchen and there's no bedroom,
5 when Phong's dad died our use changed. We don't need
6 that anymore. So we took out the bedroom. We took
7 out the kitchen. It doesn't even have a full bath.
8 It has a sink and a toilet in there, but that
9 eliminates the possibility that it's habitable space.
10 And that is why the use was able to be changed to an
11 accessory building versus what we were -- the
12 original mount in the -- the original variances that
13 we were looking at.

14 So we worked with the Office of Planning to
15 kind of look at this building and still make this
16 project be useful to our family and that's how we got
17 here.

18 CHAIRPERSON HEATH: Okay. So I think what's
19 going to be helpful for us as Commissioner Turnbull
20 pointed out is for you to develop some sort of
21 program so that we understand exactly how you're
22 using this. And that should be your tool to help
23 justify the size, the orientation, the -- you've
24 talked about the need for that loft space. But if
25 you could justify why this needs to be the size and

1 scale and orientation that it does based on what
2 you're trying to accomplish here, I think that would
3 be really helpful for us.

4 Any other questions from the Board?

5 MR. HILL: So the 5322 and 5230, I mean, I
6 don't know who helps me with this anyway if I had a
7 question, but you said that they have similar sheds
8 or space in there. And is it -- do you know if the
9 lot occupancy is at issue with those, or you're just
10 saying they're similar just from what you've seen?

11 MS. TRIEU: That's a little bit of a -- I
12 miss -- it was a misunderstanding in presenting that
13 information. The architect that is in Miami, worked
14 on those two properties as well, and what I meant to
15 say was that they both had asked for special
16 exceptions. Not that they turned an accessory
17 building into what we're looking at, but that they
18 asked for special exceptions to build additions on to
19 their properties. With 5240 the addition was right
20 on the property line. And with 5234 --

21 MR. HILL: That's okay. I mean, you don't
22 know the details about the lot occupancy or anything
23 like that. I mean, and do you know if --

24 MS. TRIEU: I do know they had to ask for
25 special exception but I don't know exactly --

1 MR. HILL: Right. Right.

2 MS. TRIEU: -- what they're over.

3 MR. HILL: And are those habitable space, or
4 you don't know?

5 MS. TRIEU: Both of them are still single-
6 family dwellings, but the additions are habitable
7 space, yes.

8 MR. HILL: Okay. And this is more -- I don't
9 know who to ask this question of. So if this were to
10 get approved, for them to turn it into habitable
11 space that would then come back again before us?

12 CHAIRPERSON HEATH: Uh-huh. Yes.

13 MR. HILL: Okay. So the intent later is not
14 to -- I'm asking you now, the intent later is not to
15 turn this into habitable space?

16 MS. TRIEU: Not in the next 20 years.

17 MR. TRIEU: That is the intent. If an
18 opportunity or a case presents itself that I need to
19 turn it into a habitable space and if it's -- we can
20 pursue it into a habitable space through this --

21 MR. HILL: Right. You'd be back before us.

22 MR. TRIEU: -- so you would be back --

23 MR. HILL: Okay. That's fine. Okay.

24 CHAIRPERSON HEATH: Okay. Any other
25 questions? All right. Then, Mr. Becka, do you have

1 any questions of the applicant based on their
2 presentation?

3 MR. BECKA: Okay, understanding that they're
4 going to come back with plans, I am a little confused
5 on procedure here. Do we go through the whole thing?
6 No.

7 CHAIRPERSON HEATH: We can, because you're
8 here now.

9 MR. BECKA: Okay. All right.

10 CHAIRPERSON HEATH: It's up to you whether
11 you want to not make a presentation and wait for
12 additional information. If there's any additional
13 information you'd like to see you have the
14 opportunity to either ask a question or present and
15 make that request now.

16 MR. BECKA: Okay.

17 CHAIRPERSON HEATH: If you don't have any
18 questions you can just state your case.

19 MR. BECKA: No, I don't have questions. I
20 have comments. So I'm from Canada and we have canoes
21 there. I know how to deal with canoes, and I don't
22 understand how you'd be storing canoes in here which
23 just adds to my continued confusion as to what this
24 building is for. As you're right, there is planned
25 four feet between my property and the side of the

1 three doors where they're going to be putting the
2 canoes in. You can't put canoes, which are 16, 18,
3 20, 22 feet long into those little mini doors. I
4 don't know how you're going to do that. So I don't
5 understand that.

6 If you want to make it for storage space,
7 putting in an artificial constraint of a room there,
8 or a wall, seems to be the wrong thing. And that's
9 it from the presentation. But I do have some other
10 things that we can go through, but --

11 CHAIRPERSON HEATH: What are those?

12 MR. BECKA: Well, just for the record it is a
13 22 percent increase in lot occupancy. That's a huge
14 increase. The building is large, and it is out of
15 character with the, you know, similar accessory
16 structures that are both at 5234 and 52, I guess it
17 would be 40. Yeah. My neighbor. The other
18 neighbor. You know, they have, you know, fairly
19 small little sheds and structures there.

20 So I guess we've talked about what it's going
21 to be used for. And then a couple of things about
22 the Office of Planning's report. I understand that
23 they don't oppose it but they don't accept it or
24 approve it. But I had some issues with the report
25 itself on page 4, they're discussing a proposed deck.

1 And they've mentioned that the final plans are not
2 available. So I don't know if that is a copy and
3 paste error or what the story is with that. And I
4 was wondering if --

5 CHAIRPERSON HEATH: We'll ask Office of
6 Planning --

7 MR. BECKA: Okay.

8 CHAIRPERSON HEATH: -- when we get to them.

9 MR. BECKA: Thank you. And I don't
10 understand -- you know, I understand that for,
11 whether is it, 2001.3, you're supposed to make sure
12 that you're adhering that the privacy, light, air,
13 and all that kind of stuff is not going to be unduly
14 affected. And I don't understand how this report
15 justifies that. It states an opinion. It won't be.
16 And then it goes and says in one paragraph, but there
17 has been a party status request, so it might be
18 affected. So I don't understand that. You know, it
19 doesn't make logical sense to me as to why this
20 report can say that they don't oppose it or approve
21 it.

22 So I -- that's about it other than I have to
23 -- sorry. Too many papers. I do agree with the
24 ANC's report of you know, keeping the structure
25 essentially on the same footprint. Maybe enlarging

1 it a little bit. And I'm very happy to work with the
2 Trieus to work out a plan. But I think that would
3 require sort of more communication. So that's it.

4 CHAIRPERSON HEATH: Okay.

5 MR. HILL: If -- I mean, you don't have the
6 plans so you'd have to -- you'd get a chance to look
7 at them. And I'm just curious. So if the pitch, the
8 point, were on the other side would you still be in
9 opposition?

10 MR. BECKA: Other than the fact that it --
11 it's better. Can you hear me?

12 MR. HILL: Yeah, I can hear you. I heard
13 better, yeah.

14 MR. BECKA: It's better. It's not great
15 because right now there is quite a separation. And I
16 admit this is mainly because of the way things are
17 today, there is -- there's about 10 feet or so
18 between the current shed and our property line,
19 right? So that's a nice wide area. And when you're
20 sitting in the yard, you know, you're looking up, you
21 can see a lot of the park land through that area.
22 And bringing this building that close to us, to my
23 property line, will cut that off a little bit, so.

24 MR. HILL: I mean, we're not there yet. I'm
25 just curious. So it's better. Do you know if your

1 neighbor would be opposed if it was switched on the
2 other side?

3 MS. TRIEU: She would.

4 MR. HILL: Okay. So there we are on that
5 one. So the roof, the pitch, would you be opposed
6 again, if it were facing their home and the roofline
7 were going towards the tracks, you would still be
8 opposed probably because it would still be the same
9 height.

10 MR. BECKA: Oh, actually probably more so
11 than --

12 MR. HILL: Okay.

13 MR. BECKA: -- in the current orientation.

14 MR. HILL: Okay.

15 MR. BECKA: I don't think it works.

16 MR. HILL: Okay.

17 MR. BECKA: If it's rotated 180 degrees.

18 MR. HILL: Okay.

19 MR. BECKA: Maybe 90 degrees.

20 MR. HILL: Okay. There you go. Thanks.

21 CHAIRPERSON HEATH: Okay. All right. Any
22 other questions of the opponent? All right. Does
23 the applicant have any questions of the opponent?

24 MS. TRIEU: Is there anything we could do to
25 -- we can't turn the shed 180 degrees, it doesn't

1 work if we put the pitch on Sarah's side, and it
2 doesn't count if we bring -- if we shorten the lot
3 line in by two feet to give you six feet of space on
4 your side. Is there anything we can do to make this
5 a workable building for you?

6 MR. BECKA: Why does it not work if you put
7 the peak towards Sarah's side?

8 MS. TRIEU: Because Sarah would be unhappy.

9 MR. BECKA: Right. So, great.

10 MS. TRIEU: But you --

11 MR. BECKA: Make it smaller.

12 MS. TRIEU: Okay. So if we put the peak on
13 Sarah's side and Sarah agrees to it, you're fine?
14 You'll sign off on it? You'll get our support?

15 MR. BECKA: I need to see some plans.

16 MS. TRIEU: I'm asking because I've tried to
17 work with you. If we put the peak towards Sarah's
18 side and Sarah says that's fine?

19 MR. BECKA: Let's see the plans.

20 CHAIRPERSON HEATH: Okay. All right.

21 MR. BECKA: I think that's --

22 CHAIRPERSON HEATH: Sure. So with that then
23 we'll turn to the ANC.

24 MS. GATES: Mr. Hill, to address your
25 question about the other special exceptions and

1 additions, they were to single-family homes. The lot
2 occupancy was not anywhere near what the Trieus are
3 requesting. I do have some questions of the
4 applicant, please.

5 CHAIRPERSON HEATH: Sure.

6 MS. GATES: On these plans, and on the plans
7 that were submitted to the ANC, a loft is shown. And
8 a rear entrance is shown. Today you have told us
9 about a wall separating the two sections. So it
10 appears, given the loft, the bathroom, I know that
11 DCRA required that you take out the --

12 CHAIRPERSON HEATH: You lost your mic.

13 MS. GATES: However, it would not be
14 difficult just to put in a small shower there. The
15 same room size remains.

16 So what is the purpose of the loft and how
17 does it affect the height of the building?

18 MR. TRIEU: Are you assuming that we're going
19 to put a shower in?

20 MS. GATES: I'm not assuming that. I'm
21 saying the room size has not changed.

22 MS. TRIEU: I'm not sure I understand your
23 question.

24 MS. GATES: Why is there a loft remaining if
25 there is not meant to be habitable space in this

1 structure?

2 MS. TRIEU: There is not going to be
3 habitable space in the structure. The structure is
4 going to be used for storage and our growing family's
5 needs.

6 MS. GATES: So if you removed the loft --

7 MS. TRIEU: We have two canoes that need to
8 be stored and that is shown on the other side, and --

9 MS. GATES: Is the purpose of the loft to
10 hang the canoes?

11 MS. TRIEU: They're going to be hung on the
12 other side.

13 MS. GATES: So the answer is no.

14 MS. TRIEU: And if the loft is a problem in
15 that big space now I'm content to take it out.

16 MS. GATES: I think, Mrs. Trieu, the point
17 here is that we are trying to find a way to lessen
18 the impact on your neighbor --

19 MS. TRIEU: The current --

20 MS. GATES: -- on all your neighbors,
21 regardless of which way this is situated.

22 MS. TRIEU: The current height of the shed is
23 15 feet. It's not changing. Or 13 feet, nine
24 inches. It's not changing.

25 MS. GATES: Does it have a rear door

1 currently?

2 MS. TRIEU: No.

3 MS. GATES: Does it show someone using the
4 rear door as it does in these drawings?

5 MS. TRIEU: No, the building is getting
6 bigger, but as far as obstructing it's 15 feet and it
7 was 15 feet. That's not changing.

8 MS. GATES: But if you turned the structure
9 as suggested --

10 MS. TRIEU: Mr. Becka still would not approve
11 it.

12 MS. GATES: We can't say that. If the impact
13 faces your house perhaps he would not object. But I
14 would object if I had 3.92 feet between your shed
15 opening and my side yard.

16 MS. TRIEU: We have offered many times to
17 move that and to give him six feet of space instead
18 of four. It is not something he is interested in.

19 MS. GATES: Also, do you have a basement?

20 MS. TRIEU: We do have a basement.

21 MS. GATES: And do you use it for storage or
22 other purposes?

23 MS. TRIEU: We have a washing machine and a
24 dryer down there, and we store our fly fishing gear
25 down there.

1 MS. GATES: So you do have storage space?

2 MS. TRIEU: Yeah.

3 MS. GATES: Okay.

4 MS. TRIEU: Canoes don't fit --

5 MS. GATES: Also, I would like to comment on
6 the form letters, the ANC noted this. These are form
7 letters that refer to a shed behind the house. I
8 don't think the structure qualifies in size as a
9 shed, especially since it contains a loft and
10 plumbing.

11 Also, on the back of the ANC report which --
12 or testimony, which was submitted today, are
13 photographs showing the side yard and the parking.
14 It really needs to be made clear that under Section
15 2116.4B the entire car must be behind the façade of
16 the house, not behind the sidewalk as is shown in
17 these pictures.

18 CHAIRPERSON HEATH: Yeah, that is a different
19 issue than what's before the Board based on this
20 application. I can't --

21 MS. GATES: I'm sorry, I couldn't hear you.

22 CHAIRPERSON HEATH: That is a different issue
23 than what is before the Board at this time, based on
24 this application. But it's hard for us to tell even
25 from these photographs if they could back the car up

1 further to have the front of the car be --

2 MS. GATES: Ms. Heath, if they are being
3 required to maintain a parking space on the property
4 then they must be able to park it according to the
5 Zoning Regulations. And it cannot --

6 CHAIRPERSON HEATH: I understand.

7 MS. GATES: It does not appear to be able to
8 be backed up any further. If you look at this
9 photograph, because --

10 CHAIRPERSON HEATH: I can't tell from that
11 photograph.

12 MS. GATES: I don't know why not. It shows
13 the trash cans are there. Also in this photograph
14 you see there's a window well where anyone getting
15 out of the car would step into it.

16 CHAIRPERSON HEATH: Where -- what's the depth
17 of that space?

18 MR. TRIEU: Does this have anything to do --
19 I mean, this is a side issue that --

20 CHAIRPERSON HEATH: It is -- it's a side
21 issue from your application. The ANC has requested
22 as a part of their conditions of approval --

23 MR. TRIEU: Okay.

24 CHAIRPERSON HEATH: -- that you provide one
25 parking space. Her concern is that your -- the

1 parking space as it appears right now is not a legal
2 parking space because it's not deep enough.

3 MR. TRIEU: Okay.

4 CHAIRPERSON HEATH: Which, I mean, I can't
5 tell from this.

6 All right. So counsel has clarified for us
7 that legally this is not -- the parking issue is not
8 an issue for this application. Unless the applicant
9 decides they wish to accept the condition of the ANC,
10 it's not -- that issue of parking is not relevant to
11 this application. We're talking about an accessory
12 shed as the -- as exists today. There's no parking
13 in that. It's not as though they're getting rid of
14 parking with this new shed that they've proposed.

15 I think the issue -- the issues are around
16 what the size orientation configuration of the shed
17 is, and it's impacts on the adjacent neighbors. So I
18 just want to clarify.

19 MS. GATES: Thank you.

20 CHAIRPERSON HEATH: All right. So you were
21 making your presentation. Is there anything else
22 you'd like to --

23 MS. GATES: Well, the only other piece that I
24 added to my testimony was that this is not at all in
25 compliance with the Comprehensive Plan. And I have

1 cited the sections.

2 CHAIRPERSON HEATH: Okay. Thank you.

3 MS. GATES: And I also would like to note the
4 referral to a deck in the Office of Planning's
5 report.

6 CHAIRPERSON HEATH: We'll talk about that.

7 MS. GATES: This is not a deck.

8 CHAIRPERSON HEATH: Right. We'll talk about
9 that with the Office of Planning.

10 Any questions of the ANC? Applicant? Okay.
11 Board, any questions?

12 MR. HILL: I've got a quick question of the
13 ANC. Right here. Hello. Sorry.

14 MS. GATES: Oh.

15 MR. HILL: Thanks for coming down. The snow
16 must have been tough. If the shed were the same
17 thing, a brand new shed, exact same -- exactly the
18 same layout as it is now --

19 CHAIRPERSON HEATH: The footprint.

20 MR. HILL: Footprint. Thank you. The ANC
21 would not be in opposition, correct?

22 MS. GATES: If it did not exceed the current
23 footprint the ANC would not oppose it. But I think
24 we made that clear in our report.

25 MR. HILL: Yeah, I'm just trying to make

1 sure. Thank you.

2 CHAIRPERSON HEATH: Okay. Any other
3 questions, Board?

4 MR. TURNBULL: Just got a question. Would
5 you consider a slight increase? And I'm not sure
6 what slight means.

7 MS. GATES: I can't speak for the ANC.

8 MR. TURNBULL: Okay.

9 MS. GATES: However, I think we would like to
10 hear from the surrounding neighbors. We've had a lot
11 of talk today about shifting this around. So I think
12 the ANC would want to hear from the neighbors before
13 we made any decision.

14 MR. TURNBULL: Okay.

15 CHAIRPERSON HEATH: All right. Okay. Then
16 with that, if there are no other questions I'd like
17 to turn to Office of Planning for your current
18 position on this.

19 MS. ELLIOT: Thank you, Madam Chair, Members
20 of the Board.

21 So this application seems to have been a
22 little bit muddled from the beginning. OP has made a
23 recommendation of, it does not oppose. And I think
24 that to get to some of the issues that we've heard
25 today I think we were struggling with what was

1 actually being proposed and what uses were going to
2 be accommodated in this. And we didn't have anything
3 in the record, you know, demonstrating that this was
4 only storage and not, you know, habitable space. And
5 so that's why our recommendation is a little fuzzy.

6 I mean, now that we have that on the record I
7 think that we're in a better position to make a more
8 solid recommendation. There have been a few
9 questions today though, that I think that we can try
10 to help explain.

11 As to OP's report and the error with the
12 deck, I apologize for the confusion that it may have
13 caused. But it is indeed an error. This is not a
14 deck. It's a shed. And sometimes these mistakes
15 happen, so, you know, I hope we can move on past the
16 deck error.

17 There was another question about whether this
18 could be converted into habitable space down the
19 road. The current regulations would not allow that
20 without a special exception. However, the Zoning
21 Commission recently approved the Zoning Regulations
22 Review, ZRR, which as I understand it will go into
23 effect in September.

24 When that happens accessory living quarters
25 would be permitted by right under certain conditions.

1 So even if it's not located internally to the house
2 it would be permitted by right, you know, based --
3 just as long as it meets certain size requirement,
4 and things like that. I'm sure if you wanted more
5 information we can provide that to you in a
6 supplemental so that you can anticipate what could be
7 coming down the road. I expect there's going to be
8 more information needed for this so I'm just sort of
9 jumping on that.

10 MR. TURNBULL: I'd like to recite that
11 verbatim, but I can't.

12 MR. HILL: Do you think that -- and I am
13 curious now. I don't know if you can speak to this
14 quickly. If the shed were the way it was, the
15 footprint was remaining, then in September it could
16 be a by right for habitable space.

17 MS. ELLIOT: Well, I think part of our issue
18 is we don't actually have a footprint and so I don't
19 know how easily convertible it would be at --

20 MR. HILL: Okay. Okay. So you can't easily
21 say. That's all right.

22 MS. ELLIOT: I mean, given some of the walls
23 that are --

24 MR. HILL: Okay. Okay.

25 MS. ELLIOT: Now granted, if it was a

1 completely open structure that leaves you open for
2 more possibilities and maybe it would be easier. But
3 I don't know like plumbing, things like that, that
4 they're actually going to be included in this
5 particular application.

6 MR. HILL: Okay.

7 MS. ELLIOT: And so certainly that would make
8 it more difficult.

9 CHAIRPERSON HEATH: Okay.

10 MR. HILL: Yeah, I think our part of the
11 problem that I had when reviewing this is that we
12 didn't have all those three drawings. The exhibit
13 showed all -- it had three drawings of Drawing 2. It
14 was the same drawing repeated three times, so it's
15 like -- at first I thought why the heck do we have
16 three of the same drawing?

17 But I can begin so we're going to need the
18 official drawings submitted so we can look at them.

19 CHAIRPERSON HEATH: Yeah, and what's in the
20 file is dated December. I think it's a July -- you
21 had a July submission and a December submission noted
22 on those drawings, not January. But it sounds like
23 there's the possibility for another set of drawings
24 to be coming out. And so whatever modifications you
25 decide you're going to make to this we'll need to see

1 those drawings submitted to the file.

2 There's one other point I was going to make.
3 Oh, I would also like to see something of the
4 existing shed other than a photograph. If -- I don't
5 know that we have, in the file, what the -- oh, maybe
6 we do. I guess it's there. Is that -- no. Okay.
7 So we don't have it then. The existing footprint of
8 the shed, the current shed. If you could provide us
9 with a site plan that shows that footprint and
10 indicate the lot occupancy based on the existing shed
11 so we have a clear understanding of what is there
12 today versus what you're proposing because --

13 MS. TRIEU: Of course. Yeah.

14 CHAIRPERSON HEATH: Let's see. What else?
15 Yeah, and further conversations between your two
16 neighbors, not just the party opponent, but the other
17 neighbor so that when you do come back before us we
18 have -- you've had further communication and you have
19 some solutions that you put on the table. It may be
20 necessary for you to have your architect create a few
21 sketches showing potential options rather than just
22 talking through possibilities because I think it's
23 hard for people to envision what the impacts are of a
24 hypothetical discussion of, maybe we could do this or
25 this without seeing something in drawing form.

1 MR. TURNBULL: Are we at a point where we
2 could -- I guess we have been at a point where we're
3 talking about.

4 CHAIRPERSON HEATH: I think we -- yeah.
5 Yeah.

6 MR. TURNBULL: We don't like to say, go away.
7 It's denied. We don't like to say denied in the
8 sense that if we see that there's a possibility that
9 something could be changed. And so with that -- it
10 gets back to when I talked about your program of what
11 you really want to use this for. I would suggest
12 that it's kind of an iterative process. You need to
13 reevaluate your needs. You've heard the comments of
14 the ANC. You've got an uphill fight with your
15 neighbors. Sounds like you're damned if you do and
16 damned if you don't depending upon what you do with
17 this building.

18 So you've really got to think about it. I
19 mean, the ideal thing would have the peak in the
20 middle somehow. So I think you need to talk with
21 your architect and go through is iterative process
22 looking at your needs, and come up with a solution
23 that maybe is not as generous as what you want with
24 the space. Be frugal, be -- and I think your
25 architect needs to probably provide you with -- I

1 think we would like to see some layouts. I mean, a
2 plan that actually shows where things are going. How
3 the canoes, the kayaks fit in. Where they hang, a
4 section, so that we get a better feel for how you're
5 going to use this space.

6 It may also be -- as I said, the peak in the
7 middle might be the way to go somehow. Somehow if
8 you can do that I think you may -- and if you can cut
9 the space down where the ANC might say, well, it's a
10 little bit more than we want but depending upon what
11 the neighbors say and how they feel, how much space
12 you've given them, and maybe, I think we're going to
13 need from your architect, an isometric drawing. And
14 he'll know it's like a 3-D drawing that sort of shows
15 how this building fits on your back yard and it sort
16 of gives the ANC and your neighbors a better view of
17 what this looks like.

18 That's just my gut feeling is, it will help.
19 I think you're going to need that. As I said, we
20 don't want to say no. I think we want to send you
21 back to the drawing board with your architect and
22 yourselves, and maybe rethink what you want to do and
23 how you want to do it. And so I think it's like
24 giving -- and meet with OP and go through some of
25 these issues. And you're probably going to have to

1 back before the ANC and present to them. But at
2 least you're not dead in the water. You've got a
3 fighting chance to try to massage this and get it to
4 work. But it's going to be a little bit of a
5 struggle to get it to fit.

6 CHAIRPERSON HEATH: Do you have anything
7 else?

8 MR. HILL: Yeah, just seconding everything
9 that my colleague, Mr. Turnbull, said. I first of
10 all want to emphasize that, you know, I also have
11 aging parents and it's nice that you guys thought
12 about that and had wanted to do that and I'm sorry
13 for your loss. And also like to stay here in a
14 growing family in the city, that's something that's
15 great. You know, and all the things that you even
16 talk about, collecting rain water. That's wonderful.
17 And you know, all the activities that you seem to be
18 doing with your family, that's great. You can see
19 some of the things you're up against in terms of how
20 when you come back with the drawings and how the
21 current footprint seems to be acceptable, and how as
22 Mr. Turnbull said, you might get a little bit more
23 showing us how the program -- your program is in need
24 of that additional space.

25 Now, if you can talk to your neighbor with

1 the peak over there and then somehow get everyone all
2 in agreement since it is a special exception, it's
3 something that, you know, we need to take into
4 account, the neighbors, the light and the air, and
5 just basically their opinion of things. And it is
6 unfortunate that, you know, neighbors have difference
7 of opinion. And so you all do have to stay neighbors
8 afterwards, at least until somebody sells. And so
9 I'm just kind of pointing that out again for all
10 parties. You know, that it's something that I'm sure
11 you guys want to come to an amicable agreement. You
12 know.

13 So that being said I'm just going with, you
14 know, the drawings and to take another look at it as
15 to how this would work for everyone.

16 CHAIRPERSON HEATH: All right. Okay. So
17 normally at this point we would request, or we'd hear
18 from anybody else who wants to speak in support or
19 opposition. Doesn't look like we have anyone else
20 who is wishing to speak in support of opposition, so
21 we'll -- and I assume that you'll continue to look at
22 other possibilities for this based on the Board's
23 request. So we will continue discussions then.

24 And so, Mr. Moy, if we could find a new date
25 for this?

1 MR. MOY: All right.

2 CHAIRPERSON HEATH: Probably March 1st.

3 MR. MOY: Yeah, I think Mr. Turnbull's input
4 probably will be required for -- and his next
5 scheduled date with the Board is March the 1st.

6 With regards to filings, Madam Chair, I'm
7 assuming you'll want a supplemental from OP and I'm
8 not sure if the Board wants the applicant to share
9 the proposed option drawings, I'll call it for that,
10 with the parties prior to submitting.

11 CHAIRPERSON HEATH: There is another
12 question.

13 MR. MOY: I'll leave it up to you how you
14 want to --

15 CHAIRPERSON HEATH: We may need to shift this
16 until later because if we need all of this feedback
17 from OP and the ANC -- when is your next meeting?

18 MS. GATES: It's the first Wednesday in March
19 and I believe it might be the 3rd.

20 CHAIRPERSON HEATH: Okay. So we probably
21 need to put this on for after that.

22 MS. GATES: And then we would need a few days
23 to get our report in.

24 CHAIRPERSON HEATH: Sure. So later in March.
25 When is Mr. Turnbull here?

1 MR. MOY: But the ANC is meeting in February
2 also, right? So -- right?

3 MS. GATES: Sorry?

4 MR. MOY: The ANC meets in February.

5 CHAIRPERSON HEATH: That's pretty soon --

6 MR. MOY: That's too soon? Okay.

7 CHAIRPERSON HEATH: -- if it's the first
8 Wednesday.

9 MS. GATES: Right. But I'm not sure that by
10 next Wednesday --

11 CHAIRPERSON HEATH: Yeah, it doesn't --

12 MS. GATES: Can you get all your --

13 MS. TRIEU: No.

14 CHAIRPERSON HEATH: He's in Miami. So --

15 MS. GATES: He's lucky.

16 CHAIRPERSON HEATH: I know, he is.

17 MR. MOY: Well, okay. All right. Well, in
18 that case then we go later in March, maybe the last
19 week in March possibly?

20 MR. BECKA: I'm traveling in late March.

21 MR. MOY: Oh, you are?

22 MR. BECKA: So can we push it into first week
23 of April, please?

24 MR. MOY: Okay. No --

25 MR. BECKA: Thank you.

1 MR. MOY: -- time crunch for the applicant.
2 All right, so --

3 CHAIRPERSON HEATH: You guys have had this
4 project lingering for quite some time already.

5 MR. MOY: So, okay. So we'll look at a
6 continued hearing in April. Then it could be --
7 well, we're wide open in April so --

8 CHAIRPERSON HEATH: The first week of it?
9 What's our first hearing?

10 MR. MOY: First hearing in April would be
11 April 5th. April 5th.

12 CHAIRPERSON HEATH: Good.

13 MR. MOY: April 5th.

14 CHAIRPERSON HEATH: Okay.

15 MR. MOY: April 5th. A continued hearing?

16 CHAIRPERSON HEATH: Yes.

17 MR. MOY: Okay. So in terms of filings from
18 the applicant, if they file to the BZA by -- let's
19 see. March. And so --

20 MS. ELLIOT: Excuse me. Since the ANC meets
21 on the 1st Wednesday of the month and they would need
22 -- if we don't present to the ANC until April could
23 we have it, this meeting, the second week in April so
24 that it would give them time to get their report in
25 and it would give us a little bit more time to get

1 organized?

2 CHAIRPERSON HEATH: Could you meet with them
3 in March?

4 MS. ELLIOT: Well, hopefully but as you
5 know --

6 MS. GATES: I think we'd like to see you in
7 March if possible.

8 MS. ELLIOT: All right, then.

9 MS. GATES: Is that okay with --

10 MS. ELLIOT: Yeah, we're on.

11 CHAIRPERSON HEATH: That gives your architect
12 a month.

13 MS. GATES: But you're not --

14 UNIDENTIFIED SPEAKER: Early March, yes.

15 MS. GATES: Okay.

16 CHAIRPERSON HEATH: That gives your architect
17 a month to -- okay. All right.

18 MS. GATES: So they'll come to us in March
19 and to you in April?

20 CHAIRPERSON HEATH: Correct.

21 MS. GATES: Okay.

22 CHAIRPERSON HEATH: Thank you.

23 MR. MOY: Okay. So the Board is good with
24 rescheduling -- continuing this on April 5th, right?

25 CHAIRPERSON HEATH: Yes.

1 MR. MOY: Okay. We'll go to April 5th and
2 applicants will file, hopefully it would be their
3 final drawings and information to the Board. Let's
4 say a week prior. Can we make that Tuesday, March
5 29th?

6 MS. ELLIOT: Excuse me, Madam Chair. If you
7 want a supplemental report from OP it would help for
8 us to have a little bit more time to review it. So
9 if the applicant could submit maybe a week ahead of
10 March, at the end of March? That might be -- we
11 would like a few days if we can, especially with all
12 the new information coming in.

13 CHAIRPERSON HEATH: Sure. Okay.

14 MR. MOY: Okay. Okay. We give a full week
15 then, it would be March 22nd. If that's too workable
16 with ANC and the party in opposition. March 22nd,
17 then, it is.

18 CHAIRPERSON HEATH: Okay.

19 MR. MOY: So March 22nd, OP then can file a
20 week prior. So OP's would be due March 29th, right?

21 CHAIRPERSON HEATH: Okay. And we'll see you
22 all back here April 5th. All right.

23 MS. GATES: And the materials presented to
24 the ANC will be the same as those filed for your
25 consideration.

1 CHAIRPERSON HEATH: Okay. Thank you.

2 MR. MOY: So the ANC could be March 29th
3 also, then, right? Would be good?

4 MS. GATES: Okay.

5 MR. TURNBULL: Well, unless they make you --
6 unless you've got serious changes, I mean, we're
7 assuming that --

8 CHAIRPERSON HEATH: Recommended by the ANC.

9 MR. TURNBULL: Recommended. If there's any
10 recommended changes by the ANC.

11 MS. GATES: Right. If we make changes then
12 we know what the changes are.

13 MR. TURNBULL: Right. Okay.

14 CHAIRPERSON HEATH: Okay. All right. Okay.
15 Then I think we're all set for now. Thank you.

16 MR. BECKA: Thank you.

17 MS. GATES: Thank you.

18 CHAIRPERSON HEATH: All right. So, thank
19 you. It has been a pleasure. Thank you.

20 [Discussion off the record.]

21 CHAIRPERSON HEATH: Are we going to
22 continue --

23 MR. MOY: Yes, I was going to remind the
24 Board about Application 18895 of James Walker. We
25 still have not heard back from the applicant so --

1 CHAIRPERSON HEATH: Okay.

2 MR. MOY: -- staff's suggestion would be to
3 roll this to next Tuesday.

4 CHAIRPERSON HEATH: Okay.

5 MR. MOY: And we'll reach out to be sure that
6 they're aware of the hearing for next Tuesday.

7 CHAIRPERSON HEATH: And the fees.

8 MR. MOY: Which would be -- what's the date?

9 CHAIRPERSON HEATH: February 2nd.

10 MR. MOY: February 2nd. Thank you.

11 CHAIRPERSON HEATH: Okay. They've got to
12 contact him about fees as well.

13 MR. MOY: Yes. Yes, we'll do that as well.

14 CHAIRPERSON HEATH: Okay. All right.

15 Perfect. All right. Then we are officially
16 adjourned. Unless you have --

17 MR. MOY: Yes, we have to do the roll call
18 vote for closed meetings and --

19 CHAIRPERSON HEATH: Right. This is the last
20 of the month.

21 MR. MOY: For the month of February.

22 CHAIRPERSON HEATH: Did I get that from you?

23 MR. MOY: Yes. I'll give you this.

24 CHAIRPERSON HEATH: Oh, perfect. Okay. So,
25 all right. In accordance with Section 405C of the

1 Open Meetings Act, D.C. Official Code Section 2-575C,
2 I move that the Board of Zoning Adjustment hold
3 closed meetings on the Mondays of February 1st,
4 February 8th, and February 22nd. These meetings
5 start at 4:00 p.m. and are held for the purpose of
6 obtaining legal advice from our counsel and
7 deliberating upon, but not voting, on the cases
8 scheduled to be publically heard or decided by the
9 Board on the day after each such closed meeting.

10 Those cases are identified on the Board's
11 public meeting and hearing agendas for February 2nd,
12 February 9th, and February 23rd. A closed meeting
13 for these purposes is permitted by Sections 405(b)(4)
14 and B13 of the act. Is there a second?

15 MR. HILL: I second.

16 CHAIRPERSON HEATH: Now that the motion has
17 been seconded, Mr. Moy, will you please call roll on
18 the motion?

19 MR. MOY: Yes, thank you, Madam Chair. When
20 I call the member's name if you would reply with a
21 yes or a no?

22 [Roll call vote taken.]

23 MR. MOY: Mr. Hinkle is absent and there's a
24 board seat vacant. Nonetheless the motion carries,
25 Madam Chair.

1 CHAIRPERSON HEATH: Okay. So then since the
2 motion has passed I request that the Office of Zoning
3 provide notice of these closed meetings in accordance
4 with the Act. Thank you.

5 MR. MOY: Thank you.

6 CHAIRPERSON HEATH: So we are now officially
7 adjourned.

8 MR. MOY: Yes.

9 CHAIRPERSON HEATH: Thanks.

10 [The meeting adjourned at 1:35 p.m.]

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