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

PUBLIC MEETING AND HEARINGS

9:40 a.m. to 12:10 a.m.
Tuesday, May 10, 2016

441 4th Street, N.W.
Jerrily R. Kress Memorial Room
Second Floor Hearing Room, Suite 220 South
Washington, D.C. 20001

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1 Board Members:

2 MARNIQUE Y. HEATH, Chairperson

3 FREDERICK L. HILL, Vice-Chairperson

4 JEFFREY L. HINKLE, Board Member

5 ANITA BUTANI-D'SOUZA, Board Member

6 ROBERT MILLER, Zoning Commission

7 CLIFFORD MOY, Board Secretary

8

9

10 Office of Planning:

11 STEVE COCHRAN

12 MEGAN RAPPOLT

13

14

15 Office of the Attorney General:

16 SHERRY GLAZER

17 MARY NAGELHOUT

18

19

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1	C O N T E N T S	
2		PAGE
3		
4	Introductory Remarks	4
5		
6	A.M. Session	
7		
8	Application No. 18325B	6
9	Application No. 19233	8
10	Application No. 19237	8
11	Application No. 19255	37
12	Application No. 19257	52
13		
14		
15	Conclusion of Meeting	85
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

1
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 May 10th, 2016 and we're here for the
7 public meeting and hearings of the Board of Zoning
8 Adjustment of the District of Columbia.

9 My name is Marnique Heath, Chairperson.
10 Joining me today is Anita Butani-D'Souza, Vice
11 Chairperson, Fred Hill, Board Member, Jeffrey Hinkle,
12 Board Member, and Rob Miller, a member of the Zoning
13 Commission sitting in as a member of the Board today.

14 Please be advised that this proceeding is
15 being 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 by the back door.

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 Board
24 must complete two witness cards per person and give
25 those cards to the court reporter seated to my right

1 prior to testifying.

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

5 MR. MOY: Good morning.

6 [Oath administered to participants.]

7 CHAIRPERSON HEATH: Good morning, Mr. Moy.
8 Do we have any preliminary matters coming before the
9 Board today?

10 MR. MOY: Yes. Good morning, Madam Chair,
11 Members of the Board. To clarify the cases on the
12 docket for today, and for the record of course, very
13 quickly we have two cases that have been withdrawn.
14 The first is Application No. 19251 and the second is
15 Application No. 19156. We also have two cases that
16 have been postponed and rescheduled. The first is
17 19249 of Jennifer Wisdom, which is rescheduled to May
18 the 24th, 19215 of 2001 2nd Street Northeast, LLC.,
19 has been rescheduled to June the 7th, and we have two
20 applications that have been announced earlier. I'll
21 do so again. These two cases have been rescheduled
22 to June 21st, 2016. And they are cases 19256 and
23 19254, and Application No. 19153, or rather -- no, I
24 think that's it. I'm covered. Right? 19254 of 1612
25 7th Street Northwest has been rescheduled to June the

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1 7th. And that's it, Madam Chair.

2 CHAIRPERSON HEATH: All right. Thank you,
3 Mr. Moy.

4 So we have a short docket today, but three
5 decision cases. If you want to call our first case,
6 the time extension?

7 MR. MOY: Yes. That would be Application No.
8 18325B, B as in Bravo, of Renaissance Centro Third
9 Street. And again, this application had its first
10 time extension where the Board made its decision on
11 May 6th, 2014. It's back requesting a second two-
12 year time extension.

13 For the record, Madam Chair, there was or is
14 a filing from ANC 2C last night. Apparently they met
15 as an ANC last night as well, so that's in your case
16 folders.

17 CHAIRPERSON HEATH: Okay. Thank you. So as
18 the Board Secretary has stated, this is a request for
19 a second two-year time extension for Order No. 18325,
20 and the requirements for a time extension are listed
21 under Section No. 3130.6, and really the applicant
22 has met all of these requirements. They did serve
23 their request on parties and we received notice from
24 ANC 2C. Previously this was under ANC 6C, but now
25 that this project is under the jurisdiction of ANC 2C

1 they submitted a letter stating that they are in
2 support of this second request.

3 They included some conditions which are
4 linked to issues related to construction and sidewalk
5 issues. And then a second condition that sounds like
6 they're asking that this might be the last time
7 extension and the new Zoning Regulations actually put
8 a limit on the number of extensions that an applicant
9 can request. So I don't think that there's any need
10 for us to make these conditions from the ANC a part
11 of this order, but I hope that the applicant will
12 look at condition number one and do what they can to
13 improve the conditions of the sidewalk to make it
14 safe for pedestrians.

15 The second requirement that they've met is
16 that there is no substantial change to any of the
17 material facts upon which the Board based its
18 original decision.

19 And the third, under Section C of 3130, the
20 applicant cites to criteria number 1 and 3 and they
21 talk about the extended construction and uncertainty
22 of the hotel and residential market due to Capital
23 Crossing, which we're all very familiar with, being
24 in this neighborhood.

25 So I'm in support of granting this second

1 request for time extension.

2 MS. BUTANI-D'SOUZA: I agree, and I also just
3 note that the OP report mentions that this project
4 would be -- or, I guess the relief would not be
5 needed under the ZR-16 regulations. So, the
6 extension really only needs to be until those
7 regulations go into effect.

8 CHAIRPERSON HEATH: Uh-huh.

9 MS. BUTANI-D'SOUZA: So I would say that it
10 would make sense for us to extend it just until that
11 time.

12 CHAIRPERSON HEATH: I think one of the
13 questions with that is whether or not the Zoning
14 Regulations will actually take effect on that date.
15 So I would be inclined to accept OP's recommendation
16 as well.

17 MS. BUTANI-D'SOUZA: Uh-huh.

18 CHAIRPERSON HEATH: But with, I think they've
19 said -- and you may have said this but either --

20 MS. BUTANI-D'SOUZA: The earlier of.

21 CHAIRPERSON HEATH: -- September 6th or,
22 yeah, the effective date. So, anybody else?

23 MR. MILLER: Madam Chair, I think it would be
24 good just to give a date certain for the extension
25 and maybe even though September 6th is the projected

1 effective date, there's things beyond our control
2 which might happen which might prevent that from
3 happening. So I would just, maybe to give a certain
4 date, why don't we just give until the end of the
5 year and that's three or four months, I think.

6 CHAIRPERSON HEATH: Beyond the --

7 MR. MILLER: I think that will -- well,
8 nothing is definite. I think it's pretty certain.
9 If they have to come back in for another extension
10 because they didn't go into effect, they can do that,
11 I guess. But I think we should give a certain date
12 so maybe some date beyond September 6th. Whether
13 it's the end of the year or, you know, six months,
14 beyond that would provide the cushion I think, where
15 it would become moot.

16 MS. BUTANI-D'SOUZA: What if we did the
17 earlier of the effective date, or two years?

18 MR. MILLER: I thought we had some advice
19 from counsel that they wanted a certain date as
20 opposed to --

21 MS. BUTANI-D'SOUZA: Okay. All right. So
22 the effective date doesn't count as the date either.

23 MR. MILLER: Is that correct? Or did I just
24 read something?

25 MS. NAGELHOUT: I believe the application

1 just asks for a two year extension, which would lead
2 to a date certain.

3 MR. MILLER: Right.

4 MS. NAGELHOUT: That's the Board's usual
5 practice but --

6 MR. MILLER: I'm fine with that too.

7 CHAIRPERSON HEATH: Okay.

8 MS. BUTANI-D'SOUZA: Okay.

9 CHAIRPERSON HEATH: So we'll stick with the
10 two year. Any other --

11 MR. MILLER: I hope it's not two years before
12 ZR --

13 CHAIRPERSON HEATH: I know.

14 MR. MILLER: I hope ZR 16 doesn't become ZR
15 18.

16 CHAIRPERSON HEATH: Hopefully. Okay. So
17 then I will move that we accept the request for this
18 second two-year time extension on Order No. 18325 and
19 with the extension being for two years, unless the
20 Zoning Regulations take effect prior to that.

21 MR. HILL: Second.

22 CHAIRPERSON HEATH: The motion has been made
23 and seconded. Any further discussion?

24 MS. BUTANI-D'SOUZA: Oh, I think that just
25 want to make sure that the applicant is aware of the

1 construction request, which I think you mentioned.
2 But, you know, hopefully the ANC can work through
3 DDOT if there's not enough care being take to protect
4 the sidewalk, and hopefully the applicant will make
5 some effort to remove any construction work from the
6 public right of way.

7 CHAIRPERSON HEATH: Thank you.

8 [Vote taken.]

9 CHAIRPERSON HEATH: The motion carries.

10 MR. MOY: Staff would record the vote as five
11 to zero to zero. This is on the motion of
12 Chairperson Heath to approve the second two-year time
13 extension request. Seconding the motion, Mr. Hill.
14 Also in support, Mr. Miller, Vice Chair Butani, and
15 Mr. Hinkle. Five to zero, Madam Chair.

16 CHAIRPERSON HEATH: Summary.

17 MR. MOY: Thank you.

18 CHAIRPERSON HEATH: All right. Call our next
19 case, Mr. Moy.

20 MR. MOY: That would be Application No. 19233
21 of 824 Varnum, LLC. As the Board will recall, the
22 Board closed the record after hearing public
23 testimony on April the 19th, 2016. The first
24 decision date was March 24th and it was rescheduled
25 to today, May 10th. And in the record is an OP

1 supplemental report that was requested by the Board
2 under Exhibit 28.

3 CHAIRPERSON HEATH: Okay. Thank you. Is the
4 Board ready to deliberate on this?

5 MS. BUTANI-D'SOUZA: Yes.

6 CHAIRPERSON HEATH: All right. Okay. So, as
7 the Board Secretary has said, we heard this case on
8 April 19th, 2016, and at that time we requested
9 additional filing from the Office of Planning to
10 respond to some of the concerns that we heard from
11 both the ANC and single-member district Commissioner
12 Uqdah.

13 At the hearing, the Board will recall, the
14 ANC was in support but they were sort of torn about
15 this, this project, and their vote was actually five
16 to four. Although they were in support they noted
17 some issues with the Office of Planning's report that
18 they had and one was specifically about the report
19 stating that there had been a vote on a date prior to
20 the ANC's actual meeting. And so there was some
21 inaccuracies there that they pointed out.

22 The other was that they pointed out that OP
23 failed to note multiple commercial corridors within
24 two blocks of the property and that they failed to
25 note multiple unit buildings. Multiple multi-unit

1 buildings within the vicinity of the property under
2 this application.

3 And so as a part of the ANC's report they ask
4 that OP withdraw their current report and resubmit
5 making corrections and giving a new recommendation.

6 We also heard from the single-member district
7 commissioner who went into more detail about his
8 issues with the OP report and with the fact that
9 there are a number of impacts due to the number of
10 conversions that have happened in this area, and was
11 one of the parties or one of the commissioners who
12 voted against this application.

13 And so, we have received the supplemental
14 report from the Office of Planning. A number of
15 things that were stated in OP's report were things
16 that we heard during the hearing. First that they
17 acknowledge that they had an inaccurate date on their
18 initial report and made -- as soon as they heard
19 about the date being incorrect they immediately
20 corrected this error and they stated that during the
21 hearing, but restated it in their report, or
22 supplemental report.

23 OP also went into more detail about how their
24 reports are organized. And this is something that
25 the Board is familiar with because we see their

1 reports every week. But they went on to explain how
2 they have sort of general criteria at the beginning
3 of their report, speaking to location, site
4 descriptions, and then they get into more detail
5 within the analysis portion of their report.

6 And so they addressed some of the questions
7 that -- or issues that we raised by the ANC in their
8 supplemental report and I felt they did this in a
9 manner that was satisfactory. And I hope that the
10 ANC has seen this supplemental report and that they
11 are also satisfied. We haven't heard anything else
12 from them, but I thought that Office of Planning
13 supplemental report sufficed for what the ANC was
14 asking for.

15 There was also another issue that the single-
16 member district commissioner brought up about the
17 separation between the dwelling units. This new
18 dwelling unit and the adjacent being nine and a half
19 feet. And in its report OP also noted that there is
20 no side setback requirement in this district, and so
21 the nine and half is greater than what is actually
22 required and does add to a greater -- creating a
23 greater degree of privacy.

24 So I think that Office of Planning has
25 satisfied, as I said, the request that was made with

1 their supplemental report, as well as what we heard
2 during the hearing. Just restate that the ANC was in
3 support of this, but just ask for some clarifications
4 from Office of Planning.

5 And Office of Planning supplemental report
6 notes that they are still in support of this
7 application. And so I am also in support of this
8 despite the -- I know that there are a number of
9 issues related to the number of conversions in this
10 neighborhood and that's something that I think the
11 Board will have to continue to consider as we see
12 more cases like this. But I think that this
13 applicant has satisfied the requirements for
14 requesting this special exception.

15 MS. BUTANI-D'SOUZA: I would tend to agree.
16 And I would also just note that the applicant did
17 revise the plans to preserve the gambrel roof --

18 CHAIRPERSON HEATH: Uh-huh.

19 MS. BUTANI-D'SOUZA: -- which was, I think
20 important to the community and important to
21 maintaining the integrity of the look and character
22 of the neighborhood. Or rather the appearance of
23 that particular stretch.

24 So I also -- and I also agree that this meets
25 the criteria for special exception.

1 MR. HILL: Well, Madam Chair, I appreciate
2 your very thorough review there and so I don't have
3 much to add. Also in agreement. I went through the
4 supplemental report that OP provided and also the
5 ANC, that they were in support. I thought that the
6 design actually was kind of interesting because it
7 matched the -- basically matched the unit, the home
8 next door, and I think they did the design in a way
9 that again is more in line with the appearance of the
10 neighborhood. So I also would be in support.

11 CHAIRPERSON HEATH: All right. Does anybody
12 have any other --

13 MR. MILLER: Thank you, Madam Chair. Yeah, I
14 concur with all the comments that have been made and
15 the OP original report pointed out what the Vice
16 Chair said in terms of meeting -- this conversion
17 meeting all the development standards for a
18 conversion, including being in -- including the roof
19 and the character of the neighborhood and not having
20 adverse impacts upon privacy, air, light, of adjacent
21 neighborhoods. I'm supportive of it.

22 CHAIRPERSON HEATH: All right. Then with
23 that, unless anybody has any other comments they'd
24 like to make I will make a motion that we approve
25 this request for special exception from the use

1 requirements under 336 to convert an existing two-
2 story dwelling into a three-unit apartment house at
3 824 Varnum Street.

4 MR. HINKLE: I'll second.

5 CHAIRPERSON HEATH: The motion has been made
6 and seconded. Any further discussion?

7 [Vote taken.]

8 CHAIRPERSON HEATH: The motion carries.

9 MR. MOY: Staff would record the vote as five
10 to zero to zero. This is on the motion of
11 Chairperson Heath to approve the application for the
12 relief requested. Seconding the motion, Mr. Hinkle.
13 Also in support, Mr. Miller, Vice Chair Butani, and
14 Mr. Hill. The motion carries, Madam Chair.

15 CHAIRPERSON HEATH: Thank you. Summary.

16 MR. MOY: Okay.

17 CHAIRPERSON HEATH: Can we do a summary with
18 an expanded --

19 MS. GLAZER: The Board needs to write up a
20 discussion regarding great weight to OP and the ANC.

21 CHAIRPERSON HEATH: Okay. So, an expanded
22 write-up on great weight.

23 MS. GLAZER: What has become to be called a
24 hybrid order.

25 CHAIRPERSON HEATH: Right. Okay. All right.

1 So we'll do a hybrid on this.

2 MS. GLAZER: Okay.

3 [Pause.]

4 CHAIRPERSON HEATH: Okay. So, our last
5 decision case, Mr. Moy.

6 MR. MOY: Yes. That would be Application No.
7 19237 of Wacap, W-A-C-A-P, LLC. As the Board will
8 recall the Board heard testimony and closed the
9 record on April 19th, 2016, and set a decision date
10 of April 26th, 2016, which subsequently was
11 rescheduled to today, May 10th. And in your record,
12 Madam Chair, is a filing, a requested filing from the
13 applicant which includes a set of drawings. And I
14 believe that's under Exhibit 37.

15 As a preliminary matter, since that's late,
16 there's a request also to waive that time requirement
17 to have the filing exhibited in the record. And also
18 I believe under Exhibit 36 is the ANC 4C letter,
19 which I believe is still continued opposition. And
20 that's it, Madam Chair.

21 CHAIRPERSON HEATH: Thank you.

22 [Pause.]

23 CHAIRPERSON HEATH: All right. Okay. So, as
24 the Board Secretary stated just a moment ago, this
25 case was postponed due to the applicant not providing

1 the requested documentation that the Board requested
2 at our hearing on April 19th. We did receive that
3 documentation indicating the height of the mechanical
4 penthouse and confirming that it meets the
5 requirements. So, I think the applicant has met the
6 Board's request there.

7 We have a letter from ANC 4C indicating their
8 support contingent upon a number of conditions,
9 which --

10 MR. MOY: Yeah. Good. Thank you, Madam
11 Chair. Yeah, I misspoke a little bit.

12 CHAIRPERSON HEATH: Okay. All right. I had
13 to --

14 MR. MOY: I was referring to the single-
15 member district so --

16 CHAIRPERSON HEATH: I had to -- I had to look
17 back at --

18 MR. MOY: -- that was good. Thank you. I
19 was going to clarify that.

20 CHAIRPERSON HEATH: Okay. Thank you. I just
21 wanted to double-check that. But their support is
22 contingent upon a number of conditions which relate
23 to issues of construction primarily. I think there's
24 one.

25 So the first is to immediately hire

1 contractors to deal with snow, with trash removal,
2 and site maintenance three times per week, and snow
3 removal as necessary until units are sold and long-
4 term trash and snow removal plans are in place.

5 The second is to reinforce fencing before,
6 during, and after construction. The next is to use
7 permeable pavers instead of concrete in the rear of
8 the property, and to create green space where
9 possible, and to create an inviting atmosphere by
10 ensuring the front of the retail space facing 14th
11 Street is a majority of transparent glass.

12 So I think there are a few conditions here,
13 which are not under the purview of the Board. But
14 the conditions relating to permeable pavers in lieu
15 of concrete and with creating an inviting atmosphere,
16 I think the Board could accept and I hope that these
17 are conditions that the applicant has previously
18 agreed to. But I think unless the Board has any
19 issues with those I would be inclined to accept
20 those.

21 MR. MILLER: I agree. Thank you, Madam
22 Chair. I agree. And as I recall the applicant did,
23 at the hearing, agree to --

24 CHAIRPERSON HEATH: Okay.

25 MR. MILLER: -- both the conditions that

1 relate to appearance, which we can include, that you
2 mentioned. And they did also agree to some of the
3 construction related -- I think all of the
4 construction related conditions.

5 CHAIRPERSON HEATH: It looks --

6 MR. MILLER: Well, even though we don't have
7 purview and it shouldn't be in our order, but they
8 did agree to -- I think they testified to their
9 agreement with that.

10 CHAIRPERSON HEATH: Yeah. And I think you're
11 correct. It looks, from the way this is written, as
12 though the applicant has agreed to all of the
13 conditions that they've listed here.

14 MR. MILLER: Right. And I just wanted to say
15 that I appreciate the applicant providing the
16 penthouse information showing the compliance with the
17 setback that I had asked for, even though it did not
18 relate to the parking relief that's being requested
19 in this case. And I appreciate that they did
20 actually adjust the setback to -- it wasn't quite the
21 one to one, but they made an adjustment to it to make
22 sure that it was a one to one setback for the
23 penthouse structure, and I appreciate that.

24 CHAIRPERSON HEATH: Okay. I appreciate you
25 bringing that up and catching that as a part of this.

1 MR. MILLER: I'm not sure I caught it, but --
2 with my non-architectural eye. But it did look -- it
3 looked big for a small building. So I just wanted to
4 make sure.

5 CHAIRPERSON HEATH: All right. Any other
6 comments? All right. Then I'll make a motion that
7 we approve the request for variance from off-street
8 parking requirements under 2101.1 to allow the
9 construction of a new four-story residential addition
10 containing four units above an existing restaurant at
11 3700 14th Street Northwest.

12 MR. HILL: I second.

13 CHAIRPERSON HEATH: The motion has been made
14 and seconded. Any further discussion?

15 [Vote taken.]

16 CHAIRPERSON HEATH: The motion carries.

17 MR. MOY: Staff would record the vote as five
18 to zero to zero. This is on the motion of
19 Chairperson Heath to approve the application for the
20 variance relief. Seconded the motion, Mr. Hill.
21 Also in support, Mr. Miller, Vice Chair Butani, and
22 Mr. Hinkle. Motion carries, Madam Chair.

23 CHAIRPERSON HEATH: Thank you. Summary
24 order.

25 MR. MOY: Yes. Thank you.

1 CHAIRPERSON HEATH: Sure.

2 MR. HILL: Madam Chair, thank you. I just, I
3 know that we just approved that. I just want to make
4 a comment because I'm sure Commissioner Uqdah is
5 watching, that I know that the parking is something
6 that this area has been constantly struggling with.
7 But again, just the other reason why I came to this
8 conclusion was I do think that the lot was of an
9 extreme size and shape. And so I just wanted to
10 share that. Thank you.

11 CHAIRPERSON HEATH: Thank you. Right. All
12 right. Okay. So we can begin our hearing cases, Mr.
13 Moy.

14 MR. MOY: Okay. With that, then, the first
15 case is Application No. 19255 of David G. Helfrich, I
16 believe. This is captioned and advertised for
17 variance relief from the nonconforming structure
18 requirements under Section 2001.3. This would permit
19 an addition to an existing one-family dwelling, DC/R-
20 5-B District, 1735 Fraser Court Northwest, Square
21 110, Lot 819.

22 [Pause.]

23 CHAIRPERSON HEATH: While Mr. Moy collates
24 and passes out the documents that you've just given
25 us, if you all could introduce yourself, we'll get

1 started. Make sure your mic is on.

2 MR. CLITES: Tim Clites with Clites
3 Architects.

4 MR. COLLINS: Christopher Collins with
5 Holland and Knight.

6 MR. HELFRICH: David Helfrich.

7 MR. SMITH: Bradley Smith.

8 CHAIRPERSON HEATH: Okay. So, Mr. Collins,
9 if you could help us understand what these new
10 documents are that the Board has just received, are
11 these already in the record?

12 MR. COLLINS: No, they are not. Some of them
13 are entered in a different form, but what these are,
14 these are mainly to respond to the issues raised by
15 the Office of Planning.

16 What you have, excuse me, there are two
17 memoranda or e-mails from the Zoning Administrator.
18 One is dated January 14th and is clipped with a
19 number of exhibits. I wanted to give you everything
20 that the Zoning Administrator had. But on that
21 January 14th e-mail, on the second page in
22 highlighted yellow, the Zoning Administrator simply
23 points out that in his opinion, or he concurs with
24 the statement stated in the e-mail that the building
25 is not nonconforming as to rear yard. There was a

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1 question in the OP report about the building being
2 nonconforming as to rear yard.

3 The second OP -- sorry. Second e-mail from
4 Mr. LeGrant dated March -- January 31, the importance
5 of that is that simply he cites what are the need for
6 variance relief. It's a variances from Section
7 2001.3(a)(B)(1) and (c)(B)(2). He does not reference
8 the variance from the FAR requirement as self.
9 However, if the Board determines the need to add that
10 section number in the relief that's requested, we
11 have no objection to that. Our filing is all focused
12 entirely upon the need for FAR relief for the
13 variance. That's what we addressed.

14 The third is a letter dated March 31 from
15 David Helfrich and Bradley Smith, who are seated to
16 my left. This is the letter that they sent out to
17 the community using the same 200-foot list that the
18 Board uses, inviting their neighbors within 200 feet
19 to comment. And what we received back, you have the
20 eight e-mails in support that are in our filing in
21 the prehearing submission.

22 Then you have some revised plans that Mr.
23 Clites prepared. And what they are intended to
24 demonstrate is to address specifically the Office of
25 Planning's comment about the practical difficulty in

1 achieving the renovations that are requested within
2 the confines of the building envelope, and showing
3 the need why we -- we can't fit them within the
4 building envelope, why we need this FAR variance of
5 0.08, or eight 100ths of an FAR. That's what we're
6 requesting today.

7 And then finally, there are some photos
8 showing the context of the neighborhood.

9 MS. BUTANI-D'SOUZA: Okay. Mr. Collins, it
10 may be that I'm new here or that I'm just slow, but
11 it's very very difficult for me to process all of
12 this information in two minutes before the hearing
13 begins.

14 MR. COLLINS: Sure.

15 MS. BUTANI-D'SOUZA: And I'm sure that you
16 watch these proceedings, so you may be aware that we
17 are requesting that these kind of filings be placed
18 in the record by Thursday at 3:00 p.m. before the
19 hearing date so that we, as a board, have time to
20 review them.

21 As you may or may not be aware, this board
22 spent hours over the weekend reviewing this case. I
23 personally spent several hours reviewing all of the
24 documents in this case, which is time that we could
25 have spent with our family and things of that nature.

1 I have a four month old, so I'm sure you understand,
2 it's a big commitment over the weekend to take time
3 away from that.

4 When you provide these filings late the
5 problem that I have is that now that I've gone
6 through your entire argument and have a series of
7 questions and things of that nature, I now have to
8 completely rereview it, taking into consideration
9 this new information, which is a tremendous
10 additional investment of time.

11 So, for that reason this board has been
12 requesting that everyone who comes before it, please
13 provide your submissions by 3:00 on the Thursday
14 before the hearing so that we don't have to spend
15 time rereviewing the case, or waste time on a
16 weekend --

17 MR. COLLINS: Sure.

18 MS. BUTANI-D'SOUZA: -- reviewing something
19 that's not ready.

20 MR. COLLINS: I apologize for any
21 inconvenience. The applicant is required to submit
22 everything within two weeks prior to the public
23 hearing, and we did that. And then we got the OP
24 report one week prior so we were not able to file
25 these things without permission from the board. So

1 you would not have seen them until this morning, in
2 any event, according to what I understand.

3 MS. BUTANI-D'SOUZA: I certainly understand
4 that and in the future if it happens that OP's report
5 comes in within the two-week deadline I would just
6 request that you send a letter notifying the
7 secretary or notifying the Board that you intend on
8 making an additional filing. I'm assuming that you
9 were preparing this right from the minute that you
10 saw OP's report. So let us know, and if it's
11 something that is going to be significant like this,
12 and that you're not going to be able to get it in in
13 time, let us know so that we can figure out whether
14 this is something that needs to be heard today, or
15 needs to be pushed off.

16 MR. COLLINS: I appreciate that. And if you
17 have your original questions and comments I'd be
18 happy to direct you to whatever we have here that's
19 been submitted today to respond to those questions.
20 There's a lot of volume but not a lot of meat to it.
21 There's five different documents and each one
22 addresses a particular little issue. So, again, I
23 apologize but we felt it was necessary to bring these
24 things to the Board's attention to adequately address
25 the issues raised by the Office of Planning.

1 MS. BUTANI-D'SOUZA: Okay.

2 CHAIRPERSON HEATH: One of the things that I
3 was hoping was in this set of documents was the
4 existing plans, because it's really hard -- it was
5 hard for me to follow some of the arguments that you
6 were making with respect to why you couldn't locate a
7 third bedroom within the existing house, particularly
8 given that it's such a large house, in excess of
9 5,000 square feet. It was hard to follow some of the
10 arguments without seeing the existing plans and
11 having that to compare to the new. And so I was
12 hopeful that you had those and I will go through your
13 presentation. But that is something that I will want
14 to see.

15 And I think I'd also appreciate if -- I don't
16 know if you have this in your presentation, but I'd
17 also appreciate if you could walk us through why a
18 bedroom can't be located on the second floor. I
19 understand the ground floor with the garage and the
20 storage space, but why a third bedroom can't -- why
21 the existing house can't be reconfigured to locate a
22 bedroom on the second. And if you could reexplain
23 the third floor as well.

24 MR. COLLINS: Sure.

25 CHAIRPERSON HEATH: That would be helpful.

1 MR. COLLINS: And that's exactly what Mr.
2 Clites is going to --

3 CHAIRPERSON HEATH: Okay.

4 MR. COLLINS: -- comment on and the
5 submission that we gave today did include the second
6 floor, the existing condition. There's not a lot of
7 change being made to the house. It's mostly
8 renovations that these two issues, the extra bedroom
9 as you will hear in the testimony, and the elevator
10 that results in the 0.08 FAR variance.

11 CHAIRPERSON HEATH: Okay. Did you want to
12 ask your questions now?

13 MR. COLLINS: Any other questions?

14 MS. BUTANI-D'SOUZA: I would add to that
15 question in terms of the plans. While I sort of was
16 able to follow the third floor argument, I couldn't
17 really follow the garage argument. I had a lot of
18 questions about this storage space, and the argument
19 that it sounded like you were making, that for some
20 reason a bedroom couldn't have windows facing an
21 alley. That just didn't really make any sense to me.

22 But let's kind of start at the top. I think
23 it seems to me that the whole argument here hangs on
24 this assertion that a house of this size is due a
25 third bedroom. And so I really couldn't go much -- I

1 mean, I went past it. I evaluated the whole thing,
2 but I think that's the first step. You need to
3 demonstrate to us, this assertion. So I don't see it
4 anywhere in the zoning code, and I don't know that
5 this Board has previously, you know, agreed that a
6 house of this size is due a third bedroom. So that's
7 a big part of it.

8 I think second, obviously the question that
9 the chairperson asked about explaining how --
10 explaining your argument and showing us the existing
11 plans. And in particular the second floor and why
12 that can't be reconfigured to allow for three
13 bedrooms. Especially because I think this a corner
14 unit, so it would -- a corner home, so there should
15 be quite a few windows all around the building. So I
16 don't see why that wouldn't be plausible.

17 And then also you make the statement that the
18 elevator addition is a normal repair, alteration, or
19 modernization to a nonconforming structure. So I
20 would like you to justify this statement as well.
21 I'm trying to understand. Are you saying that you
22 need ADA accessibility here, because I would not say
23 that an elevator in a D.C. house or a carriage house
24 is a normal repair. So, you know, I just wanted to
25 understand that statement a little bit better.

1 And then let me see. So the other thing
2 you're saying here is that this is a de minimis
3 request and therefore a lesser burden of proof
4 applies, and I don't have a problem with that, but I
5 would like to understand how exactly this meets a
6 lesser burden because to me it goes back to this
7 question about the third bedroom. It just doesn't
8 seem that you've met the practical difficulty test
9 here. I need you to show me the way that you've met
10 that practical difficult test because it just seems
11 like the argument is a misunderstanding of that test.
12 It's not that you need to have a practical difficulty
13 in general, it's that you need to have a practical
14 difficulty -- and OAG needs to step in if I'm not
15 stating this correctly, but basically the practical
16 difficulty needs to arise from the strict application
17 of the zoning code.

18 Let me see. "Whereby reason of extraordinary
19 or exceptional condition or situation of a specific
20 property, the strict application of any regulation
21 under the zoning code would result in a particular
22 and exceptional practical difficulty to, or
23 exceptional and undue hardship upon the owner of the
24 property."

25 So I understand that it is an inconvenience

1 to not have a third bedroom and not have an elevator,
2 or to face difficulties reconfiguring your property.
3 But I don't see how the zoning code is imposing this
4 practical difficulty such that it would justify the
5 variance that we are being asked to provide. Is
6 that --

7 So in other words, I guess what I'm trying to
8 ask is, is your lesser burden of proof that you're
9 providing is that you're not proving a hardship, but
10 you're just proving an inconvenience because that's
11 kind of, as I read the argument, that was the only
12 place. And I wanted to go there, you know. We sit
13 on this Board and we want to, you know, be fair and
14 reasonable and but I just didn't think the argument
15 got there. So I need you to take it there.

16 MR. COLLINS: Well, if I can address that and
17 then we can get to our presentation because I think
18 that's a very important point.

19 The burden of proof is not for us to show
20 that we're entitled to a third bedroom. That's not
21 the issue. The issue, and as a matter of fact,
22 that's what OP raised in their report. The applicant
23 also addressed -- has not addressed how the absence
24 of a third bedroom constitutes a practical
25 difficulty.

1 The practical difficulty is not whether we
2 can or cannot have a third bedroom. We can have 10
3 bedrooms in the house. The question is, how do we
4 accommodate them. We're asking for a third bedroom.
5 And as Mr. Clites will show in his testimony, we
6 looked at every different way to get there, and we
7 couldn't do it within the confines of the house. It
8 creates a practical difficulty.

9 You raised the issue of undue hardship. This
10 is not an undue hardship case. That's a use
11 variance, and we're not asking for a use variance.
12 This is a single-family home in the DC/R-5-B Zone,
13 which is permitted as a matter of right. We're
14 simply asking for a variance and we are going to
15 demonstrate the practical difficulty in the inability
16 to locate that third bedroom within the existing
17 walls of the house. The exceptional situation or
18 condition is that this is an existing building that
19 predates the Zoning Regulations by 25 or 30 years, is
20 over the current FAR in a square zoned DC/R-5-B,
21 where 75 percent of the buildings exceed the
22 permitted FAR.

23 The R-5-B Zone was plunked on this square and
24 large areas of DuPont Circle on properties that were
25 built way before the Zoning Regulations came into

1 effect. They couldn't do R-5-A, that's a different
2 zone. They couldn't do R-5-C, that's too big. The
3 point is, it's nonconforming.

4 MS. BUTANI-D'SOUZA: I don't mean to cut you
5 off, but we all understand the unique characteristics
6 of this property.

7 MR. COLLINS: Okay.

8 MS. BUTANI-D'SOUZA: That's not at question.
9 What the question is, and again, you're going
10 straight to this third bedroom sort of as being
11 something that the property is due or that the owners
12 are due, and that's the assumption that we all had
13 difficulty understanding.

14 MR. COLLINS: No, we're not saying -- we're
15 not asserting an entitlement to a third bedroom.
16 We're saying that we can't put one in without a
17 variance, a 0.08 FAR variance. That's what we're
18 going to show when Mr. Clites gets to that point.

19 The other issue you raised is the elevator.
20 You said the elevator is not a normal repair. It's
21 not a repair. We're saying it's a modernization and
22 the Zoning Administrator has agreed with us in that
23 e-mail exchange that we had. There are many houses
24 in the city where people have put elevators in. It's
25 a modernization. This is a very vertical house, a

1 three-story house with circulation -- a stairway
2 circulation that's here and it's there, and it's very
3 -- it's kind of a mish-mash. This was two carriage
4 houses that were placed together in 1998 per a BZA
5 order. And so we're asking for an elevator. An
6 elevator is -- the Zoning Administrator has said it's
7 a normal modernization. And there are many elevators
8 put in houses that you never see because they do meet
9 the regulations.

10 What we have here is an elevator that is no
11 higher than existing roof, but it's two feet above
12 the permitted height in that zone, and that's why
13 we're here for that. And it adds .018 FAR to the
14 house.

15 And so if this is a good time to get into the
16 presentation, and then I think a lot of this stuff
17 will be revealed as we go through. So, if I may
18 begin? This is a proposal, as I've said, at 0.08
19 FAR, or eight 100ths of an FAR to an existing
20 dwelling. This is a carriage house on Frazier Court
21 within Square 110. It's within the DC/R-5-B Zone,
22 and the DuPont Circle Historic District. I've
23 mentioned almost all buildings in the square predate
24 the Zoning Regulations and two thirds of them exceed
25 the 1.8 FAR in the R-5-B Zone.

1 The proposal is to extend the second floor
2 7.6 feet to the east to accommodate a bedroom, and
3 that's 0.069 FAR. And then to add an in-fill on the
4 partial third floor for an elevator enclosure of
5 0.015 FAR.

6 The exceptional situation or condition of a
7 property, as the court has said, it applies not only
8 to the site but also to a building on the site, and
9 as Ms. D'Souza mentioned, that the burden of proof
10 for a variance, if the variance is de minimis, a
11 correspondingly lesser burden of proof is required,
12 and that's the *Gill Martin* case.

13 We have talked about the exceptional
14 situation or condition. I think you've said that the
15 Board agrees that it is an exceptional situation or
16 condition. The practical difficulty here is that the
17 architect has studied a number of different
18 alternatives on how to achieve this, and there is no
19 way to add a third bedroom or add an elevator without
20 a modest increase in the FAR. And Mr. Clites will
21 address that.

22 And thirdly, there's no adverse impact on the
23 public good. We have support from the community,
24 from the Historic Preservation Office, and the Office
25 of Planning report has indicated that if we can

1 satisfy them on the practical difficulty then they
2 would have no objection on the third part of the
3 three-part test.

4 So, unless there's any questions on that I'd
5 like to go directly to Mr. -- I'm sorry, to Mr.
6 Helfrich who will give his testimony.

7 MR. HELFRICH: Good morning. My name is
8 David Helfrich, and this is my partner, Bradley
9 Smith. We currently own the house located at 1735
10 Frazier Court, which is a former carriage house to
11 the Frazier Mansion.

12 The house was formerly owned by a dear friend
13 of ours, Anthony Brown, who sadly passed away in
14 2011. He left the house to us knowing our plans to
15 start a family and was excited by the prospect. We
16 obtained the house in November of 2014 from the
17 estate and twins, a girl and a boy, in December of
18 2014.

19 The home has three levels. It has a ground
20 level where there's a garage, storage area,
21 mechanicals, and a media room. The second level is a
22 main living area. There's a living room, dining
23 room, kitchen, a powder room, one bedroom, and one
24 full bath.

25 The third level has a master suite, the

1 laundry, an office/study, and a roof deck garden.
2 The home also has five different stairwells between
3 the ground, second, and third levels, all which are
4 in the far corners of the home, and none which
5 connect directly making it difficult to maneuver the
6 house between levels.

7 When we got the home we knew we'd have to
8 renovate it to make it functional for our family of
9 four. We hired an architect, Tim Clites, of Clites
10 Architects, who is here today and will go through
11 more technical details. Our original plan was to
12 also use the small study on the third level as a
13 bedroom. However, our architect pointed out that it
14 is not code compliant, so we need to find a solution
15 to add a third co-compliant bedroom. Typically a
16 home of this size would have a minimum of three
17 bedrooms.

18 Because there are three levels in the home
19 there is also a need for an elevator to -- for
20 accessibility between the different levels. We have
21 family members that are elderly, and maneuvering with
22 little ones make it a challenge in this home.

23 Mr. Clites researched all available options
24 for inclusion of these features within the existing
25 structure. He concluded that we cannot add a third

1 co-compliant bedroom or an elevator without a very
2 slight expansion to the floor area. He will explain
3 how the locations we are proposing for both
4 additional bedroom and the elevator are the only
5 practical options.

6 We requested and received support from
7 Historic Preservation staff, L'Enfant Trust, ANC
8 Development Committee, the full ANC, and a number of
9 our neighbors. We are unaware of any opposition to
10 our application.

11 Mr. Clites discussed the project with the
12 Historic Preservation Office extensively to achieve a
13 design solution for a very slight expansion that
14 would be appropriate for this historic property. We
15 are pleased that they could come to a consensus on a
16 design solution. The HPO report is in the record in
17 this case.

18 We have also contacted the neighbors using
19 the same list used by the BZA Office for the hearing
20 notice that sent them a detailed description of the
21 project along with renderings of the before and
22 after, invited them to contact us with questions and
23 express their views on their proposal.

24 We received a hand full of e-mails back of
25 support, and have copies of them in our submission to

1 you all. We received no e-mails in opposition to our
2 proposal.

3 Jim Abdo, who owns the four-story rental
4 building directly abutting our property to the east,
5 which directly faces where the bedroom expansion will
6 be, and also owns the parking lot and an eight-story
7 apartment building to the south of our project, where
8 both the bedroom and the elevator expansion will be
9 seen, is the neighbor that is most affected by these
10 changes. He has offered his full approval and
11 support, as you can see in Exhibit 30D.

12 We have also contacted and provided the ANC
13 our proposed plans and met with both the Development
14 Committee and the full ANC at the beginning of April.
15 Both the Committee and the full ANC gave unanimous
16 support and no one in the audience at either meeting
17 expressed opposition to our proposal.

18 Given the modest nature of our request and
19 the overwhelming support we have received from our
20 neighbors, the ANC, HPO, and L'Enfant Trust, we
21 respectfully ask for your approval. Thank you for
22 your time.

23 MR. COLLINS: The next witness is Mr. Clites.

24 MR. CLITES: Good morning. I don't know if
25 it's useful to walk you through the entire plan set.

1 I did write down some of the questions that you
2 already asked, and the drawings that -- and I
3 apologize for not having the existing second floor --
4 can you hear me all right? The existing second floor
5 in the plan set.

6 We did, in the preapplication submission, we
7 attempted to get a diagram in that looked at the
8 elevator. And I got online last night, and I'm not
9 sure whether that actually made it into your packet
10 or not. And so we've regiven you three drawings,
11 which are the existing plans, and we'll go over them
12 to try to answer the questions that you have and to
13 explain a little bit about some of the things that we
14 looked at.

15 I'm not going to spend time on these drawings
16 unless you need me to. The site plan --

17 MS. BUTANI-D'SOUZA: Can I ask a quick
18 question?

19 MR. CLITES: Yes.

20 MS. BUTANI-D'SOUZA: This e-mail to the
21 Zoning Administrator, it says that the third floor
22 consists of a roof deck and master/guest bedroom
23 suits. But in the --

24 MR. CLITES: Yeah. So --

25 MS. BUTANI-D'SOUZA: It's supposed to be a

1 study? I'm a little confused.

2 MR. CLITES: Yeah. So, when we first walked
3 the property the -- if we can jump to the third floor
4 there's actually a master bedroom.

5 MS. BUTANI-D'SOUZA: Can you make that
6 bigger?

7 MR. CLITES: Let me get to the proper floor
8 and I'll actually go to the existing so that we can -
9 - get rid of this.

10 MS. BUTANI-D'SOUZA: I think if you hit the
11 slideshow button in the -- a little bit to the right
12 of that. That will do it too.

13 MR. CLITES: Okay.

14 MS. BUTANI-D'SOUZA: Oh, this is in front of
15 us. Do we have this plan?

16 MR. CLITES: Yes. That should be plan --

17 MS. BUTANI-D'SOUZA: Page 3?

18 MR. CLITES: Page 3.

19 MS. BUTANI-D'SOUZA: Okay.

20 MR. CLITES: There you go. Three. So the
21 existing floor plan, on the third floor, I'm going to
22 start in the lower left corner, you'll see the
23 existing staircase that comes up. It's actually the
24 main stair and it is stacked on top of a stair that
25 comes in at the ground level. And these two stairs

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1 are both the primary stairs for the structure. They
2 don't actually meet the current building code, but
3 that's a pretty typical condition in an old house.
4 We'll show you a couple of other stairs that
5 significantly don't meet the current code. But
6 that's the main stair to get us from the ground floor
7 to the second floor, and then from the second to the
8 third.

9 And so as you get to the top of the stair
10 there's a small hallway and when I first met with the
11 owners this room was actually furnished as if it were
12 a bedroom, which was part of the confusion because as
13 I started to look at both the size of it, it's
14 adequate for a bedroom and even for -- in the short-
15 term, for two young children, they could easily have
16 shared it as a nursery and so we had a number of
17 discussions, only from my unfortunate conclusion that
18 with one small dormer, and we looked at could it be
19 expanded to make that an egress compliant window, or
20 is there some way to reconfigure this hall so that we
21 could both get up to this potential bedroom, and over
22 in the far corner is the existing master bedroom, the
23 far right side of the plan. And between that is
24 simply a bathroom closet and another bathroom, small
25 little laundry on this floor.

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1 And so we discussed that with both L'Enfant,
2 who holds an easement on the entire façade. And with
3 the HPO Office, and they both respectfully asked that
4 we not consider modifying the façade of -- and when I
5 say the façade, particularly this northern most and
6 along the angle, and then the western most façade.
7 When we look at the pictures and if you visit or seen
8 the site you can see it's kind of the primary
9 elevation.

10 MR. COLLINS: Can you explain, what is it
11 about the façade that you are not allowed to change?

12 MR. CLITES: Well, on this floor, and this
13 actually gets into the elevator so I'll just stay
14 with this. On this floor it is a mansard style roof.
15 It has slate on the steeper pitch and then changes to
16 a standing seam metal on the flatter shallower pitch.
17 It actually comes to about seven feet before the roof
18 pitches change, and then it pitches back towards the
19 open courtyard here, reaching about eight feet, three
20 inches. Eight feet, two. Eight feet, three inches.
21 And this is inside dimensions.

22 And so that will be important when we get to
23 talking about the elevator. But suffice to say for
24 the bedrooms we concluded that there was no way to
25 get -- if we're looking to the left of the sheet, to

1 get through the stairway and get an egress window
2 there. If we close off the hallway there's no -- in
3 order to make this door the egress compliant method
4 of getting in and out of this room, there's no way
5 from the primary stair to get over and into the
6 master suite.

7 MS. COHEN: And staying on that room, what is
8 it about the window that makes it noncompliant?

9 MR. CLITES: Well, I think this is in the
10 report, but architects kind of are aware of their
11 window requirements are both a minimum width, minimum
12 height, and then a total square footage to meet
13 egress compliant. And this window has none of any of
14 them.

15 We did talk to HPO about modifying, since it
16 is up three stories, could we modify it to some kind
17 of a custom casement, or one of these specialty
18 hardware options. And even with doing that, first
19 thing, we're not in support of it and second the
20 windows are actually small enough that even with that
21 extra effort it was not going to be adequate to make
22 it an egress window.

23 MS. BUTANI-D'SOUZA: Can you just explain
24 this hallway thing, because okay, so I see that you
25 come up the stairs on the lower left. But it looks

1 like there's a wall. Is that -- am I looking at this
2 wrong? Oh, the printout. It's, okay. I see.

3 MR. CLITES: Oh, I'm sorry. No, that -- if I
4 zoomed in, that's just a set of dash lines. It's a
5 cased opening as you go down the --

6 MS. BUTANI-D'SOUZA: Okay.

7 MR. CLITES: That is just a cased opening, if
8 that's the -- let me zoom in a little bit.

9 CHAIRPERSON HEATH: Yeah, we're going to look
10 at the actual plans in the record. It is Exhibit No.
11 30B. 30B.

12 MR. CLITES: Now what you're also going to
13 see is some notes on these plans that talk about
14 inadequate height, and that is actually specific to
15 the question of the elevator and where we could or
16 could not locate it. I won't get distracted with
17 that at the moment.

18 [Discussion off the record.]

19 MS. BUTANI-D'SOUZA: So, I'm a little
20 confused. So the plans that we're looking at on our
21 devices show this as a cased opening. But the plans
22 that you have up here, which I assume are the
23 existing conditions, show that as a wall, right?

24 MR. CLITES: It's a cased opening.

25 MS. BUTANI-D'SOUZA: So that is existing, a

1 case opening?

2 MR. CLITES: This is a cased opening. It's
3 the primary way --

4 MS. BUTANI-D'SOUZA: In the existing.

5 MR. CLITES: -- through and into the bedroom
6 suite.

7 MS. BUTANI-D'SOUZA: Okay.

8 CHAIRPERSON HEATH: That should have been
9 dashed.

10 MS. BUTANI-D'SOUZA: Okay. Sorry. Carry on.

11 MR. CLITES: So that explains our difficulty
12 with making that a bedroom.

13 While we're on -- well, why don't I go to the
14 next -- why don't I walk through the second floor
15 also, and then we'll come back and discuss the
16 elevator?

17 MR. HILL: Mr. Clites.

18 MR. CLITES: Yes.

19 MR. HILL: I'm sorry. What is it now?

20 MR. CLITES: The room right now?

21 MR. HILL: Yeah, that room right now, with
22 the small window.

23 MR. CLITES: We are now calling it an office
24 or a den --

25 MR. HILL: Okay.

1 MR. CLITES: -- for the master suit because
2 it --

3 MR. HILL: Okay.

4 MR. CLITES: -- basically serves on other --
5 it could be a large walk-in closet or something, but
6 right now it's an existing room that like I say, when
7 the property -- the owners purchased the property, it
8 had a bed in it and the assumption was that was a
9 third bedroom. But in fact, it's not.

10 MR. HILL: Okay. But I'm just saying, it's
11 not that shape and size now.

12 MR. CLITES: It is that shape and size now.

13 MR. HILL: Okay. Okay.

14 MR. CLITES: Yes. These are -- I'm sorry.
15 Just to be clear, these are the -- this is the
16 existing plan.

17 MR. HILL: Right. That's what I thought.
18 Okay. Thank you very much.

19 MR. CLITES: And so if you look at the
20 proposed plan, just to be clear I'll just walk you
21 through a few of the --

22 MR. HILL: Sure.

23 MR. CLITES: For instance, you'll notice in
24 the proposed plan, the master bathroom. It's in the
25 same location and a couple other fixtures changed

1 location. The master closet, which is here, is in
2 the same location and has just cosmetic
3 reconfiguration. This is an existing bathroom that
4 will remain and there's an existing laundry here that
5 we're --

6 MR. HILL: Got it. But I'm just saying, this
7 is what's there now.

8 MR. CLITES: This is what's there now.

9 MR. HILL: Okay. Thank you.

10 MR. CLITES: That was an oversight on my part
11 in not sharing that with you earlier.

12 CHAIRPERSON HEATH: Sure. That helps a lot.
13 So there's clearly no connection right now between
14 the back side of the house, or the carriage house in
15 the front, because that is actually a solid wall
16 between where the study is located and where the
17 master bedroom suite is.

18 MR. CLITES: No. Let me be -- let me go back
19 to that and be clear. This plan, you'll notice
20 there's no doors. This is kind of a reflected
21 ceiling plan so there's a number of doors that are
22 missing. This is a cased opening. To get to the
23 master suite you walk up the stairs and you walk down
24 this hall. This is the door to the closet bathroom.

25 CHAIRPERSON HEATH: So it's just drawn

1 incorrectly?

2 MR. CLITES: Cased opening is --

3 CHAIRPERSON HEATH: I understand. I'm an
4 architect.

5 MR. CLITES: Doorway with no door.

6 CHAIRPERSON HEATH: I understand the cased
7 opening.

8 MR. CLITES: Yeah.

9 CHAIRPERSON HEATH: But I also understand
10 that it would be shown with dashed lines, not solid
11 lines.

12 MR. CLITES: Right. Exactly.

13 CHAIRPERSON HEATH: So that's why I was
14 asking the question.

15 MR. CLITES: I apologize for the confusion.
16 Right.

17 CHAIRPERSON HEATH: Okay.

18 MS. BUTANI-D'SOUZA: Can you just explain
19 this note on this drawing, area of inadequate height.
20 Sorry.

21 MR. CLITES: Yes.

22 MS. BUTANI-D'SOUZA: You were talking about
23 the roofline, but are you saying that these are not
24 adequate height to meet the building code for
25 bedrooms?

1 MR. CLITES: While we're here we can talk
2 about that. I guess it's easy enough to follow, kind
3 of two conversations at once.

4 So when we looked at the ability to get an
5 elevator to this floor, we looked at the limits that
6 each floor imposed, which is for this floor, the
7 limit of an elevator, a minimum cab size with a
8 minimum overrun dimension to allow it to fit inside
9 the structure and still have an insulated enclosure.
10 And in fact at any of this hatched are the height
11 from the finished floor to the bottom side of the
12 structure is not adequate to have an elevator cab
13 plus the overrun that it requires, even for a
14 residential elevator to fit.

15 So what we're showing in the unhatched area,
16 which basically is this hallway, and then a small
17 portion of the existing master bedroom, is that that
18 is available area that you could put an elevator.
19 Whether you want to or not is a separate discussion
20 and you'll see as we get down to some of the other
21 floors, there are other issues in this zone on the
22 ground floor. But on this third floor, this area is
23 available to put an elevator.

24 And as you know, because you've seen the
25 plans, we proposed it here. This existing back

1 staircase actually is also not code complaint, it's
2 quite steep and has small winders that go down. It
3 doesn't meet the width or rise run requirement. And
4 so we debated getting rid of it and simply putting
5 the elevator here, not requiring us to expand the
6 footprint.

7 The problem is that we don't have the
8 headroom underneath the existing structure to bring
9 the elevator. It's actually a great location, on all
10 floors except the top floor.

11 And so when we looked at the architecture and
12 we talked to the Office of Planning and L'Enfant, and
13 you know, this kind of interesting little jog, which
14 we have a picture of in the packet that we brought
15 along, this interesting little jog and plan and from
16 the exterior we have a picture to show what that
17 looks like. It just seemed like, architecturally, a
18 clean concise place to put an elevator.

19 Well, I'll explain the other floors when we
20 get to them.

21 MR. HILL: Just for my own clarification,
22 that's an in-fill. That's the in-fill you're
23 speaking of for the elevator, and you have a
24 photograph of that?

25 MR. CLITES: The elevator, we would take this

1 existing wall and extend it back to meet the line of
2 the party wall with adjacent property. And so this
3 little -- oops. This little square of space would be
4 enclosed, 37 square feet. And there are some
5 pictures that we brought. Both one of the exterior.
6 It is in the slide. I'm not going to jump around.
7 I'm not real great with it. Both the exterior, which
8 shows you both what the garden looks like. It's
9 really the only outdoor space for this property, kind
10 of a unique situation. And the roof line that is
11 here would continue across. You can see it jogs
12 back.

13 And then behind is basically a sloped roof
14 that's over top of that existing stairs that comes
15 up. So it's not really useful deck area. The only
16 useful deck area is in this little rectangle that we
17 show in the plan.

18 MR. COLLINS: And that photo is in the slide
19 presentation so when we get to that point we can go
20 over that again.

21 MR. CLITES: Okay. Did I --

22 MS. BUTANI-D'SOUZA: Sorry, can you just
23 clarify. So this is a roof deck. Is that the
24 picture that you're showing? That's not the garden,
25 is it, that's on the roof. It can't be because of

1 the trees, right?

2 MR. CLITES: That is the garden that's on the
3 roof. Actually we've --

4 MS. BUTANI-D'SOUZA: With those trees as
5 well?

6 MR. CLITES: We've had some emergency issues
7 with the trees; actually outgrew the structure
8 beneath them. And so as we started designing we went
9 in and got a permit simply to remove them to keep the
10 structure safe and that's --

11 MS. BUTANI-D'SOUZA: Yeah, I can't imagine it
12 would be able to support that kind of weight.

13 MR. CLITES: -- permitted work. We're not
14 looking to change any of the enclosure around it.
15 They need some repair and upkeep. But it doesn't --
16 not looking to change it at this point. But yes, it
17 was -- that was the garden a few years ago.

18 Okay. Now we're looking at the existing
19 second floor. That's page 2 that we just handed out.
20 I believe it's the only new drawing that you're
21 seeing today, although perhaps all three of these are
22 new. Starting at the left bottom corner you come up
23 the main stair of the residence and you arrive in the
24 primary living room on the second floor, which is
25 this space; has an existing fireplace. And all of

1 the windows, of course, that face out are part of the
2 easement so we're not looking to make any changes to
3 those, except normal maintenance and upkeep.

4 As you come through this opening which is
5 also a cased opening into the dining room, the dining
6 room is actually a room that the former owner brought
7 artifacts from 1800's, and so it's a very interesting
8 mirrored wood paneled French inspired room that we're
9 looking to keep and not modify.

10 Adjacent to it is the existing kitchen, which
11 we're looking to update, both for practical reasons
12 and also because with the insertion of a potential
13 elevator here it changes the whole configuration.
14 These are the existing plans that you're looking at.
15 There is a wall between this dining room and the den,
16 and in our more family oriented plan we're looking to
17 basically open the wall up so that they have a
18 kitchen breakfast room area. All this is one
19 combined space.

20 This is the existing stair that goes up just
21 to the master bedroom, and so if you see the dash
22 line here in plan, the same L that we saw on the
23 third floor, it shows us where we could put an
24 elevator on this floor. Again, whether we want to
25 get rid of the fireplace or not, it's available on

1 this floor. But you can see by -- also I should
2 mention is a stair at this point in the elevator that
3 goes down to another means of egress on the ground
4 floor. That stair we're needing to give up to put
5 the elevator in this location.

6 This is the existing bedroom, would be the
7 second legal bedroom in the house. And it looks
8 quite large until we get into trying to find a way to
9 divide it in half and put a minimum closet to make it
10 functional. Not walk-in, but just simply a standard
11 24 inch deep closet and depending on the direction
12 that it gets divided. Obviously it can't go this
13 way, the room would not have its minimum seven-foot
14 width.

15 And so in dividing it in this direction, if
16 we add a closet in the north/south direction, we're
17 just under the seven-foot direction, or dimension.
18 And if we have a closet along -- I'm sorry. If we
19 had the closets along the north and/or south wall
20 this overall dimension does not allow us to get seven
21 feet for the bedroom.

22 And if we add it along the other wall at
23 least for one of the bedrooms we're right at or just
24 below 70 square feet. It would potentially be
25 possible to get that 270 square feet, but that's the

1 minimum size for a late -- the minimum size for legal
2 habitable room.

3 It's existing bathroom, existing powder room,
4 existing mechanical and electrical chases. And this
5 is the other stair that exists.

6 MR. COLLINS: Would you describe the
7 significance of seven feet?

8 MR. CLITES: Well, to those of us that plan
9 the possibility that a seven-foot bedroom, if it had
10 to be used, it's the bear minimum. You can't easily
11 get a bed and an end table and a bureau in a seven by
12 nine or seven by 10 foot room. For me as an
13 architect I think there was kind of a bit of a hurdle
14 when you look at the square footage for the property
15 and say, how is it this house is so big and you don't
16 have three bedrooms? Not that you're entitled to
17 that, but just from a kind of practical -- anybody
18 with a house that size, family or no family, the
19 assumption is that somewhere that extra bedroom would
20 fit. And so, you know, we did spend a lot of time
21 trying to find a place for it.

22 MS. BUTANI-D'SOUZA: And can I ask, so in the
23 proposed plans there's a den, and the living room
24 looks very large. Can you explain why you cannot put
25 a bedroom in those areas?

1 MR. CLITES: Why we could not put a bedroom
2 in this area.

3 MS. BUTANI-D'SOUZA: And in the place where
4 you're showing, a den in the future plans.

5 MR. CLITES: Okay.

6 CHAIRPERSON HEATH: Or the dining room for
7 that matter.

8 MS. BUTANI-D'SOUZA: I don't think there's a
9 window in the dining room.

10 CHAIRPERSON HEATH: You can put a window --

11 MS. BUTANI-D'SOUZA: You can put a window in
12 that wall?

13 CHAIRPERSON HEATH: You show a window in --
14 well, you put in a window, it looks like, in the new
15 plans, on that wall.

16 MR. CLITES: On the south wall.

17 CHAIRPERSON HEATH: Right.

18 MR. CLITES: Yes.

19 CHAIRPERSON HEATH: For bedroom number one.

20 MR. CLITES: Yes.

21 CHAIRPERSON HEATH: So you would be able to
22 put in a bedroom at the dining room location too,
23 correct?

24 MR. CLITES: I guess if there was -- yeah.
25 If there was no significance to the interior

1 structure that was there, or the layout, and if there
2 was no issue with completely rebuilding this entire
3 part of the floor, obviously in 5,000 square feet,
4 you know, if --

5 MS. BUTANI-D'SOUZA: It looks like you are
6 completely rebuilding the second floor.

7 MR. CLITES: No. This room actually is --
8 except for paint, is not really being touched. And
9 it's probably that I would call it the most --

10 MS. BUTANI-D'SOUZA: Okay.

11 MR. CLITES: -- precious room, which is a
12 dining room. And it is a series of historic antique
13 paneling and so --

14 MS. BUTANI-D'SOUZA: And what about the den?

15 MR. CLITES: The den, this window is not big
16 enough to meet egress. And I didn't honestly think
17 to ask HPO. We did go to them and confirm that they
18 were okay with us updating these windows. They're
19 not the original windows. I didn't confirm exactly
20 whether they would meet the egress requirements.
21 They're pretty clear that they don't want us to
22 change the masonry openings on this western or
23 northern façade. And they really were not amenable
24 or agreeable to changing any of the dormers above.
25 So, off the top of my head I don't know

1 whether those windows would meet egress that would be
2 a requirement. Or I guess we could -- the other --
3 the suggestion by what you're asking would then be to
4 also get rid of the stair.

5 MS. BUTANI-D'SOUZA: Well, I think you said
6 that the stair is not code compliant and is --

7 MR. CLITES: It isn't.

8 MS. BUTANI-D'SOUZA: -- very steep and not
9 used.

10 MR. CLITES: It's a convenience for the
11 master suite and so, you know, our thought is to not
12 -- since we can't put the elevator there, to not get
13 rid of it.

14 MS. BUTANI-D'SOUZA: So, I think it would be
15 helpful if you could -- I mean, I can't imagine why
16 you wouldn't have looked at this den as one of the
17 first places. I mean, obviously it's very lovely but
18 you know, you're asking for relief and you have to
19 justify it and this den just seems to me to be a
20 pretty obvious place to check to see if that would
21 work as a bedroom. And especially if you're arguing
22 from one side that the stairway is not code compliant
23 and not useful, and that's why you want the elevator.
24 Just seems to me that you should look at that.

25 And I think also, looking at the living room

1 area this is a very -- there's no dimension on here.
2 How big is the living room?

3 MR. CLITES: Off the top of my head I
4 couldn't give you that information.

5 MS. BUTANI-D'SOUZA: It looks pretty large.
6 I think a second question would be why a second
7 bedroom couldn't go there. And even if you were to
8 do that you could -- I mean, that would be a question
9 that I would ask, looking at these plans. Again,
10 it's nice to have to be able to have the den and the
11 large living room. But when you're asking for a
12 variance relief, which is a higher burden, you know,
13 you have to consider this. You have to justify it
14 and we can't just justify it because this is nice to
15 have. It needs to be justifiable and here you have
16 two options for a third bedroom. I mean, that's even
17 assuming that you accept the argument that a third
18 bedroom is a requirement for a space of this size,
19 which again as OP has pointed out, is not really, you
20 know, it's not something that's been justified yet.
21 So.

22 MR. CLITES: Just make sure I'm not
23 misrepresenting comments that I've maybe already made
24 about this particular stair, it is less code
25 compliant than this stair. But it actually is quite

1 useful and hence the reason to keep it. I think we
2 would -- if the elevator could fit in that space it's
3 not so useful that it couldn't be given up. But in
4 fact the important aspect of the stairs, I think, is
5 that this is both the primary entrance to the home
6 and it's also the stair that actually is wide enough
7 to, for instance, get furniture up and down and it
8 serves as the primary stair for the home. So there
9 is --

10 MS. BUTANI-D'SOUZA: I thought you said it
11 was really narrow and very steep.

12 MR. CLITES: It is very narrow, but in terms
13 of a --

14 MS. BUTANI-D'SOUZA: So is it less narrow --

15 MR. CLITES: -- just an individual --

16 MS. BUTANI-D'SOUZA: -- than this other
17 staircase?

18 MR. CLITES: Yes.

19 MS. BUTANI-D'SOUZA: So it's wider than the
20 other staircase?

21 MR. CLITES: The back stair, what I call the
22 back stair, this little side stair with the little
23 pie shaped winders that go up is narrower than the
24 front or main stair.

25 MS. BUTANI-D'SOUZA: So you could also get

1 furniture through that front stair. That -- okay.

2 MR. CLITES: Exactly. And that's --

3 MS. BUTANI-D'SOUZA: And let me ask, would
4 you need to remove the staircase in order to make
5 this into a bedroom, or would you just need to put a
6 door on it somewhere?

7 MR. CLITES: If one of these two windows was
8 code compliant, technically, I guess, you could just
9 put a door on this and call it a bedroom if you
10 didn't mind having a stair going from one bedroom to
11 the other. So no, you would not need to remove the
12 stair to legally make that a bedroom.

13 MS. BUTANI-D'SOUZA: But you could. I
14 mean --

15 MR. CLITES: Just a fair amount of
16 awkwardness to that situation, as little kids
17 become --

18 MS. BUTANI-D'SOUZA: Sure.

19 MR. CLITES: -- teenagers.

20 MS. BUTANI-D'SOUZA: Sure.

21 MR. CLITES: But that's, I guess that's for
22 down the road. Okay. Other --

23 MS. BUTANI-D'SOUZA: Is that -- I mean,
24 that's the question about the second floor, right?

25 CHAIRPERSON HEATH: Go ahead.

1 MR. MILLER: Mr. Clites, if you could focus
2 or restate why each of the areas on the second floor
3 interior can't be reconfigured to add a second -- an
4 additional bedroom, since that is what the OP report
5 focuses on. And I think you may have stated this
6 already, but if you could just restate, on the page 4
7 they said the applicant has not demonstrated that
8 interior alterations on the over 2,000 square foot
9 second floor would not allow the insertion of a third
10 bedroom with new code compliant windows in the
11 existing eastern most wall. I guess that was where
12 you were talking about that you would be creating
13 very small bedrooms.

14 MR. CLITES: Right. That's over on this
15 side. It's where the existing second bedroom exists
16 now.

17 MR. MILLER: So that was where you only have
18 seven by nine rooms.

19 MR. CLITES: Correct.

20 MR. MILLER: So --

21 MR. CLITES: If you take this room and divide
22 it in half, seven by -- depending on which way you
23 divide it you end up at about seven by nine and a
24 half to 10, not including the closet, or something
25 that is, take the two square feet and change it, nine

1 by eight.

2 MR. MILLER: But you would have --

3 MR. CLITES: Which is just at --

4 MR. MILLER: You would have code compliant
5 windows on that -- in that scenario, but you just
6 would have very small rooms.

7 MR. CLITES: Correct.

8 MR. MILLER: And the reason why the living
9 room and the den or breakfast room doesn't work is
10 because those facades can't be changed --

11 MR. CLITES: Well, in --

12 MR. MILLER: -- to accommodate code compliant
13 windows? Did I hear you say that?

14 MR. CLITES: What I tried to say is, I have
15 not confirmed that those -- they're all the same
16 size. I have not confirmed that they would or would
17 not allow for egress, given the size that they are.

18 MR. COLLINS: Mr. Clites, going back to the
19 existing bedroom on this plan, the wall across the
20 top of the drawing is on the property line. Is that
21 correct?

22 MR. CLITES: Correct.

23 MR. COLLINS: And so, excuse me, you wouldn't
24 be able to put window openings on a property line
25 under the current building code?

1 MR. CLITES: We understand there's a
2 provision that you can do that as long as there's
3 a -- and I forget the legal term, but you're allowed
4 to do that as long as there is understanding that if
5 they are required to be closed that you would close
6 them, should that ever get developed.

7 MR. COLLINS: Right. And that's a vacant lot
8 to the south.

9 MR. CLITES: Right. Which is part of the
10 seven or eight story building that's beside it.

11 MR. COLLINS: Right.

12 MS. BUTANI-D'SOUZA: Sorry, are these -- is
13 plan north, north, or is plan north the south? So
14 these should be flipped, I guess this way if we were
15 to orient north up on the drawings.

16 MR. CLITES: Correct. They would be flipped.

17 MS. BUTANI-D'SOUZA: Okay. Now I understand.
18 Thanks.

19 MR. COLLINS: So those windows, if windows
20 were put in on that south wall that would exist until
21 that vacant lot is developed.

22 MS. BUTANI-D'SOUZA: So those would be at-
23 risk windows? What about -- sorry, and I know
24 that -- I was going to ask the Office of Planning
25 this question. But the Office of Planning notes in

1 their report -- I think it's fine for the applicant
2 to respond to this, but it says that the applicant
3 states that the building's historic status and
4 preservation easements placed on its facades
5 constitute exceptional difficulties that result in
6 the practical difficulty of being prevented from
7 enlarging the existing openings to provide code
8 compliant egress from a bedroom the applicant wishes
9 to build on the third floor.

10 The applicant demonstrates this for locations
11 involving each building wall having alley frontage.
12 The applicant has not demonstrated this for
13 alternatives that do not involve the principle
14 facades. So, the facades that do not have, I guess
15 alley frontage or street frontage, I'm not entirely
16 sure -- I'm sure you understood that statement so I'm
17 hoping that you can kind of guide us through that.
18 Otherwise I would ask the question of the Office of
19 Planning when they start their presentation.

20 MR. COLLINS: The alley frontage is only on
21 the west and north sides.

22 MS. BUTANI-D'SOUZA: So that's --

23 MR. COLLINS: The OP report mentions that
24 they're --

25 MR. CLITES: Bottom and left. Bottom and

1 right side of the sheet is alley.

2 MR. COLLINS: The right and the bottom.

3 MS. BUTANI-D'SOUZA: Land right and --

4 MR. COLLINS: The OP report mentioned that
5 there are three -- it surrounds on three sides that
6 what I believe they might be referring to is on the
7 south side, which is at the top of the drawing.
8 That's actually another private property.

9 MS. BUTANI-D'SOUZA: So --

10 MR. COLLINS: And so there is a window. If
11 it was put in that wall it would -- it could be
12 covered up in a subsequent development on that side.
13 And on the eastern most side, which is on the left
14 side of this drawing, that's where the windows are
15 that are going to be retained and included in the new
16 extension going east.

17 MS. BUTANI-D'SOUZA: Okay. And so on the
18 side where the den is, on the right side of the
19 plans, what you said is that you don't know if those
20 windows are code compliant for bedrooms, and you
21 don't know whether the Historic Preservation Office
22 would allow you to expand them if they're not.

23 MR. CLITES: First, I don't know if they're
24 code compliant. That's an easy thing to confirm.
25 What I feel fairly confident in saying because we've

1 discussed with them that they would not likely
2 support modifications to the masonry openings, you
3 could take a double-hung window and potentially get,
4 if it's not large enough, some kind of a -- you've
5 seen them. A casement style window. It functions
6 like a casement. It looks like a double-hung. You
7 put all of the muntins and the detailing, the check
8 rail that looks like -- whether they would support
9 that or not, I don't know.

10 When we discussed it for the third floor
11 room, because the window wasn't large enough
12 regardless of what style window we put in it, it
13 became a moot point as to whether the HPO and
14 L'Enfant would support a casement window in what now
15 is a double-hung opening.

16 But what I feel fairly comfortable in saying
17 is that they would not support changing the masonry
18 opening and so I would --

19 MS. BUTANI-D'SOUZA: But they have supported
20 changing the wall, correct. Extending the wall,
21 right?

22 MR. CLITES: They have. And the reason for
23 that, actually if we jump down just a -- and I don't
24 want to get ahead of myself, but we go down to the
25 plan below, which is the ground floor plan, and on

1 the ground floor plan if we go over to the left side
2 of the page and you look at where my cursor is you'll
3 see the little bump in the interior of the plan,
4 that's the corner above us. And so this seven-foot,
5 7.6-foot addition was added at some time unknown. We
6 couldn't find the documentation for when it was
7 added. But it is single-story in height. And so as
8 we looked at the façade and the massing, both because
9 it's not a principle façade, and architecturally it
10 didn't seem we garnered support for adding to the top
11 of it simply -- if you look at the perspective
12 sketches that we included in the package --

13 MS. BUTANI-D'SOUZA: So what is that face?
14 That side of -- so there's an alley on the other
15 three sides. There's a building on the south. Or
16 there's an alley or a street on the three sides and
17 then there's a building on the south. And what does
18 that side face?

19 MR. CLITES: This side faces another four-
20 story building that is probably eight or nine feet
21 away from this façade.

22 MS. BUTANI-D'SOUZA: Okay.

23 MR. CLITES: You can see that in the pictures
24 that -- can you see that in the -- yes, if you look
25 at this picture, actually. Oops, sorry. It's a good

1 representation of what that looks like. There's the
2 portion where we would like to add the addition,
3 there's the existing building that is adjacent to us.
4 You can see that's just a few feet. And this is that
5 ground floor, I'm going to call it an addition. It's
6 clearly you can see that it wasn't part of the
7 original structure. And so when we talked to HPO and
8 L'Enfant, they seemed agreeable to continuing that in
9 the massing, that it wouldn't affect the character of
10 the building.

11 MS. BUTANI-D'SOUZA: Okay.

12 MR. COLLINS: If you want to see that in
13 plan, the e-mail from the Zoning Administrator dated
14 January 14th has a number of attachments. It's the
15 e-mail that has the paperclip on it. And the fifth
16 page in is stadlis plat (phonetic).

17 MS. BUTANI-D'SOUZA: Okay.

18 MR. COLLINS: And now, if you have that and
19 if you see in the middle of the square there's the
20 big bold 110, square 110, the building to the right
21 of that, the Sedgwick Apartments, that's the eight-
22 story building to the south.

23 MS. BUTANI-D'SOUZA: Okay. All right. So
24 let's just go through this little by little. So
25 we've gone over the third floor and why you can't do

1 it on the third floor. We've talked about the second
2 floor and the questions about where you might be able
3 to do this on the second floor. I think we could
4 probably have the same discussion on the ground
5 floor, this question of where you could put a third
6 bedroom, but I still think -- well, since we're doing
7 the architect discussion it makes sense to just talk
8 about this. But can you walk us through why you
9 can't put a third bedroom on the ground floor?

10 MR. CLITES: If you're looking at the plan,
11 bottom left is the main entry. That's where you come
12 in and go up the stairs immediately to the residence.
13 So you're not really invited in to this floor at all.
14 Again, somewhat significant to the function of the
15 property, only because we call it the ground floor,
16 it actually functions very much like a basement.
17 There is a door if you look a little bit beyond to
18 the right. Or further to the left, I'm sorry, of
19 that primary entry. There is another door.

20 There actually was a zoning case early 1900's
21 that looked at the issues around that door and
22 whether that was legal and the easement across it,
23 and in order to get the -- and I'm not an attorney so
24 I'm not going to say this quite right. But in order
25 to get the right to combine the two lots, as I

1 understand it, the right to keep that access was
2 agreed to be abandoned. So there's simply a 30-inch
3 wide maintenance easement that allows our property
4 owner to work on the façade. But it's actually not a
5 path across this property and out to the alley, even
6 though it appears that way as a door.

7 So when you come in this door you're
8 immediately greeted with a set of stairs and
9 basically forced to go upstairs. You can also go to
10 the right and you come into the garage area. Again,
11 you're going to see the hatching, which is the third
12 floor completely above us, and then the little dash
13 line which represents the available space on the
14 third floor, and the second floor.

15 MS. BUTANI-D'SOUZA: Sorry, can you clarify?
16 How is this a garage area, the area that you go to
17 the right? I mean, I'm not understanding how a car
18 could get in here.

19 MR. CLITES: That's a good question. This
20 door is actually a door inside a sliding garage door.

21 MS. BUTANI-D'SOUZA: Okay.

22 MR. CLITES: And if you go to --

23 MS. BUTANI-D'SOUZA: I see. Okay. So those
24 are your two parking spaces.

25 MR. CLITES: Well, that's a bit complicated

1 too, but I won't spend a whole lot of time on it.
2 This is the one garage door at the north façade. And
3 so there's a passage door in the middle of that
4 garage door, but that door slides. And that's the
5 one space and then around the corner on the west
6 façade is a pair of, we believe original hinged
7 carriage style doors, and that's the other space.

8 We did look at, is there some way to combine
9 and have the two cars park front to back so that you
10 could capture some of this area and make that a
11 bedroom and go work on how to revise this? And in
12 fact in the long direction, two cars won't fit in and
13 allow these hinged doors to close. We talked to HOP
14 about is it possible to do some kind of an overhead
15 style door, and they said no, those particular doors
16 are original and need to stay.

17 In the north/south direction there's actually
18 not enough room to physically get two cars front to
19 back. So as much as we were optimistic that we
20 could, quote, abandon one of the garage spaces, this
21 whole area which, on a floor plan that's around -- I
22 don't have it in front of me, around 2,200 square
23 feet, about 1,600 of it is garage.

24 MS. BUTANI-D'SOUZA: And is that a wall, the
25 stash line between this I guess north garage and then

1 this note where you say area or --

2 MR. CLITES: Yeah, so let me zoom in to that
3 just a little. Right now it's an interesting space.
4 There's actually a wine cellar built in to the garage
5 right here, which exists. And the current owners
6 don't have intentions to continue that. But in fact
7 to try to put a bedroom there, both -- it doesn't
8 allow egress through these windows, the sills of
9 which are quite high, and doesn't also give us a way
10 of connecting a hallway or a corridor or some means
11 of egress over to a façade where we could get egress.
12 Code compliant egress.

13 MS. BUTANI-D'SOUZA: And what is this area?
14 I guess this is circulation area in the center here.

15 MR. CLITES: The area that's white with all
16 the notes on it is -- it's part of the garage. It's
17 currently it's just a raised platform that allows the
18 cars to pull in and it's basically used as storage
19 right now; storage inside the garage.

20 MS. BUTANI-D'SOUZA: And then to the left of
21 that over here where you have this bathroom and is
22 this a kitchen or -- I don't know what this is.

23 MR. CLITES: Well, that is shown as a
24 kitchen. Actually it was preexisting to the current
25 owners and when we went for our plant permitting and

1 interior permit to do some other work, that was noted
2 as being noncompliant. And so we're in the process
3 of removing that because you can't have two kitchens
4 in a home, a single-family home.

5 MS. BUTANI-D'SOUZA: So why can't this be
6 your bedroom?

7 MR. CLITES: I guess in a strict application,
8 if this is a stair that also is one of the tight
9 little winder stairs that exists so we're allowed to
10 continue to use it, I presume. But it doesn't --
11 except for that stair, doesn't have a useful
12 connection to the main level, and I think when we
13 looked at it for practical purposes, to have, at
14 least for family, which is currently who we're
15 working for, to have a bedroom here and a bedroom
16 three floors away and on the opposite side of the
17 house and have them work for a family doesn't seem to
18 work well, or function well.

19 I mean, could we go modify the openings here
20 in some way? I haven't actually looked at that, to
21 put them on the ground floor level.

22 MS. BUTANI-D'SOUZA: Okay. So, while I
23 certainly appreciate your comments about family I
24 think we need to restrict ourselves to the variance
25 that you're asking for and I don't think that we can

1 really consider that. I don't know. I mean --

2 MR. CLITES: No, but we --

3 MS. BUTANI-D'SOUZA: It doesn't seem like
4 something that we can.

5 MR. CLITES: -- needed to consider it. I
6 understand.

7 MS. BUTANI-D'SOUZA: Okay. So there is an
8 opportunity to put a bedroom here. Okay. I think
9 those are all my questions about the plans. I don't
10 know if other folks have questions about the plans.

11 MR. HELFRICH: Okay. So, sorry. Can I say
12 something?

13 So the issue with the space down there is,
14 there's no real direct access into the house.
15 There's a door that you exit. Then you have to go up
16 the narrow staircase to where that other bedroom is
17 on the second level. So there's no like easy access.
18 It's almost like it's a detached room from the house.
19 You'd either have to go through the garage to get
20 there, or you'd have to go down this narrow staircase
21 and then in another door that has a deadbolt on both
22 sides. So there's a real access issue.

23 Also, the windows are high off the ground.
24 You'd have to alter the windows on that side. So it
25 just, it's not really usable as an option.

1 MS. BUTANI-D'SOUZA: How high off the ground
2 are they? How high off the ground are the windows?

3 CHAIRPERSON HEATH: Make sure your mic is on.

4 MR. CLITES: About five feet to the sill.

5 MS. BUTANI-D'SOUZA: And that's not in
6 compliance with the code?

7 MR. CLITES: No. They need to be within, I'm
8 going to get it wrong, it's 40 or 42 -- 44 inches, I
9 think. Somewhere in the low 40 inch range.

10 MS. BUTANI-D'SOUZA: So that's the
11 justification for why you haven't suggested this as a
12 bedroom because this would also not be a code
13 compliant bedroom.

14 MR. CLITES: It wouldn't be as it exists, and
15 I think --

16 MS. BUTANI-D'SOUZA: So what you're saying is
17 that you could drop the sills of those windows
18 without a problem.

19 MR. CLITES: Yes, you could.

20 MS. BUTANI-D'SOUZA: Okay.

21 MR. COLLINS: But the practical difficulty
22 also goes to the accessibility issue that Mr.
23 Helfrich just --

24 MS. BUTANI-D'SOUZA: With the door with a
25 bolt. But you could remove the door, correct?

1 CHAIRPERSON HEATH: Or just that it's not --

2 MR. COLLINS: It's not just the door with the
3 bolt. It's, if you can just repeat what you --

4 MR. HELFRICH: It's the door. So you have to
5 go through a door, you go up a nonconforming
6 staircase so it wraps around and goes to where that
7 other bedroom is that we're looking at extending out.
8 So to access that room you either have to go through
9 the garage and go through those two doors, or you
10 have to go out a door and then up a nonconforming
11 staircase to that upper level hallway where that
12 staircase is. So it's really disjointed from the
13 house.

14 MS. BUTANI-D'SOUZA: Sorry. I'm trying to
15 find the second floor.

16 MR. HELFRICH: There's no real conforming way
17 that you can access that room from the main house.

18 MS. BUTANI-D'SOUZA: You keep saying that you
19 go into the bedroom, but it doesn't appear that --

20 MR. HELFRICH: You go into a hallway at the
21 top of the stairs. There's a hallway at the top of
22 the stairs. And then that bedroom is right to the
23 left of that.

24 MS. BUTANI-D'SOUZA: So --

25 MR. HELFRICH: The legal bedroom on the

1 second level.

2 MS. BUTANI-D'SOUZA: I don't really --

3 MR. HELFRICH: But when you go to the bottom
4 of the stairs you're standing in a foyer that if you
5 go to the right there's a door that goes to the
6 garage. If you go to the left, that's this room to
7 the left on the --

8 MS. BUTANI-D'SOUZA: So I guess I'm not
9 really understanding. Other than the fact that this
10 is separated by a staircase I'm not understanding
11 what the issue is here.

12 MR. HELFRICH: It's a nonconforming staircase
13 that you're accessing it. It's a narrow staircase.
14 It's not something that you traverse constantly.
15 It's not -- and it's not really connected -- it
16 doesn't seem like it's connected to the house. And I
17 don't think there's an easy fix to make that
18 connection between that room typically or --

19 MS. BUTANI-D'SOUZA: And you can't make the
20 staircase compliant?

21 MR. HELFRICH: How would you make that
22 staircase compliant? It wraps around, it's --

23 MS. BUTANI-D'SOUZA: I mean, the reason that
24 I'm asking these questions is because we're talking
25 to the architect right now. I think this question

1 about whether the code you know, mandates that you be
2 able to have a third bedroom is still the principle
3 question. But you know, you're making the argument
4 that it's not possible in this house, other than by
5 getting a variance. And so, you know, we have to ask
6 these questions because that's the argument that
7 you're making. So you have to prove it. And so the
8 reason that we're asking these questions is because
9 we're trying to give you the opportunity to prove it,
10 and I don't see it proved yet. Obviously this is not
11 a deliberation, so this is going to have to come back
12 for sure.

13 So what I would recommend that you do is that
14 you do an analysis here and explain why it's not
15 possible, if it's not possible, or why it's not
16 convenient if it's not convenient, and give that
17 justification. I think it's pretty clear what the
18 questions are and I don't want to belabor these
19 points, so I think we should probably move on. But I
20 think we've laid out for you our thinking on this
21 argument that you're making, that it's not possible,
22 that what you need to do is really demonstrate that
23 it's not possible on all the floors. And I don't
24 think you've done that yet.

25 So there is -- you know, I don't doubt that

1 there may be a way to justify that it's not possible,
2 but it just needs to be done and it hasn't been yet.
3 So.

4 MR. COLLINS: And the test, just so I'm clear
5 to the Board, the test is not impossible. The test
6 is practical difficulty, and that's what we've been
7 trying to show. And we will be happy to come back
8 and give further information as to why it's a
9 practical difficulty.

10 MS. BUTANI-D'SOUZA: Well, let me just
11 clarify. So, I think the next point that we're going
12 to get to is whether this practical difficulty
13 argument even really applies here because again, this
14 goes to this question whether this property is due
15 the right to have a third bedroom. And so I think
16 that that's the next question that we should go
17 through. That's just in my view. But I defer to
18 madam chair.

19 CHAIRPERSON HEATH: So I do agree that we
20 need clearer documentation on why you can't
21 reconfigure. I mean, we've heard some explanations.
22 There still appear to be some questions, even on the
23 part of the architect about what windows could be
24 changed with conversations with HPO. So, I think
25 getting clarity around some of the things that still

1 are unclear would be really helpful for the Board.

2 I don't know if you have anything further as
3 a part of your presentation. Obviously you're going
4 to come back again before the Board. And so if
5 there's anything else that you'd like to say to
6 conclude your presentation, we can have that now.
7 Otherwise, I'd like to hear from Office of Planning.

8 MR. COLLINS: Can --

9 CHAIRPERSON HEATH: I'm not sure if you've
10 done it enough to get them there, but I'd like to
11 hear from them.

12 MR. COLLINS: Can we just finish the
13 discussion about the elevator we were on --

14 CHAIRPERSON HEATH: Sure.

15 MR. COLLINS: -- and showing the zones of
16 possibility, if you will, for the elevator on the
17 third floor, the second floor, and we're just about
18 to get the zone of possibility on the ground floor.

19 CHAIRPERSON HEATH: Sure.

20 MR. COLLINS: And all three of them work
21 together. If you achieve the zone of possibility on
22 two of the floors, if the third floor doesn't work
23 then it just doesn't work. So if you would just go
24 on the ground floor.

25 MR. CLITES: Thank you. So you come in the

1 main entry this stair obviously, we're familiar
2 enough with it now. It comes up and turns into the
3 main space, and because it is the primary stair, both
4 in terms of its width and function, doesn't seem
5 reasonable or practical that we would abandon it to
6 put the elevator here. This is the parking space,
7 and we'll make it more clear in the existing drawings
8 that this door actually slides over into this
9 position and so you pull a car in here to park, which
10 as we look at the hallway on the third floor --

11 MR. HILL: Mr. Clites.

12 MR. CLITES: Yes.

13 MR. HILL: I'm sorry. Now, just why can't
14 you seal that up and make that a bedroom, the garage?

15 MR. CLITES: Seal --

16 MR. HILL: That. The one right there that
17 your cursor was just on.

18 MR. CLITES: Seal this up --

19 MR. HILL: Right there. Yeah.

20 MR. CLITES: -- and make it a garage.

21 MR. HILL: Uh-huh.

22 CHAIRPERSON HEATH: Make it a bedroom.

23 MR. HILL: Make it a bedroom. Make it a
24 bedroom. Is there something with HPRB that they
25 won't let you change that door in some way to make it

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1 a bedroom?

2 MR. CLITES: We want to maintain two parking
3 spaces for the property.

4 MR. HILL: I got it. Okay.

5 MR. CLITES: That's the fundamental issue on
6 this floor, which is we looked at every possible way
7 of getting two cars in --

8 MR. HILL: Okay.

9 MR. CLITES: -- via one door.

10 MR. HILL: Okay.

11 MR. CLITES: That's the issue.

12 MR. HILL: Thank you.

13 MR. CLITES: Yup. You're welcome. And so
14 that kind of rolls out this area. This area being
15 between -- again, we're looking at just the hatched
16 part of the plan, which is the third floor above us,
17 superimposed on this ground floor. This hatched area
18 gives us no ability for the elevator. We'll just
19 speak about the elevator now. For the elevator to
20 come in and out of this zone because of the third
21 floor, and so we're left with this little corridor of
22 space of which at least to this point we are limited
23 by this parking space.

24 And so, at the -- try to say this succinctly,
25 at the ground floor the stair and the parking and

1 this parking limit this zone of possibility and take
2 away any portion of it, except starting at this
3 point, which is where we then started to go to the
4 third floor and conclude you know, how would we get
5 there, and we realized we'd have to ask for
6 permission to expand the FAR. Hence this zone.

7 And this is the other means of egress, legal
8 means of egress, out of this building which was a
9 pivotal part of the case about why this cannot be
10 maintained as the primary/secondary way out of the
11 building, because these two lots, this being the
12 original lot line down to through the center of the
13 building were combined. And because this lot had
14 egress on to the alley, the case at the time if I
15 understand it, basically said, you don't need to
16 maintain this right of way or access through this
17 neighbor to the alley.

18 So this is still a means of egress, and if we
19 put the elevator here we would enclose along this
20 dash line, a corridor to connect these spaces.

21 MS. BUTANI-D'SOUZA: So that could be a
22 window.

23 MR. CLITES: What could be a window?

24 MS. BUTANI-D'SOUZA: That doorway that you're
25 saying doesn't need to be maintained. Could that be

1 made into a, for example, a floor to ceiling window
2 that you could call your egress window, rather than
3 having to drop the sills on the east side wall? That
4 you could knock out or --

5 MR. CLITES: It could just stay a door and --

6 MS. BUTANI-D'SOUZA: How does -- I just --
7 well, anyway, okay.

8 MR. CLITES: It's just an awkward --

9 MS. BUTANI-D'SOUZA: I don't want to belabor
10 this --

11 MR. CLITES: No, I understand.

12 MS. BUTANI-D'SOUZA: -- discussion, but I
13 think my questions are answered. I don't know if --

14 MR. HILL: I'm okay.

15 CHAIRPERSON HEATH: Is he still explaining?

16 All right, I think we're all there on the
17 elevator.

18 MR. CLITES: Uh-huh.

19 CHAIRPERSON HEATH: I think we've made clear
20 the real issues that the Board still has with this,
21 and where we'll need clarity. So, if you're okay
22 with us proceeding on at this point we'd like to hear
23 from Office of Planning.

24 MR. COCHRAN: Thank you, Madam Chair. I
25 think it's clear from our report that we think that

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1 if you were to grant approval for the requests, there
2 would not be a substantial negative impact on the
3 neighborhood. We're not trying to discuss that.

4 We just had so many questions about whether
5 the tests were met that we could not recommend
6 approval. We actually had to recommend that you not
7 approve it at this point. You'll note that the
8 building is already .58 FAR over what's permitted by
9 right, and it's 31.7 percent over lot occupancy. So,
10 while we may be dealing with a rather small addition,
11 we're dealing with a small addition to a building
12 that's already well over what's permitted by right.

13 I'm not trying to, in saying what I'm going
14 to say, I'm not trying to suggest design solutions.
15 I'm just wanting to point out the kinds of questions
16 that if you're going to be submitting additional
17 information, we think need to be answered in order to
18 address the tests.

19 With respect to what constitutes the
20 exceptional condition, it's a little bit difficult to
21 understand what you focused on for that. There's
22 mention of historic restrictions. To some extent
23 there's mention of the desire for the third bedroom.
24 With respect to the historic restrictions, you refer
25 to the L'Enfant Trust easement agreements, but we

1 don't know what is contained in that document.

2 For instance, our report said the principle
3 facades have restrictions. Well, we just had to
4 assume that. I don't know for fact that there is a
5 restriction on the south side where the applicant is
6 showing an additional window. I don't know for a
7 fact that there are restrictions on the east side
8 where the applicant is showing the addition and other
9 windows. I don't know for a fact that there is any
10 L'Enfant easement restriction on lowering the sills
11 for instance, as one of you suggested on the media
12 room that's planned for the first floor.

13 So that's the kind of information that would
14 be needed to demonstrate the exceptional conditions,
15 and they would perhaps help you lead into a
16 demonstration of a practical difficulty.

17 Now let me just go through the specific
18 requests. The FAR for the elevator. Again, you have
19 just brought this up but when we were looking at it
20 we wondered, well, why couldn't it for instance, be a
21 discontinuous elevator where you have an electric
22 elevator from the ground floor to the second floor,
23 and then you have a pneumatic elevator moved slightly
24 in-board from the second to the third floor. There
25 are sleek additions but I'm not suggesting that you

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1 have that. I just would like to see it addressed why
2 that wouldn't be possible.

3 For the third bedroom, as we mentioned, the
4 plans show new windows on the second floor. South
5 bedroom and new windows on the second floor east in
6 the addition. Why couldn't those windows be in the
7 existing wall on the second floor east? You talked
8 about the size of the bedrooms. But that's when we
9 get back down to the ground floor. I think that's
10 already been addressed enough by the Board this
11 afternoon on what would need to be demonstrated
12 there, including why you keep referring to it as a
13 nonconforming stairway. I mean, I live in a house
14 with a nonconforming stairway. It's grandfathered in
15 in a historic district. I don't know whether that
16 means that it's nonconforming with respect to life
17 safety and other code conditions, or whether it just
18 happens to be, you couldn't build it now.

19 And then finally again, understand why you
20 might want to have a complete suite on the third
21 floor. But you haven't addressed why it wouldn't be
22 possible to make that study into a third bedroom.
23 There are lots of apartment buildings going up now
24 where, as you know, as an architect, we used to think
25 that the code required you to have a window that

1 actually opened directly out, a code compliant
2 window. Well, it's certainly possible as we've seen
3 from a lot of new buildings, to have a glass wall and
4 a code compliant door, and then have the actual
5 window be several feet away from the edge of the
6 room; what used to be called a one bedroom plus den,
7 with enough glass now gets to be called a two-bedroom
8 unit. So those were the kinds of things that we were
9 looking at.

10 MS. BUTANI-D'SOUZA: Can the Office of
11 Planning, in your report you say -- oh, gosh. Well,
12 no. You say that the applicant has not addressed how
13 the absence of a third bedroom constitutes a
14 practical difficulty. I think this goes to the point
15 around the code not mandating that a third bedroom be
16 in this building. Can you talk a little bit about
17 that?

18 MR. COCHRAN: Sure. What we saw before today
19 gave us no idea of who would be occupying the
20 building. We've certainly had cases where a person
21 has applied, for instance, for an elevator that
22 required some relief, because they have certain
23 accessibility issues.

24 I'm not prepared today to address whether the
25 composition of this family constitutes a -- that

1 would be a practical difficulty without a third
2 bedroom.

3 MS. BUTANI-D'SOUZA: I hadn't considered
4 that. It's an interesting point.

5 MR. HILL: Thank you, Madam Chair. Mr.
6 Cochran, so I'm going to talk to the applicant and
7 we're kind of wrapping this. Like, I'm not there yet
8 and so I was just kind of curious, I'm a little
9 confused by your discussion. Do you think you could
10 possibly get there at some point by working with the
11 applicant, or do you think that there is just not a
12 way that Office of Planning would be able to come
13 around to approving this?

14 MR. COCHRAN: I hate to address a
15 hypothetical.

16 MR. HILL: Okay.

17 MR. COCHRAN: There have certainly been
18 instances in the past where we had somewhat similar
19 questions and the applicant, through the provision of
20 additional information was able to demonstrate that
21 they meet the test. So I can't predict where --

22 MR. HILL: But yeah, I'm not putting you on
23 the spot here, obviously but --

24 MR. COCHRAN: Well, you are, but --

25 MR. HILL: Okay. Thank you. I got my

1 answer, so thanks.

2 CHAIRPERSON HEATH: Go ahead.

3 MR. MILLER: Well, just to follow up that. I
4 would encourage the Office of Planning to work with
5 the applicant on -- as you've indicated, on what
6 specific additional narrative information as the
7 Chair has outlined. You need to say that the
8 variance test has been satisfied. I mean, they've
9 gone through a lot of hoops already with your office,
10 with Historic Preservation Office. And so I think
11 they're used to jumping through hoops with your
12 office.

13 So I think if you could help them jump
14 through those hoops and get to the -- get us the
15 narrative that does satisfy, as much as you can, the
16 test so they can get this addition done.

17 MR. COCHRAN: We'd be happy to.

18 MR. MILLER: I appreciate that.

19 MR. HILL: And I guess I'm following up
20 because, you know, I think it is somewhat de minimis
21 and there are -- I mean, I think that what they've
22 done, they've gone through HPRB, they've gone through
23 the ANC, and maybe they can't get there. But the way
24 the design is, you've also said that you don't think
25 that this is going to harm the neighborhood, or out

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1 of character with the neighborhood itself. It's
2 really the first prong of the test that OP is having
3 issue with. So again, it would be great if there --

4 MR. COCHRAN: No question. If this were a
5 special exception it would be very different.

6 CHAIRPERSON HEATH: Uh-huh. Okay. Any other
7 questions? Does the applicant have any questions of
8 Office of Planning?

9 MR. COLLINS: No.

10 CHAIRPERSON HEATH: Okay.

11 MR. COLLINS: Thank you.

12 CHAIRPERSON HEATH: All right. Then we'll
13 keep moving on.

14 Is there anyone here from ANC 2B? Anyone
15 here from ANC 2B? We do have a letter recommending
16 approval. And in fact they had a unanimous vote of
17 seven to zero on this application.

18 Is there anyone here from Department of
19 Transportation on this case? We have a letter of no
20 objection from DDOT as well. And as you pointed out,
21 we have the eight letters of support from your
22 neighbors. And so we appreciate the work that you've
23 done with both the ANC and your neighbors to get them
24 on board with this. And is there anybody here
25 wishing to speak in support of this application?

1 not saying that it can't be, it just hasn't yet. So,
2 that would be helpful.

3 MR. HILL: So, yeah. I just want to point
4 out, I think it's a lovely home. You know? And I
5 think the design is great and I think that you know,
6 if you can do what you're trying to do with it, it
7 would be great.

8 And so the fact that again, and I was just
9 speaking with the Office of Planning, which you've
10 gone through HPRB, you've gone through the ANC.
11 You've gone through all your neighbors, and I
12 understand all the work that you've done. However,
13 you know, me personally again, just my own vote, like
14 I'm not at that point yet where I'm going to go
15 against the Office of Planning. And so you know, if
16 you can work with them to get them on board, great.
17 And if not then I don't know what to tell you, I
18 supposed.

19 But being someone who has gone through these
20 type of things personally as well, there are now a
21 lot of -- I mean, I guess you can continue with the
22 attorneys a little bit longer. But, you know, I know
23 there's expenses to continue forward. So I'm just
24 kind of giving you my opinion at this point and we're
25 hopefully working with the Office of Planning a

1 little bit further. That would be something Mr.
2 Collins would be able to do in a way that can get you
3 over the finish line if you will. But I do think
4 it's a nice project. It's a nice house.

5 MS. BUTANI-D'SOUZA: I just want to say, I do
6 agree with that as well. I mean, I want to get there
7 for you, but we're just not there yet. So.

8 CHAIRPERSON HEATH: All right.

9 MR. CLITES: Thank you.

10 CHAIRPERSON HEATH: Okay. So we're going to
11 put this on for a continued hearing because I
12 anticipate that we'll still have more questions and
13 would like to hear an explanation of the additional
14 documentation that you put together to satisfy the
15 variance test. So, Mr. Moy, can you look at our
16 calendar and see what our docket looks like?

17 MR. MOY: Okay. I believe that Mr. Miller
18 would be back with the Board on June the 7th, was it?

19 MR. MILLER: Actually, I think that's the
20 date I switched with Commissioner Turnbull, which is
21 why I'm here today. But just pick whatever date and
22 I'll be here.

23 MR. MOY: Okay.

24 CHAIRPERSON HEATH: How much time do you all
25 need?

1 MR. COLLINS: Depends on how far in advance
2 of the hearing date we need to file.

3 CHAIRPERSON HEATH: Okay. There's also work
4 that you'll need to do with OP during that time and
5 then --

6 MR. COLLINS: Right. And so we'll have to --

7 CHAIRPERSON HEATH: -- we'd want --

8 MR. COLLINS: -- see what their schedule is
9 as well.

10 CHAIRPERSON HEATH: We'd also want a
11 supplemental report or revised report from Office of
12 Planning, depending on where you are after those
13 discussions.

14 MR. MOY: Then, Madam Chair, I'd suggest then
15 that given those circumstances --

16 CHAIRPERSON HEATH: Uh-huh.

17 MR. MOY: -- we have no hearing on the 31st,
18 today is the 10th, so the Board can schedule this for
19 either May the 24th, or as early as May 17th. So May
20 17th is only a week from now. So --

21 CHAIRPERSON HEATH: That's a week away. I
22 don't think that's enough time.

23 MR. MOY: So then would be the 24th. If you
24 can't address these issues for the continued hearing
25 on the 24th, then we're back to June 7th.

1 CHAIRPERSON HEATH: Okay.

2 MR. COLLINS: 24th is two weeks from today.

3 CHAIRPERSON HEATH: Yeah. Why don't we --

4 MR. COLLINS: And so our --

5 CHAIRPERSON HEATH: Let's stick with June
6 7th.

7 MR. CLITES: Let's schedule that.

8 MR. COLLINS: Can we meet with OP soon?

9 MR. COCHRAN: Yes.

10 MR. COLLINS: So if we do it the 24th then
11 submissions would be due by what date? Thursday
12 before?

13 MR. MOY: Well, given the timeline here to
14 help with the filing, I would say the latest would be
15 Thursday, May the 19th.

16 CHAIRPERSON HEATH: One issue though is --
17 I'm anticipating our docket is pretty full on the
18 24th. Can we just see where that looks like?

19 MR. MOY: There's only 10 cases on the
20 hearing docket. You've already heard most of this
21 already.

22 CHAIRPERSON HEATH: Ten is a lot, and we have
23 cases on our meeting agenda as well.

24 MR. MOY: On June 7th, Madam Chair, the Board
25 would have three cases on the docket.

1 CHAIRPERSON HEATH: Three?

2 MR. COLLINS: The applicant is not available
3 that day.

4 CHAIRPERSON HEATH: Three cases on our
5 hearing docket?

6 MR. COLLINS: The applicant is not available
7 June 7.

8 CHAIRPERSON HEATH: Okay. So the 14th. June
9 14th.

10 MR. COLLINS: You said June 14?

11 CHAIRPERSON HEATH: Uh-huh. June 14th.

12 MR. MOY: There's a lot on that one too, by
13 one more. So I'll leave it to you.

14 CHAIRPERSON HEATH: You mean 10 or --

15 MR. MOY: We have 11.

16 CHAIRPERSON HEATH: Geesh. Well, we'll see
17 if they stick. What we'll --

18 MR. HINKLE: Yeah, a lot of them fall off.

19 CHAIRPERSON HEATH: Yeah, exactly. So let's
20 -- we'll keep the 14th. All right.

21 MR. COLLINS: What happened to May 24th?

22 CHAIRPERSON HEATH: It's just too much for
23 the Board.

24 MR. COLLINS: Oh.

25 CHAIRPERSON HEATH: We have a lot on our

1 hands that day, so.

2 MR. MOY: Okay. So then if it's June 14th
3 then the applicants, which likely they won't have a
4 problem now with filing by Thursday, June the 9th.
5 All right?

6 CHAIRPERSON HEATH: All right. So, we'll see
7 you on June 14th.

8 MR. COLLINS: Great.

9 CHAIRPERSON HEATH: Thank you.

10 MR. COLLINS: Thank you.

11 MR. CLITES: Thank you.

12 [Discussion off the record.]

13 MR. MOY: All right, Madam Chair, thank you.
14 Next application parties to the table to 19257 of
15 D.C. Public Library, captioned and advertised for
16 special exception relief from the off-street parking
17 requirements, 2101.1. This would replace an existing
18 library with a new two-story library, CP/C-2-A
19 District, 3310 Connecticut Avenue Northwest, Square
20 2082, Lot 868.

21 CHAIRPERSON HEATH: Good afternoon, almost.

22 MS. BROWN: Almost.

23 CHAIRPERSON HEATH: Almost.

24 MS. BROWN: Good morning.

25 CHAIRPERSON HEATH: Good morning.

1 MS. BROWN: I'm Carolyn Brown with the law
2 firm of Castro, Haase, & Brown on behalf of the D.C.
3 Public Libraries. And to my left is David Saulter
4 from the D.C. Public Library.

5 CHAIRPERSON HEATH: All right.

6 MS. BUTANI-D'SOUZA: I'm recusing myself from
7 this case.

8 CHAIRPERSON HEATH: So we'll have four board
9 members on this case.

10 So, I think one thing that I want to clarify
11 with you before we go forward is the relief being
12 requested. I believe it was shown or advertised as
13 2101, but it really appears that it should be 2108
14 for off-street parking. Can you just speak to that?
15 What is the relief that you're seeking?

16 MS. BROWN: It is both sections that apply
17 and that's what we put in our application --

18 CHAIRPERSON HEATH: Okay.

19 MS. BROWN: -- that the parking relief is in
20 2101, the number of spaces required. And then 2108
21 allows us to proceed as a special exception as
22 opposed to a variance.

23 CHAIRPERSON HEATH: Okay. All right. All
24 right. So, both. All right.

25 And then I assume that you're aware of DDOT's

1 condition about the bicycle parking.

2 MS. BROWN: Yes. There are three points I
3 wanted to address up front.

4 CHAIRPERSON HEATH: Okay.

5 MS. BROWN: And one is that we have agreed to
6 the four spaces requested by DDOT and we are also
7 providing an in-door shower for commuters. We also
8 filed last night through ISIS, a revised loading
9 plan. There's no loading required but DDOT asked us
10 to reconfigure it. We agreed and I just wanted to
11 make sure that that plan was in the record. And then
12 three, we would request flexibility to address any
13 final design comments from the Commission of Fine
14 Arts and the Historic Preservation Review Board.

15 CHAIRPERSON HEATH: Okay. All right. Where
16 are your -- have you shown where your bicycle parking
17 space is, and where your shower will be located?

18 MS. BROWN: Let me check with the architect.
19 We're ready to put together a full presentation for
20 you, but I was hoping that this is, I think, pretty
21 straight forward.

22 CHAIRPERSON HEATH: I don't know if we need -
23 - yeah.

24 MS. BROWN: Yeah. Good.

25 CHAIRPERSON HEATH: I don't know that we need

1 a full presentation.

2 MS. BROWN: Right. Let me bring Tim
3 Bertschinger up to the table. He's with the
4 architects.

5 CHAIRPERSON HEATH: Okay.

6 MR. BERTSCHINGER: My name is Tim
7 Bertschinger with Perkins Eastman DC. We did not
8 provide a cellar level plan in our presentation.
9 That is where we're locating the staff workroom
10 spaces and where both the four bike storage area and
11 the staff shower. And to clarify, the shower is for
12 staff purposes, not for the public.

13 CHAIRPERSON HEATH: Okay. All right. Okay.
14 So, I think that -- those are all the questions that
15 I have. Does the Board have any other questions?

16 All right. So, yeah, as I said, this request
17 seems pretty straight forward, and based on the
18 criteria set forward for consideration of this
19 special exception. I feel you've met the request.
20 And so if you're okay with us moving on.

21 MS. BROWN: We are definitely okay with that.

22 CHAIRPERSON HEATH: Okay.

23 MS. BROWN: And we're very pleased with the
24 support we have from OP, DDOT, the community, and
25 hopefully this Board.

1 CHAIRPERSON HEATH: Okay. All right. All
2 right. So then we do have Office of Planning's
3 report, but if there's anything that you'd like to
4 add.

5 MS. RAPPOLT: No. Megan Rappolt for the
6 record, and we'll just continue to rest on the record
7 in support of the application.

8 CHAIRPERSON HEATH: Okay. All right. Thank
9 you. All right. Does the Board have any questions
10 of Office of Planning?

11 I assume the applicant doesn't have any
12 questions of Office of Planning.

13 MS. BROWN: No questions.

14 CHAIRPERSON HEATH: Okay. All right. And
15 we, as you noted, you do have ANC support, so we have
16 a letter from ANC 3C recommending no -- recommending
17 approval. And a letter from DDOT recommending no
18 objection with the one condition that I stated that
19 you've adhered to already, but that you will provide
20 the four long-term bicycle parking spaces. And it
21 sounds like the second part of that, that they're
22 secure and easily accessible to staff is also -- has
23 also been met.

24 Is there anyone here from ANC 3C? Please
25 come forward.

1 MS. MacWOOD: Good afternoon. Nancy MacWood
2 for ANC 3C. And I represent the SMD that, where the
3 library is located.

4 You're quite right, the ANC unanimously
5 supports this special exception. There's never been
6 public parking at this site previously. We would
7 love to have parking at this site because parking is
8 an issue within our neighborhood.

9 But we feel that the program needs and the
10 constraints of this particular site, the zoning
11 constraints as well as just the lot size itself, and
12 the needs of the library really recommend that the
13 building is the primary -- needs to be the primary
14 focus in this case. The community is used to walking
15 to this site. There's Metro right there as you all
16 know. There is bus service.

17 And the only, the two things I wanted to
18 mention that we mentioned to DCPL is that we do want
19 to have some provision for disability parking. And I
20 know that they are working with DDOT. I don't know
21 if they've reached any accommodation or agreement
22 with DDOT about that, about providing set-aside
23 parking for handicapped on both Macomb Street and
24 Newark Street.

25 The other condition I just want to mention is

1 that we wanted to make sure that residents, when they
2 are dropping off large numbers of books, which is
3 something that happens in our library periodically,
4 that they would be able to lose -- use, excuse me,
5 the loading dock. We were told that there would be
6 that flexibility. So those are the only two
7 conditions that we had. Thank you.

8 CHAIRPERSON HEATH: All right. Thank you.
9 And thank you for hanging in there with us this
10 morning to get to this case.

11 So can you just address the loading dock
12 issue for -- and this may be for the representative
13 from the library. Just that flexibility that the ANC
14 just requested.

15 MR. SAULTER: Sure. My name is David
16 Saulter. I'm the Director of Capital Planning and
17 Construction for D.C. Public Library.

18 So, as Ms. MacWood mentioned, there are four
19 parking spots currently there. They're just entirely
20 for employees, although occasionally somebody who
21 comes to the library to drop stuff off, you know,
22 parks there for five minutes and moves on. So there
23 is that level of amenity there, and we recognize
24 that.

25 And we recognize that if we are to move

1 forward with the parking relief and get rid of the
2 parking spots that are there, that the need for you
3 know, five minutes, seven minutes, for somebody to
4 stop in and drop off a pile of books that they're
5 returning to the library is still there and that
6 that's fine with us.

7 CHAIRPERSON HEATH: Okay. All right. And
8 then are you working with Department of
9 Transportation on potentially a space for disabled
10 patrons?

11 MR. SAULTER: Yeah. So, again we recognize
12 that there is the need there for additional
13 handicapped parking. And so we are working with DDOT
14 to try to identify and reserve specific -- additional
15 specific spots, both on Macomb Street and on the
16 other side of the library as well for additional
17 handicapped parking, and we're still in that process
18 right now.

19 CHAIRPERSON HEATH: Okay. All right. Okay.
20 Any other questions from the Board? All right.

21 Is there anyone here wishing to speak in
22 support of this application? Anyone in support?
23 Anyone wishing to speak in opposition to this
24 application? No opposition? All right.

25 Then unless the Board has any other questions

1 we'll turn back to the applicant for any closing you
2 might want to make.

3 MS. BROWN: No closing other than the points
4 that I addressed earlier.

5 CHAIRPERSON HEATH: Okay.

6 MS. BROWN: Thank you.

7 CHAIRPERSON HEATH: All right. Okay. Then
8 is the Board ready to deliberate on this? All right.

9 As I said at the beginning of this hearing, I
10 think the request is fairly straight forward and I
11 feel that you've met the criteria for relief under
12 2101 and 2108, and so I'm in support of this. I
13 would -- you do have Office of Planning's support,
14 the ANC's support, and you've indicated that you're
15 continuing to work with Department of Transportation
16 to meet some additional requests from the ANC. And
17 so I would move that we approve this request for a
18 special exception from the off-street parking
19 requirements under 2101 and 2108 to replace an
20 existing library with a new two-story library at 3310
21 Connecticut Avenue Northwest.

22 MR. HILL: Second.

23 CHAIRPERSON HEATH: The motion has been made
24 and seconded. Any further discussion?

25 [Vote taken.]

1 CHAIRPERSON HEATH: The motion carries.

2 MS. BROWN: And just a point of
3 clarification, if we could have a condition that
4 gives us the flexibility with CFA and HPRB that would
5 be great.

6 CHAIRPERSON HEATH: Sure. We will -- we'll
7 grant that flexibility and that will be -- that
8 should be noted in the order. Thank you.

9 MR. MOY: Madam Chair, before I read back the
10 Board vote, I missed that conversation about the four
11 long-term bicycle parking spaces.

12 CHAIRPERSON HEATH: Uh-huh.

13 MR. MOY: Is that, as I say, I apologize, I
14 missed that conversation. Is that location noted on
15 the drawings or not?

16 CHAIRPERSON HEATH: It's been noted as -- we
17 don't have the drawing because there's no cellar
18 drawing, but that, the showers and bike parking is to
19 be located in the cellar.

20 Do we need that cellar plan?

21 MS. BROWN: I think it's fine if we put it in
22 as a condition. We've already or --

23 CHAIRPERSON HEATH: Make it a condition.

24 MR. MOY: Make it a condition.

25 CHAIRPERSON HEATH: Yeah, we'll make it a

1 condition.

2 MS. BROWN: That's fine.

3 CHAIRPERSON HEATH: That's simpler.

4 MS. BROWN: Thank you.

5 CHAIRPERSON HEATH: All right.

6 MR. MOY: All right. With that note, then,
7 staff would record the vote as four to zero to one.
8 This is on the motion of Chairperson Heath to approve
9 the application for the requested relief. Seconded
10 the motion -- seconding the motion, Mr. Hill. Also
11 in support, Mr. Miller, Mr. Hinkle, board member not
12 participating. Motion carries, Madam Chair.

13 CHAIRPERSON HEATH: All right. Thank you.
14 Summary order.

15 MR. MOY: Yes.

16 CHAIRPERSON HEATH: Thank you. Any other
17 matters coming before the Board today?

18 MR. MOY: Not from the staff, Madam Chair.

19 CHAIRPERSON HEATH: All right. Then we're
20 adjourned.

21 [Whereupon, at 12:10 p.m., the Board Hearing
22 was adjourned.]

23

24

25