

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 10, 2019

+ + + + +

The Regular Public Hearing convened in the
Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441
4th Street, NW, Washington, D.C., 20001, pursuant to notice
at 9:30 a.m., Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CARLTON HART, Vice Chairperson (NCPC)
LESYLLEE M. WHITE, Board Member
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

MATTHEW JESICK
JONATHAN KIRSCHENBAUM
STEPHEN J. MORDFIN
CRYSTAL MYERS
ELISA VITALE

The transcript constitutes the minutes from the
Public Hearing held on July 10, 2019.

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

(9:50 a.m.)

CHAIRPERSON HILL: Thank you, Mr. Moy. When you have an opportunity, you may call our first hearing case.

MR. MOY: Okay. If I can call parties to the table. This is to Case Application Number 20032 of Tana, T-A-N-A, LLC. The caption is going to be read as was -- as what was filed into the record for special --

MR. BRUCE: Mr. Moy, I'm sorry, did you mean 20059?

MR. MOY: Yes, my mistake.

CHAIRPERSON HILL: You can sit back down.

(Laughter.)

MR. MOY: Okay. Here we go. This is my do over. This is to Case Application Number 20059 of 5804 Field LLC, as amended for area variance from the minimum side yard setback requirements of Subtitle D Section 206.2, and from the minim lot dimension requirements of Subtitle D Section 302.1, to construct a new three-story detached principal dwelling unit. This is in the R-2 Zone at premises 5804 Field Place, Northeast, Square 5255, Lot 821.

And as you're aware, Mr. Chairman, there's a preliminary matter to this application which includes a request for postponement and I believe also responses that's in the record.

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1 CHAIRPERSON HILL: Okay. Great. Thank you.
2 Could the applicant come forward, please? Good morning. Can
3 you please state your name for the record?

4 MR. AJIBOYE: Good morning, Chairman. My name is
5 Kenny Ajiboye.

6 CHAIRPERSON HILL: Mr. Ajiboye, I always have a
7 hard time. Could you spell your last name for me?

8 MR. AJIBOYE: A-J-I-B-O-Y-E, Ajiboye with a silent
9 "j." Ajiboye.

10 CHAIRPERSON HILL: Ajiboye, okay. Thank you, sir.
11 All right. So I guess there is a couple of things. There's
12 -- the ANC 7C, they requested to postpone this hearing. Are
13 you aware of that postponement request? I think you are,
14 correct? You just have to leave it on one time, Mr. Ajiboye.

15 MR. AJIBOYE: Okay. Yes. I became aware of the
16 postponement about a couple of days ago, on Monday, but it
17 was too late for me to do anything, so I actually did what
18 I thought is best for us, which is to oppose the postponement
19 and to appear before you to let you know that we did
20 everything we could do on our part to be able to engage and
21 make a presentation at the ANC. I sent everything out to
22 the ANC on the 27th of May, sent them several emails. There
23 was no response. There was an email sent on 5/22, 5/25/,
24 6/5, 6/6, 6/10, 6/27, 6/28. I didn't get any response back.
25 Several days, several calls to Commissioner Smith. I didn't

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1 get any response back.

2 So on 6/12, I went to the meeting and we don't
3 have -- the BZA Case Number was not on the Agenda. The
4 Chairman was kind enough to let me make a two-minute
5 appearance and state exactly what we intend to do. I showed
6 up and that's --

7 CHAIRPERSON HILL: Mr. Ajiboye --

8 MR. AJIBOYE: Yes, sir.

9 ADMIN. JUDGE NORKEN: -- let me interrupt you just
10 one second. Is the Commissioner here? Commissioner, you
11 can come forward if you don't mind? Good morning.

12 MR. HOLMES: Good morning.

13 CHAIRPERSON HILL: If you could please -- you just
14 have to turn that on there. Mr. Ajiboye, if you could turn
15 off your microphone, because we get feedback if more than one
16 mic's on at a time. And Commissioner, if you could introduce
17 yourself, please, for the record?

18 MR. HOLMES: Yes. Antawan Holmes, ANCA
19 Commissioner for 7C, Chair -- 7C06, 7C07, and Chair of 7C.

20 CHAIRPERSON HILL: Okay. So Commissioner Holmes,
21 I guess you originally asked for the postponement and --

22 MR. HOLMES: Yes.

23 CHAIRPERSON HILL: -- I guess if you could kind
24 of -- we're just kind of going to work this out a little bit.
25 So I guess if you could tell us why you want to postpone and

1 if you have kind of a response to some of the -- have you
2 seen the email from Mr. Ajiboye in terms of they claim to
3 think that they have tried to do their best to get on your
4 calendar, and then also, I guess, they're saying at least
5 we're going to talk a little bit more about like a financial
6 hardship --

7 MR. HOLMES: Yes.

8 CHAIRPERSON HILL: In terms of pushing it out past
9 the next, because you guys are off in August and September.

10 MR. HOLMES: Yes.

11 CHAIRPERSON HILL: August and September, correct?

12 MR. HOLMES: August. No -- no -- no.

13 CHAIRPERSON HILL: I'm sorry, July --

14 MR. HOLMES: July and August.

15 CHAIRPERSON HILL: -- and August. Right. So
16 it'll be -- well, thanks for coming down while you're on your
17 vacation.

18 MR. HOLMES: Yes.

19 CHAIRPERSON HILL: And so then September would be
20 the earliest that you'd be able to get them on.

21 MR. HOLMES: Yes.

22 CHAIRPERSON HILL: And so that's another -- so
23 anyway, can you explain again why you'd like the
24 postponement?

25 MR. HOLMES: So we did not receive the first

1 official til the 7th. I don't recall any emails from --

2 CHAIRPERSON HILL: The 7th of July?

3 MR. HOLMES: Seventh of June.

4 CHAIRPERSON HILL: June -- 7th of June.

5 MR. HOLMES: June 7th, so that was less than a
6 week for us to be able to add him to the agenda. We usually
7 meet two weeks before in the executive to set up our
8 schedule, and we already had four BZA hearings that we had
9 to process. So at that time, I was trying to see if we could
10 -- he then eventually called me. I think it was a couple
11 days before the meeting. He must not have been able to get
12 in conversation with Commissioner Smith, who is the single
13 member district for that location. So I told him, so it's
14 an open meeting so come to the meeting and let the
15 organization know.

16 But as a previous applicant, he knows that we have
17 to go through all of the details of the variance during the
18 executive meeting, because we just don't have enough time.
19 And that's why I sent the agenda. It was very tight that
20 night to try to get all the other hearings in. So at that
21 point -- and unfortunately, Commissioner Smith was not able
22 to attend that -- reasons for -- well, I won't mention why,
23 but we've been trying to get a schedule up there. But, of
24 course, it hits our summer recess and now people are not
25 available.

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1 CHAIRPERSON HILL: Okay.

2 MR. HOLMES: So that's we wanted to get him in
3 here. We've had him before. We want to work with him again.
4 It's just that, you know, we ran out of time.

5 CHAIRPERSON HILL: Sure. And do you happen to
6 know -- did you take a look at the project or have you had
7 a chance to look at the project yet?

8 MR. HOLMES: I took --

9 CHAIRPERSON HILL: Not really?

10 MR. HOLMES: -- I took a quick look this morning
11 and I -- but I could not tell what the -- the diagram was not
12 as refined as I'm only in the PDF. I couldn't tell what the
13 variance was, like how much feet was it supposed to be on
14 which side.

15 CHAIRPERSON HILL: Okay. So you don't know if
16 your ANC has a particular -- they do -- you guys do have a
17 lot of stuff going on through us, you know, and so --

18 MR. HOLMES: We do, yes.

19 CHAIRPERSON HILL: -- yes, and so I guess your ANC
20 has been pretty interested in all these things that are going
21 forward, correct?

22 MR. HOLMES: Yes.

23 CHAIRPERSON HILL: Okay. All right. Mr. Ajiboye,
24 you can go ahead, please, and just tell us again about what
25 you've been trying to do. And I guess, you know, again,

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1 everything's in the record in terms of, I guess, your
2 outreach. I mean the Commissioner that you've worked with
3 before, Mr. -- Commissioner Holmes is sitting with you here
4 and he says that, unfortunately, he didn't get any
5 information til 6/7. And so you want to speak a little bit
6 to the finances or the financial situation in terms of this
7 getting back until -- and Commissioner Holmes, do you think
8 that this will be something that you could get on your --
9 your September calendar?

10 MR. HOLMES: He will be the first one on the
11 agenda.

12 CHAIRPERSON HILL: Okay. So Mr. Ajiboye, I don't
13 know how my other Board members are going to feel but, you
14 know, basically, you know, we like to have the opportunity
15 to hear from the ANC, want the ANC have an opportunity to
16 hear about the project, particularly when it's a variance.
17 You know, it's not something -- just a special exception.
18 It's something that, you know, is -- there's a pretty high
19 bar in terms of meeting the standard for that. So I think
20 probably we're going to be leaning to postponement. However,
21 if you'd like to go ahead -- and again, I'll let my Board
22 members voice their opinion, but if you want to go ahead and
23 tell us about whatever financial hardship you'd like us to
24 hear about or any other thing you'd like to do in terms of
25 making a case as to why we shouldn't postpone this to the

1 beginning of September, you may go ahead and do so.

2 MR. AJIBOYE: Thank you, Chairman. First off, I
3 have -- and I have uploaded the series of emails that were
4 sent to the ANC starting on the 27th of May. I have about
5 six of them. I have copies here and it has also been
6 uploaded. I've called Commissioner Smith who is the single-
7 member district 7C06 -- right. There was no response. We
8 actually did everything we could to try get on the agenda.
9 We couldn't. So went there on the 12th of June. The
10 Commissioner -- the Chairman was very kind enough to fit me
11 in because there was a slack from, I believe, District
12 Properties BZA Ward 5 that didn't make it. So he gave me two
13 minutes. I was able to actually present something and say
14 something, and there was somebody in the audience that
15 actually gave me a letter of support. So it wasn't that I
16 didn't say something but they didn't have enough time they
17 to vote.

18 Gladly, will accept whatever decision the Board
19 makes in terms of whatever, postponed or not. We definitely
20 are going to face a serious financial hardship. We have a
21 very serious high interest rate on the loan, on the lot, and
22 having to pay additional months is not something that we are
23 looking forward to. But it is what it is. If the Board
24 decides that we have to postpone -- he's a very nice
25 chairman. He's going to work with me, and if the Board

1 decide that I have to make the presentation today, we will.
2 I just want to come here to let the Board know that we did
3 everything we could do to reach out.

4 CHAIRPERSON HILL: Well, Mr. Ajiboye, I understand
5 that and it's unfortunate, I guess, however it went down.
6 You know, this is -- Commissioner Holmes is saying he didn't
7 know about it until 6/7. And so that was just kind of a
8 tough time for him to get it, and that ANC, as you know,
9 there's a lot of projects that are going on in that ANC --
10 shaking his head -- and that come before us. So they're
11 pretty much -- you know, they're trying to do their best.
12 But does anybody have any questions for Mr. Ajiboye or the
13 Commissioner.

14 MEMBER WHITE: Thank you for the information
15 because I wasn't sure which way I was kind of going to go
16 with this. But from what I understand, you made the first
17 attempt May 27th with a series of emails, but you did have
18 like at least a short two-minute presentation to the ANC a
19 couple weeks later, I think on the 12th. But, you know, they
20 did receive your email June 7th so there hasn't been a lot
21 of time that's passed since the first attempt. But I am
22 sensitive to the financial issues. I don't know if you're
23 starting construction draws or anything yet, because this is
24 new construction, right, so I don't know if you'll be able
25 to have a conversation with the bank. But from a financial

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1 perspective, can you just shed some light on exactly what
2 kind of financial hardship is involved here?

3 MR. AJIBOYE: Thank you, Commissioner White. As
4 you can see, this is a new construction. We took out a loan
5 on the vacant lot and the new construction months ago. The
6 first memo that I would receive from BZA was in April so
7 we've been making payment on this lot and the construction
8 loan now for about six months. Having said that, this is
9 going to put additional constraint on going forward to make
10 my presentation on the 12th. I probably won't be back here
11 looking at the calendar until sometime on the 17th of
12 September or October. I don't know.

13 So if there is anything that can be done to -- and
14 the Chairman actually said, when I did my two-minute
15 presentation, that he might call a special meeting based upon
16 my concern and other applications, but that didn't happen
17 either because -- we did talk about it and the SMD
18 Commissioner Smith, reached out to him several times. I
19 didn't get any response to that.

20 So we actually did everything we could to not be
21 in this situation, but --

22 CHAIRPERSON HILL: Okay. Great. Anyone else?
23 Yes, please.

24 COMMISSIONER MILLER: Thank you, Mr. Chairman.
25 So Mr. Ajiboye, I see the email this morning from

1 Commissioner Holmes -- wanted to make sure -- Chairman Holmes
2 -- inviting you to attend the August 29 Executive Committee
3 Meeting, and he made the commitment that it would be on the
4 agenda for their September 12; are you able to accept that
5 invitation; would you be able to make that Executive
6 Committee if the Board decides to postpone 'til our
7 September, I guess, it would be September 18th would be the
8 first meeting after. And would you, Commissioner Holmes, be
9 able to get to us something before the September 18th --

10 MR. HOLMES: Yes. Usually, by the time we have
11 the meeting, we kind of know where it's going to go.

12 COMMISSIONER MILLER: Okay.

13 MR. HOLMES: The only thing we don't know at the
14 time is the number of residents who may attend the meeting
15 at which case, then we may get new additional facts. But we
16 also try to do just to make sure that we know that -- pretty
17 much how the vote's going to go in advance, we also know that
18 he would have to go to the Far Northeast Civic Association
19 and talk with that organization so by the time he comes to
20 that group, our group and back to us, we know for a fact that
21 it's going to be up or down.

22 COMMISSIONER MILLER: So Mr. Ajiboye, would you
23 be able to have those -- make those meetings with the Civic
24 Association, with the Executive Committee, and then the ANC
25 September meeting?

1 MR. AJIBOYE: Yes, Commissioner Miller. If I
2 don't have any choice, I will go to the Executive Meeting to
3 make my presentation and go --

4 COMMISSIONER MILLER: Okay.

5 MR. AJIBOYE: -- to the meeting.

6 CHAIRPERSON HILL: Okay. Thank you. All right.
7 Anybody else? Okay. Mr. Ajiboye, I think we're going to end
8 up postponing this so looking at the calendar again,
9 Commissioner, you said that the 18th is when you guys meet
10 again?

11 MR. HOLMES: No. It's the second week. That
12 should be the 12th.

13 CHAIRPERSON HILL: The 12th. Okay. I'm sorry.
14 The 12th and then you think that you can get him on that
15 calendar and he can have the previous -- he can also meet
16 with your subcommittee before then?

17 MR. HOLMES: Yes.

18 CHAIRPERSON HILL: Okay. And then you think you
19 might be able to get us a report -- how long do you think you
20 might be able to turn around a report?

21 MR. HOLMES: As soon as we go --

22 CHAIRPERSON HILL: You need to push the
23 microphone. I'm sorry.

24 MR. HOLMES: Yes. I'm sorry about that. Yes.
25 As soon as we go ahead and make the official public vote --

1 CHAIRPERSON HILL: Okay.

2 MR. HOLMES: -- then it'll be -- it can already
3 be drafted in advance.

4 CHAIRPERSON HILL: Okay.

5 MR. HOLMES: So it can be sent the next day.

6 CHAIRPERSON HILL: Okay. All right. So then that
7 would put us on possibly September 18th, Mr. Moy?

8 MR. MOY: Yes.

9 CHAIRPERSON HILL: Is that -- how is that looking?
10 I already know the answer probably.

11 MR. MOY: The Board is -- will be carrying every
12 -- for the entire month of September 10 to a dozen cases but
13 given the circumstances of this application, I would suggest
14 that we do it as soon as possible.

15 CHAIRPERSON HILL: Okay. All right. So Mr.
16 Ajiboye, we're going to do our best to get you in here as
17 well even though we're kind of backed up as well, unless the
18 Board has any other thoughts? Okay. So the one thing I will
19 mention Mr. Ajiboye, I guess, you know, if you could kind of
20 go back and take a look at your burden of proof and kind of
21 how you want to strengthen that a little bit in terms of your
22 burden of proof. I mean I understand that the Office of
23 Planning has approved this or they believe that it is
24 something, you know, that they should approve but possibly,
25 you could go back and take a look at your burden of proof and

1 possible strengthen that a little bit; all right?

2 And then -- yes, that's it. So then I guess we'll
3 go ahead and postpone you guys until September 18th, Mr. Moy?

4 MR. MOY: That's correct, sir.

5 CHAIRPERSON HILL: Okay. Thank you all very much.

6 MR. AJIBOYE: Thank you, Chairman.

7 MR. HOLMES: Thank you.

8 CHAIRPERSON HILL: Enjoy your summer. Go ahead,
9 Mr. Moy.

10 MR. MOY: Thank you, Mr. Chairman. So, going back
11 to the batting order here. So if I can have parties at the
12 table to Case Application Number 20032 of Tana LLC, and I'm
13 going to read for the record the caption, the relief that was
14 originally filed for special exceptions under Subtitle E
15 Section 5201 from the lot occupancy requirements of Subtitle
16 E Section 304.1, nonconforming structure requirements,
17 Subtitle C Section 202.2, and pursuant to Subtitle X, Chapter
18 10, for an area variance from the density requirements of
19 Subtitle E Section 201.4, to renovate and to expand an
20 existing 8-unit apartment house to a 10-unit apartment house
21 from the 10-unit apartment house. This is in the RF-1 Zone
22 at premises 585 Columbia Road, Northwest, Square 3051, Lot
23 174. I would add, Mr. Chairman, that there is a suggestion
24 of possibility to discuss the altering for instead of a
25 variance, special exception from the density requirements of

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1 Subtitle E Section 201.4.

2 CHAIRPERSON HILL: All right. So the applicant
3 heard that question Before you respond, I'm going to do
4 something else. Are there any commissioners here in the
5 audience, ANC commissioners in the audience? Okay. At the
6 break, if the commissioners in the audience can let the
7 secretary know what case they're here for, and we'll see if
8 we can kind of like move that around a little bit. All
9 right. So if you could please introduce yourselves for the
10 record?

11 MS. MORRIS: It's Emily Morris. I am an attorney.
12 I represent the applicant, Tana LLC.

13 CHAIRPERSON HILL: Okay.

14 MR. CLARK: Sheldon Clark, the architect for the
15 project representing R. McGhee & Associates.

16 CHAIRPERSON HILL: Okay. I think you've both been
17 here before, right? Okay. So Ms. Morris, I guess, did you
18 hear the question that the Secretary raised?

19 MS. MORRIS: If he could repeat it, that would be
20 great.

21 CHAIRPERSON HILL: Sure, why not, Mr. Secretary?

22 MR. MOY: If you want me to, okay. All right.
23 There's been a suggestion that this a special exception that
24 would fall under Section 5201, so this would be Subtitle E
25 Section 201.4, which would be from the density requirements.

1 Right. And you're currently here for a -- I mean your
2 caption is a variance, and I guess the Office of Planning
3 also has some thoughts on this. So I guess, Ms. Morris, I'm
4 a little -- you're not aware of any of this?

5 MS. MORRIS: I am not aware of it but I do know
6 that there was a lot of back and forth and talking with OP
7 and with Matt LeGrant about which relief was really requested
8 and required. So I know that it's kind of a gray area, so
9 I can -- I understand why.

10 CHAIRPERSON HILL: Okay. So can I got a little
11 bit out of order here and kind of turn to the Office of
12 Planning to help for a little bit of clarification?

13 MS. VITALE: Certainly. Good morning, Mr. Chair,
14 members of the Board. Elisa Vitale with the Office of
15 Planning. And has been noted, there was some back and forth
16 and, you know, extensive discussion regarding the appropriate
17 relief for this case. This is a unique situation in that we
18 have a purpose-built, multi-family building in the RF-1 Zone.
19 Normally, when you see cases like this, it would be a pre-58
20 multi-family building, or a conversion of a flat to a multi-
21 family building. And normally, the appropriate relief in
22 those instances, if the property does not have 900 square
23 feet of land area per dwelling unit, that would be a
24 variance. Relief generally isn't available under 5201 for
25 those applications.

1 In this case, in reading the regulations, they do
2 not account for legally-constructed, multi-family buildings
3 that were constructed after 1958 but before 1970, which is
4 when the zoning commission revised the old R-4 now RF
5 regulations to no longer permit the construction of multi-
6 family buildings. So as we've said, this is very unique.
7 It's an unusual situation but based on the fact that there
8 are not provisions in the regulations that would point to a
9 variance, relief from the lot occupancy requirements -- or
10 I'm sorry, not lot occupancy, density requirements is
11 available through 5201. So in this instance where they do
12 not meet the 900 square feet of lot area per unit, we believe
13 that they can seek relief under 5201 from that density
14 requirement and from the requirements of E 201.4.

15 CHAIRPERSON HILL: Okay. And again, I'm looking
16 through your report or have reviewed your report. That is
17 how the Office of Planning has provided their analysis,
18 correct?

19 MS. VITALE: That is correct. We analyze the
20 special exception 5201 relief.

21 CHAIRPERSON HILL: So Ms. Morris, I assume that
22 you would not be opposed to changing your application to what
23 the Office of Planning suggests in terms of being a special
24 exception, correct?

25 MS. MORRIS: Correct.

1 CHAIRPERSON HILL: Okay. All right. So then
2 unless the Board has any other questions in that regard, Ms.
3 Morris, you can go ahead and present to us in terms of, if
4 you could, as to what you're trying to do in terms of the
5 project. And then if the Board has any questions, we can
6 kind of move through at that point.

7 MS. MORRIS: Of course.

8 CHAIRPERSON HILL: Okay. Just -- I'm sorry, I'm
9 going to put 15 minutes up on the clock above you on the
10 ceiling just so we know where you are, and you can begin
11 whenever you like.

12 MS. MORRIS: Great. I'm going to kind of present
13 you an overview of what the situation is, and then I'm going
14 to defer to my colleague to go through the specifics of the
15 design. This is an 8-unit apartment building. Currently,
16 only four of the units are occupied because it's becoming
17 uninhabitable because it's such an old building. It's at the
18 end of its useful life. It's also a very odd shape. The
19 third floor is not really fully utilized. It's half of it
20 so kind of strange room deck. So we're just asking to
21 basically bump it out to be the full foot print of the actual
22 current structure, including the balconies and within the
23 setbacks that are existing. So the only relief we're really
24 asking for is to expand to the current footprint, which we
25 have to do because it's a nonconforming use, and to create

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1 two additional units to help the owner, who is a longstanding
2 property manager. This is his first building he's ever
3 purchased himself, and he intends to renovate it and hold it
4 and lease it himself. So he's looking to have a little bit
5 of extra units so that he can keep his revenue flows going
6 and finance the renovation.

7 All the HVAC systems, plumbing systems, and
8 electrical systems have to be upgraded and redone in order
9 for it to be truly habitable. It's -- I'm trying to think,
10 what else is there? The parking is going to remain five
11 units including a handicapped parking space, which is in
12 compliance with the parking requirements.

13 And I think I will turn it over to my colleague,
14 Sheldon, to go through the specifics of the design. We've
15 met with the ANC several times, and they had some feedback,
16 and I think OP had some design feedback that we've addressed.
17 And I don't believe that DDOT has any objections. The ANC
18 is in full support.

19 MR. CLARK: So just to run through the elevations
20 and kind of general massing and plans of the area here. This
21 is the existing building, front elevation, image number 1
22 here. As this building was constructed, as kind of a mid-
23 century building here, it has, as was stated, kind of
24 extended past its useful lifespan. While it is a little bit
25 out of place in the sense of the rest of the context of the

1 neighborhood of the other homes that are currently there, it
2 was something that was, I guess, very much of its time when
3 it was constructed.

4 It's primarily load-bearing masonry construction
5 on the skin of the building with a large multi-story
6 storefront atrium space as you enter the building. And on
7 the rear, you can see from there the third story of the
8 building doesn't take up the full footprint. There is that
9 kind of roof deck area up there that we'd like to expand into
10 that space there as well as expand to these rear balconies
11 and terraces on the rear there and encapsulate into the built
12 area and then kind of bump out the building on the side as
13 well.

14 These are just technical drawings of the existing.
15 As you can see, we're approximately 28 feet of height from
16 average grade at the midpoint of the building. We're not
17 looking to go up any higher than that and also, to get you
18 situated here on the site plan, as you can see, where we're
19 looking to add additional area to the building here, if we
20 come -- I'll skip, actually -- over here. So what we're
21 looking at doing is keeping the load-bearing masonry walls
22 in the building, extending out on the -- the front, sides,
23 and rear of the building, and re-skinning that in something
24 that's more contemporary skin of -- in the area. As you can
25 see on the -- what is that, the western -- no, the eastern

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1 side of the lot, the single-family house that's been recently
2 converted into a two-over-two condo sits up higher than our
3 building. We're not going up any higher than the original
4 height of the building and still maintaining our side yard
5 on one side of the building. It's currently is your lot line
6 on the other side of the building, and maintaining that wall
7 on that side.

8 CHAIRPERSON HILL: Okay. Mr. Clark, I'm just
9 going to hold you up just one second.

10 MR. CLARK: Okay.

11 CHAIRPERSON HILL: Does the Board have any
12 questions for the applicant?

13 MEMBER WHITE: My only question -- maybe that was
14 a question you were going to ask about just making sure that
15 they're meeting the special exception criteria in terms of
16 privacy, light and air, and that it conforms with the
17 neighborhood. And I -- at some point, I want you to address
18 that --

19 MR. CLARK: Okay.

20 MEMBER WHITE: -- so that I'm comfortable that the
21 criteria was met.

22 MR. CLARK: Okay. And I guess that's also going
23 towards this whole -- the side yard setback there,
24 maintaining a full side yard on the side where we aren't
25 already a zero lot line and providing windows on there. The

1 adjoining building is a zero lot line building with no
2 windows on that side, so the units that are on that side
3 elevation here would not be looking into other windows on the
4 adjoining property but at their party wall and with a full
5 side yard setback on that side, so we'd be able to get plenty
6 of light, air, operable windows on that side as well into
7 those units.

8 MEMBER WHITE: Okay.

9 MR. CLARK: On the front and rear, the same thing,
10 that we're still maintaining light and air for those units
11 as well. And as I was saying, the other side of the building
12 was already zero lot line with a plain brick facade. The
13 change in the brick tone indicates where we would be looking
14 to incorporate to kind of either -- never able to match but
15 to complement the existing brick and extend that brick wall
16 further back and create kind of an entry sequence there on
17 that side of the building.

18 CHAIRPERSON HILL: Okay. Does anyone have any
19 other questions?

20 VICE CHAIR HART: Just curious. What's the gray
21 panel; what is that? Is that a Hardie board?

22 MR. CLARK: So looking at -- initially, we want
23 to start off with a metal panel and go towards a metal panel.
24 If we have to go back to a Hardie, but it would be something
25 that's a resilient material that we're looking at doing. One

1 of the other things -- just to speak real briefly to some of
2 the requests that were made or the comments that we had,
3 initially, we were looking at a vertical corrugated metal
4 panel. We've since replaced that with this softer, warmer
5 composite wood panel that you see on the front elevation
6 here. That was requested to kind of give a little bit of
7 warmth, a little bit of softness to the building and not go
8 full bore contemporary with a -- with a harsh metal panel.

9 VICE CHAIR HART: And there's no roof deck, right?

10 MR. CLARK: No. There's no roof deck, no roof
11 amenities. We would be looking to put our condensers on the
12 roof and set those back from the edge as appropriate.

13 VICE CHAIR HART: Thank you.

14 CHAIRPERSON HILL: Commissioner Miller:

15 COMMISSIONER MILLER: Thank you, Mr. Chairman.
16 Good to see you again, Ms. Morris.

17 MS. MORRIS: It's good to see you.

18 COMMISSIONER MILLER: We worked together in a
19 previous life eons ago in the Executive Office of the Mayor
20 as I recall.

21 MS. MORRIS: Yes, that's correct.

22 COMMISSIONER MILLER: So thank you for this
23 application. I think it is a unique application and I think
24 you might have met the variance test if you had to that route
25 because it is so unique in terms of a purpose-built apartment

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1 building during the time period that it was -- and that
2 you're seeking an expansion of it in an RF Zone, which has
3 a lot of new or recent criteria that didn't exist previously.
4 So my question is you're going to -- you're going from 8
5 units to -- and I think it's an attractive addition and
6 compatible with the neighborhood -- but you're going from 8
7 units to 10 units, which I believe might trigger the
8 inclusionary zoning requirement.

9 MS. MORRIS: I don't -- under the current regs,
10 I don't believe so but that's something we'll have to deal
11 with during the building permit process. We're not
12 increasing the FAR, which I think is what really triggers,
13 but we will work through that as necessary.

14 COMMISSIONER MILLER: Okay. I'll ask Office of
15 Planning about that. I guess -- I mean you gave us a reason
16 for increasing the units as -- for the revenue, to make the
17 project work.

18 MS. MORRIS: Yes.

19 COMMISSIONER MILLER: I just -- you may want to --
20 I'd hate to lose that inclusionary zoning unit, but I think
21 one of the units under the regs -- so you might want to check
22 out how the ZA is interpreting that. Might be if it's an --
23 what, is it going to be an apartment building or --

24 MS. MORRIS: It's going to be an apartment
25 building. We are -- even though we're increasing the number

1 of units, we're increasing the unit sizes because --

2 COMMISSIONER MILLER: No. All that's commendable.

3 MS. MORRIS: Yes.

4 COMMISSIONER MILLER: Yes. It just -- it's the
5 10 or more units, either new or renovated, that triggers the
6 IZ set aside and in this case, would be at 60 percent median
7 family income. And so that just -- if it does apply, it
8 might affect your revenue. I hope you -- it wouldn't affect
9 it enough, that you could still provide that because I think
10 it's needed in that neighborhood.

11 MS. MORRIS: Yes.

12 COMMISSIONER MILLER: And that would be another
13 important benefit of this project, but I just wanted to point
14 that out.

15 MS. MORRIS: Thank you.

16 COMMISSIONER MILLER: Thanks.

17 CHAIRPERSON HILL: Okay. Anyone else?
18 Commissioner Miller, if it was eons ago, you both must have
19 been children.

20 COMMISSIONER MILLER: We were.

21 (Laughter.)

22 CHAIRPERSON HILL: Going to turn to the Office of
23 Planning, please, even though we kind of did the Office of
24 Planning, but you can please go again.

25 MS. VITALE: Sure. Good afternoon, again, Mr.

1 Chair, members of the Board. Elisa Vitale with the Office
2 of Planning. I ran through kind of the background and how
3 we got to where we are with respect to the relief. The
4 Office of Planning believes that the applicant has met the
5 special excepting criteria for relief under 5201. As the
6 applicant, or architect rather, outlined, they are, you know,
7 maintaining a conforming side yard on the east side where the
8 property is semi-detached. There's a side yard on the west
9 side that provides separation. We don't believe light and
10 air or privacy of use and enjoyment of the neighboring
11 properties would be unduly affected. The applicant has
12 provided elevations and they are not proposing to exceed the
13 maximum permitted 70 percent lot occupancy. This wouldn't
14 introduce a nonconforming use or a height that is beyond
15 what's permitted for the RF Zone. Therefore, OP is
16 recommending approval of the requested relief, and I am happy
17 to answer any questions. Thank you.

18 CHAIRPERSON HILL: Thank you. Does the Board have
19 any questions for the Office of Planning?

20 COMMISSIONER MILLER: I guess I should follow-up
21 with the Office of Planning. Do you have an opinion -- or
22 did you -- I guess did you -- I don't know if you all looked
23 into that or thought about, because it's not really part of
24 their relief that's being requested here, but it's always on
25 my mind.

1 MS. VITALE: Sure. We did not address this
2 specifically with the applicant. We generally would defer
3 to DCRA at the time of building permit. The current
4 inclusionary zoning regulations would apply in instances
5 where the applicant's proposing new gross floor area that
6 would result in 10 or more dwelling units or a project where
7 they will have 10 or more dwelling units constructed
8 concurrently or in phases. So it could apply in this
9 instance but that would be determined at the time the
10 applicant applies for a building permit.

11 COMMISSIONER MILLER: Okay. Thank you.

12 CHAIRPERSON HILL: Okay. Anyone else for the
13 Office of Planning? Does the applicant have any questions
14 for the Office of Planning?

15 MS. MORRIS: No, sir.

16 CHAIRPERSON HILL: All right. Is there anyone
17 here wishing to speak in support?

18 (No response.)

19 CHAIRPERSON HILL: Is there anyone here wishing
20 to speak in opposition?

21 (No response.)

22 CHAIRPERSON HILL: Is there anything else you'd
23 like to add at the end, Ms. Morris?

24 MS. MORRIS: No, thank you.

25 CHAIRPERSON HILL: Okay. I'm going to close the

1 hearing. Is the Board ready to deliberate? Okay. I can
2 start. I would agree with the analysis of the Office of
3 Planning in terms of the special exception. I also do think
4 that it is a special exception rather than the variance,
5 although I would agree with Commissioner Miller it possibly
6 could have met the variance test. And also, I am agreeing
7 with the analysis of the ANC. Actually, I'm going to reopen
8 the hearing just for one second again, because I had a
9 question, and maybe you addressed. The ANC was talking about
10 heavy-gauge aluminum and was that something that you guys
11 talked about?

12 MS. MORRIS: I let Mr. Clark address that.

13 MR. CLARK: So we were looking at doing the
14 corrugated aluminum panel initially. That's been replaced
15 by the wood composite panel. The issue that they had were
16 a few projects in the neighborhood were using a really light-
17 gauge corrugated metal panel, and so could see the oil
18 canning and the buckling from that, really gave them,
19 basically, the -- our intention to use a heavier gauge, a
20 heavy enough gauge that you wouldn't have the oil canning
21 issue. But we have since basically revised away from the
22 aluminum so that it would be a non-issue now.

23 CHAIRPERSON HILL: Okay. I got it. Closing the
24 hearing again. I don't even if I -- I wonder if you have to
25 do that. So going back to the deliberations; again, I

1 thought that the applicant has met the criteria necessary to
2 approve and I will be voting to approve under a special
3 exception. Is there anything else the Board would like to
4 add?

5 MEMBER WHITE: I would only add that it's a very
6 attractive project but more importantly, I think they met the
7 special exception criteria. I asked that question about, you
8 know, light and air and privacy and character, but I believe
9 that they've met that criteria. And with the Office of
10 Planning's report and the ANC's support, I am comfortable,
11 but I do concur with my colleague that it would be nice to
12 see at least one IZ unit, but that is not in our purview
13 right now. But I'm assuming that'll be looked at during the
14 permitting project, but it's certainly something that's
15 needed in this neighborhood. So I will be voting in support.

16 CHAIRPERSON HILL: Okay. Anyone else? All right.
17 I'm going to make a motion to approve application number
18 20032 of Tana LLC pursuant to 11 DCMR Subtitle X, Chapter 9,
19 for special exceptions under Subtitle E 5201 from the lot
20 occupancy requirements of Subtitle E 304.1, from the
21 nonconforming structure requirements of Subtitle C 202.2, and
22 from the density requirements of Subtitle E 201.4, to
23 renovate and to expand an existing 8-unit apartment house to
24 a 10-unit apartment house in the RF-1 Zone, premises 585
25 Columbia Road, Northwest, Square 3051, Lot 174, and ask for

1 a second?

2 VICE CHAIR HART: Second.

3 CHAIRPERSON HILL: Motion made and seconded. All
4 those in favor, say aye?

5 (Chorus of ayes.)

6 CHAIRPERSON HILL: Aye. All those opposed?

7 (No response.)

8 CHAIRPERSON HILL: The motion passes. Mr. Moy.

9 MR. MOY: Staff would record the vote as 5-0-0.
10 This is on the motion of Chairman Hill to approve the amended
11 relief being requested; seconded the motion, Vice Chair Hart;
12 also in support, Ms. John, Ms. White, and Zoning Commissioner
13 Robert Miller.

14 CHAIRPERSON HILL: Okay. Thank you. Thank you
15 very much.

16 MS. MORRIS: Thank you very much.

17 CHAIRPERSON HILL: All right. Mr. Moy, you can
18 call our next case when you like.

19 SECRETARY MOY: Thank you, Mr. Chairman. So that
20 would be Case Application Number 20038 of Charles and Kristi,
21 K-R-I-S-T-I, Cooper, as captioned and advertised for special
22 exceptions under the use requirements of Subtitle U Section
23 301.1(e), Subtitle E Section 5201 from the lot occupancy
24 requirements of Subtitle E Section 304.1, and under Subtitle
25 E Section 5007 from the accessory building lot occupancy

1 requirements, Subtitle E Section 5003.1. This would
2 construct an accessory structure with a garage and
3 second-story dwelling unit to an existing attached principal
4 dwelling unit in RF-1 Zone. This is at 221 10th Street,
5 Southeast, Square 0944, Lot 0035.

6 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.
7 Moy. Could you please introduce yourselves for the record?

8 MS. COOPER: Kristi Cooper, the homeowner at 221
9 10th Street, Southeast.

10 MS. FOWLER: Hi. Jennifer Fowler. I'm the
11 architect. Ms. Cooper needs to be sworn in, please?

12 CHAIRPERSON HILL: Thanks, Ms. Fowler. If there's
13 anybody else here who would like to testify who hasn't been
14 sworn in, if you could please stand and take the oath
15 administered by the secretary to my left.

16 SECRETARY MOY: It looks like you're alone in
17 this.

18 CHAIRPERSON HILL: Hold on one second, Mr. Moy.

19 SECRETARY MOY: Okay.

20 CHAIRPERSON HILL: Okay. Thank you.

21 SECRETARY MOY: Do you solemnly swear or affirm
22 that the testimony you're about to present at this proceeding
23 is the truth, the whole truth, and nothing but the truth?

24 (Witness sworn.)

25 SECRETARY MOY: Thank you. You may be seated.

1 CHAIRPERSON HILL: Okay. Great. Thank you. Ms.
2 Fowler, I assume you're presenting to us?

3 MS. FOWLER: Yes.

4 CHAIRPERSON HILL: We haven't seen your husband
5 in a while.

6 MS. FOWLER: I know. I need to send him more
7 often, don't I?

8 CHAIRPERSON HILL: No, he's messy. Okay. So Ms.
9 Fowler, if you could go ahead and just walk us through your
10 project and what you're trying to do and then also how you're
11 meeting the standard for which we can approve the
12 application? I'm going to put 15 minutes on the clock and
13 you can begin whenever you like.

14 MS. FOWLER: Okay. Thank you very much. So
15 again, we're asking for relief for -- to build a two-story
16 garage with an accessory apartment on the second floor. It's
17 slightly higher than the allowed 450 square foot occupancy
18 for a garage. That's another item we're asking for as well
19 as permission to include an accessory -- an actual legal
20 rental unit. The proposed garage sits to the -- sorry,
21 that's the west of the -- that main house at the rear of the
22 property. This alley is a 20-foot wide and there's a number
23 of garages, two-story and one-story. In fact, this is one
24 of the few houses that still has an open parking pad on this
25 block.

1 Directly to the south is a two-story carriage
2 house that actually was expanded a few years ago under a
3 variance relief and has living space on the second floor.
4 The garage to the north is a one-story currently but then
5 across the alley, you have a number of two-story garages,
6 many of which have occupancy, including a couple across the
7 alley that have commercial space. It's been a number of
8 things over the years, I think cabinet makers and those kinds
9 of things. So again, there's definitely a lot of precedent
10 on this block particularly for having a two-story structure,
11 because there's probably more two stories than one on this
12 location.

13 So again, the -- we originally proposed -- we're
14 looking at a much deeper -- not much deeper but a couple foot
15 deeper garage. We met with the two adjacent neighbors, 219
16 and 223 before we filed our plans and worked with them to
17 kind of come up with a size that they were comfortable with.
18 So we agreed to the 24' 6" and really, that was based on the
19 -- if you look at 223, we're out about 2-1/2 feet beyond that
20 face which mirrors what they have on the other side at 225.
21 So kind of keeping that symmetrical on that side. We also
22 had to -- we are maintaining the 12-foot center line setback,
23 so we didn't ask for relief there which kind of pushes the
24 garage closer into the yard, but it does allow for the
25 terrain radius into the garage from the alley.

1 Both neighbors are in support of the project, so
2 we have those letters in the record. The neighbor to the
3 north had concerns about a green roof that's on the garage,
4 but we've come up with an agreement to make sure that that
5 gets taken care of and doesn't get damaged during
6 construction. Again, so we have support from the neighbors.
7 We have ANC support. Again, it's a very -- pretty well-
8 received project and also Historic has approved it.

9 So that's pretty much the project. I'll leave it
10 open to questions.

11 CHAIRPERSON HILL: Okay. Great. Thank you.

12 MS. FOWLER: Thank you.

13 CHAIRPERSON HILL: Does the Board have any
14 questions for the applicant? Ms. Cooper, how long have you
15 been there?

16 MS. COOPER: I have lived there since 2007. My
17 husband has lived there since 2001.

18 CHAIRPERSON HILL: Okay. And so I'm just kind of
19 curious. Your next-door neighbor then, they have a garage
20 similar to yours now?

21 MS. COOPER: Both of our next door neighbors have
22 garages. One of them has a two-story garage with a dwelling
23 above, and one has a one-story garage. They both have
24 garages.

25 CHAIRPERSON HILL: Okay. All right. No one has

1 any questions. Going to turn to the Office of Planning.

2 MR. MORDFIN: Good morning. I'm Stephen Mordfin
3 and the Office of Planning supports this application finding
4 that it is in conformance with the criteria necessary for the
5 approval of the special exceptions requested and is available
6 for questions. Thank you.

7 CHAIRPERSON HILL: Does the Board have any
8 questions for the Office of Planning?

9 Does the applicant have any questions for the
10 Office of Planning?

11 MS. FOWLER: No, thank you.

12 CHAIRPERSON HILL: Is there anyone here who wishes
13 to speak in support?

14 Is there anyone here who wishes to speak in
15 opposition?

16 Is there anything else you'd like to add, Ms.
17 Fowler, at the end?

18 MS. FOWLER: No. Thank you very much.

19 CHAIRPERSON HILL: Okay. Going to go ahead and
20 close the hearing. Is the Board ready to deliberate? Okay.
21 I thought this was pretty straightforward. I didn't have a
22 lot of questions. I thought that the analysis that the
23 Office of Planning has provided as to how they're meeting the
24 special exception criteria, I would agree with, in terms of
25 also the fact that the ANC is in support with their analysis,

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1 and then I thought that the burden of proof that the
2 Applicant has provided is sufficient to convince that they're
3 meeting the criteria. Does the Board have anything else
4 they'd like to add before I make a motion?

5 Okay. Going to make a motion to Approve
6 Application Number 20038 as captioned and read by the
7 secretary and ask for a second?

8 VICE CHAIR HART: Second.

9 Motion made and seconded. All those in favor, say aye?

10 (Chorus of ayes.)

11 CHAIRPERSON HILL: All those opposed?

12 (No response.)

13 CHAIRPERSON HILL: Motion passes. Mr. Moy.

14 MR. MOY: Staff would record the vote as 5-0-0,
15 and this is on the motion of Chairman Hill to approve the
16 application for the relief requested; seconding the motion
17 is Vice Chair Hart; also in support, Ms. John, Ms. White, and
18 Commissioner Robert Miller.

19 CHAIRPERSON HILL: Okay. Great. Thank you.
20 Thank you. I was just making a joke about your husband.
21 He's very -- very clean cases forward all the time. We are
22 going to take a quick break, and then I know that there was
23 a commissioner that I asked to speak to the secretary about
24 which case they're here for. And then we probably are going
25 to reorganize some things just so to let everybody know, but

1 we'll come back right after the break.

2 (Whereupon, the above-entitled matter went off the
3 record at 10:39 a.m. and resumed at 10:54 a.m.)

4 CHAIRPERSON HILL: Okay. We're going to get
5 started again, Mr. Moy, and I guess let's -- we're going to
6 change up the order just a little bit in that we're going --
7 there's two applications from one particular applicant and
8 also, there's a commissioner here for one of the
9 applications. I think the commissioner here is for 20053,
10 so if we could call that one next, Mr. Moy, that would be
11 helpful.

12 SECRETARY MOY: Yes. Thank you, Mr. Chairman.
13 So again, that would be Case Application Number 20053 of
14 Mohammed Sikder, caption and advertised for area variance
15 from the side yard requirements of Subtitle D Section 206.2,
16 to construct a new detached, principal dwelling in the R-1-B
17 Zone. This is at premises at 2433 Girard, G-I-R-A-R-D, Place
18 Street, Northeast, Parcel 15 -- or rather Parcel 1555/7. And
19 I believe there's a couple preliminary matters here, Mr.
20 Chairman, the first being that the applicant filed a motion
21 requesting that the Board waive the posting rules for late
22 posting.

23 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.
24 Moy. I'm sorry, you guys. I was trying to find it. All
25 right. So the -- I guess -- well, first of all, can you guys

1 introduce yourselves for the record?

2 MR. DAVIS: Adam Davis representing Mohammed
3 Sikder.

4 MR. MONTAGUE: Jeremiah Montague, Jr.,
5 representing ANC 5C.

6 CHAIRPERSON HILL: Commissioner Montague, welcome
7 back, welcome back, welcome back, welcome back. All right.
8 Let's see, so Mr. Davis, I guess if you could first speak to
9 the preliminary matter in terms of the waiver that you're
10 requesting? Let's go ahead and try to talk that through
11 first.

12 MR. DAVIS: Yes. Good morning, Board. We had a
13 mix-up in our posting. We own the lots both at 2433 and 2429
14 Girard, and we -- our field person accidentally posted it on
15 2429 Girard and not 2433, so that's why we amended that. It
16 was under the 15 days so that's why -- that's why we're
17 asking to -- asking for that motion.

18 CHAIRPERSON HILL: Right. So you're saying that
19 you -- -- as I understand it, so you posted six days late,
20 at least according to what we have; is that correct?

21 MR. DAVIS: Yes, when we found out, yes.

22 CHAIRPERSON HILL: And so are you telling me that
23 you did post on time but you posted next door?

24 MR. DAVIS: Yes.

25 CHAIRPERSON HILL: All right. Oh, I'm sorry, two

1 doors down.

2 MR. DAVIS: Two doors down, yes.

3 VICE CHAIR HART: And the two doors down was the
4 -- was a case that we had already heard.

5 MR. DAVIS: Yes, it is.

6 VICE CHAIR HART: Yes. So I mean my issue is that
7 it is a continuing issue that we seem to have with your
8 company, and I -- to say that I'm frustrated is not saying
9 it loudly enough. I do not appreciate having to go through
10 this every time that your client is in front of us or your
11 applications are. And I don't know what we need to do other
12 than -- I think we should actually reschedule the meeting.
13 I do not appreciate having to deal with this issue. Your
14 company is looking to develop particular sites in and around
15 -- in DC, and to me, one of the main things that you all need
16 to do is to accurately describe the projects that are before
17 the community so that they have an idea about what it is that
18 they are supposed to expect and what projects are being --
19 are coming before us and when they're coming before us.

20 And right now, it's like this is a game and I feel
21 that you all -- your company is not taking this seriously.
22 And I don't like that. I'm actually very angry and I just
23 find that since we continue to have this conversation, I
24 don't want to deal with this anymore. At least I don't want
25 to deal with this until you all figure out how to accurately

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1 do something that every other -- that many other developers
2 seem to figure out how to do that are doing business in D.C.
3 And I don't know what the issue is, honestly.

4 I understand that people make mistakes but guess
5 what, if you have -- and you've been here a number of times
6 now that we've had this conversation with you and with other
7 folks from the -- from the staff, and it just seems like it's
8 kind of like a recurring, well, here we go, we have another
9 issue with posting and maintenance. And posting is so that
10 the community understands what's being before us.
11 Maintenance is for us, the Commission, to understand that
12 that sign has actually been put up and the community is well-
13 aware of what's before them and what is going to be discussed
14 and what the -- what relief you're looking to get. And I'm
15 just tired. I'm tired of it, all of it.

16 This is the -- you all have two cases before us
17 today, at least, that have the same issue, and it's not even
18 like they're in the same block. So there is a systemic
19 problem that you all have that you all need to fix quickly.
20 And my suggestion would be that we don't hear this until
21 September until we come back, that you figure out how to deal
22 with this. The Agency has time to be able to kind of deal
23 with and they have -- they understand what's before them and
24 we deal with it then.

25 Again, that's my viewpoint. I don't know if it's

1 shared by my fellow Commissioners, but I'm just tired. I'm
2 tired having to have this conversation again and again, and
3 we had some other folks before us before that were
4 representing your company, and we told them the same issue,
5 and that seems like it's falling on deaf ears. And it is not
6 something that I appreciate and I just feel that it's, again,
7 not being taken seriously enough by your company or the
8 company that you represent, and I just -- like I said, I'm
9 just tired of it all, and it is just unimaginable that
10 somebody cannot get something as simple as this continued
11 correctly -- you know, continued -- get it correct every time
12 that you -- or get it incorrect every time that you come
13 before us. And that's just my opinion on it, so I'll leave
14 it at that.

15 MEMBER WHITE: I agree with you, Mr. Vice Chair.
16 I mean I'm one of the District appointees and so I take very
17 seriously the whole issue of making sure that the residents
18 are getting proper notification for these applications,
19 especially when they're variances. So I would agree with
20 Vice Chair Hart that we postpone it to make sure that the
21 posting is done properly and that the residents have an
22 opportunity to weigh in on this application for variance
23 relief.

24 MEMBER JOHN: So I share my colleagues' concerns
25 about having to, you know, give a waiver every week for

1 different things, and it's not fair to the citizens who don't
2 know that you're seeking a variance. And so we take the
3 whole posting issue quite seriously and in this case, I
4 believe they only have seven days or something. Am I
5 correct? You were late. If this were a special exception,
6 you know, it might be easier to let it go but frankly, I am
7 also getting to the point where when I see your cases on the
8 calendar, I say well, maybe I don't have to prep this case
9 because there's something missing.

10 And the other thing is the burden of proof. You
11 know, it's the same -- pretty much the same things over and
12 over, and I think it's very easy to develop a form that
13 states, you know, what -- you know, how you meet the burden
14 of proof. And there are OP reports that describe, you know,
15 what needs to be in a burden of proof for a variance or a
16 special exception. So those things can be fixed and, you
17 know, we have to constantly do -- question, you know, your
18 company to fill out these things that, you know, I think you
19 all could, you know, step it up a bit and, you know, just to
20 help us, because we're, after all, volunteers. So that would
21 be my two cents. I will leave it to my colleagues to decide
22 what happens here. I like to be very lenient and I guess we
23 can hear from the ANC to find out if -- what sorts of
24 comments they've been getting from the neighbors.

25 CHAIRPERSON HILL: Okay. All right. Mr. Miller,

1 if you have -- I mean we're here all the time with these
2 people. So do you have anything else you'd like to add?

3 COMMISSIONER MILLER: Just one thing, Mr.
4 Chairman. I would add that if this -- it looks like this is
5 going to be postponed 'til September, and I hope that the
6 Applicant will work with the ANC to try to express -- address
7 some of the concerns and that they've expressed in their
8 resolution that's in the record. And maybe that can get
9 worked out, the time will lead to a cleaner application in
10 the fall.

11 CHAIRPERSON HILL: Okay. Great. All right. So
12 Commissioner, I am going to give you an opportunity to speak,
13 but I'm going to give my two cents also. So Mr. Davis, I
14 mean, you know, Mr. -- Vice Chair Hart is -- has, I think,
15 expressed our frustration very clearly. Last week, I think
16 we expressed our frustration also in a similar manner. I
17 know that Mr. Sikder was here before you and that you got
18 hired, I guess, as -- you know, I guess, the punching bag.
19 I'm not exactly sure, you know. And so if -- when Mr. Sikder
20 was here, and he probably came -- he also came like, I think
21 three, four times -- I can't recall -- and each time -- and
22 there was also a lot of different things that were messed up.
23 I would suggest you guys find an attorney. There are plenty
24 of attorneys. Just my suggestion, because every time,
25 there's something missing, right, either the posting. Very

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1 simple. I mean posting, affidavit of maintenance. It's like
2 you don't even read what's going on and what you're supposed
3 to do.

4 The -- and I'm not talking to you. I'm just kind
5 of throwing out your company, you know, that -- and again,
6 to the comments from Ms. John, your burden of proof is
7 usually pretty weak. It doesn't necessarily -- you know, I
8 don't even think it necessarily regurgitates the Office of
9 Planning's report very well. So in other words, what we're
10 supposed to do is we're supposed to read the applicant's
11 burden of proof and from that burden of proof, we determine
12 whether or not you meet the criteria for us to grant the
13 application.

14 In the past, we've been a little lenient with your
15 company again where we've kind of taken the Office of
16 Planning's report a little bit more seriously and -- or I
17 shouldn't say more seriously -- meaning we've kind of allowed
18 the burden of proof to be a little bit weak because the
19 Office of Planning has provided a little bit more of an
20 analysis. You guys have a business model. It's very clear
21 what your business model is in terms of finding these lots,
22 that you need side yard variance in order to fill out the
23 lot. And so I suppose, you know, it's easy enough for us to
24 deny your application because your burden of proof is weak.
25 And so, you know, because we're supposed to base it off the

1 burden of proof, not the Office of Planning's. It's what you
2 tell us; right?

3 So that's, again, kind of my thoughts and I think,
4 you know, every single time -- and just you understand this
5 -- and I love the people that are in the audience that are
6 going to get this lesson again about different things -- we
7 have to read all this stuff over the weekend, so we read all
8 this stuff. We take our time reading all this stuff, and
9 then we get here with you, and it just is like we kick it
10 down the road or there's something wrong that we have to, you
11 know, clarify. And then we have to read it again, you know,
12 three months later. And so you can respond, even though I
13 don't know what you're going to be able to say in defense of
14 yourself, but I'm going to find out what the Commissioner has
15 to say since you've been here. And Commissioner, you come
16 here a lot and I know you're opposed to this, so could you
17 tell us a little bit about why the ANC is in opposition?

18 MR. MONTAGUE: Well, the ANC and the community has
19 substantial opposition to the project, and I sat there and
20 even though the new drawings were presented on July the 3rd,
21 I actually did a re-analysis of those, and having been a
22 draftsman and whatever many eons ago, I went through to find
23 out what the deficiencies in the drawings were that were
24 trying to bolster the Applicant's case. And one of the
25 things that the nearby affected neighbors is concerned about

1 is the proximity of the house to the neighboring street so
2 when they come out of the front of the house, they're looking
3 at basically a blank wall with one or two windows in it.

4 But I went back in at 3 o'clock this morning and
5 said, we're framing the argument incorrectly. We're being
6 1Ds. We're looking at the issue as from Girard Street
7 towards the property. We're not considering the 3D where the
8 occupants along 25th Street and the substantial impact upon
9 them.

10 Okay. So in my analysis in the PowerPoint that
11 I put together for this morning, I actually went back today,
12 this morning at 7:00 and took pictures to say what the impact
13 of having this structure placed next do to one that's being
14 renovated and the substantial impact and adverse -- or gives
15 the public space that was formed from when Girard and 25th
16 were combined back in 1915. So there are other minuscule
17 things that have occurred but in general, the community
18 opposition is how does this affect and how does this change
19 our community overall so when we look down the street, down
20 Girard, which in my presentation, I provide -- there's always
21 argument that this looks like the rest of the residences.
22 And in this particular case, it doesn't because it's actually
23 going against a house that's being renovated, and it's going
24 against public space, which is against the stem part of 25th
25 Street, okay? So there are three houses which directly will

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1 be impacted visually from these, because that original parcel
2 was used as a parking space or whatever by the previous
3 owner.

4 CHAIRPERSON HILL: Okay, Commissioner.

5 MR. MONTAGUE: Got it?

6 CHAIRPERSON HILL: Yes. So Mr. Davis -- and
7 again, what this brings to my -- I guess all of the Board
8 members, as you're hearing, I mean sometimes it's as if
9 you're not even -- your company is not even listening; right?
10 Like now that I realize the last time, we asked you guys to
11 come up with like a construction -- just talk to the
12 neighbors about a construction maintenance plan; right?
13 There was even no mention of that; right? It's like the
14 things that we talk about doing here, you guys just don't
15 even seem to care.

16 And so it does actually -- it's starting to feel
17 as though like, you know, we're just kind of -- something
18 you're just trying to get through, and you're getting through
19 it pretty poorly. And so I'm commenting on that, that like
20 the ANC Commissioner has something. I don't know. There's
21 some things that you might try to work out with the ANC in
22 terms of some of their concerns. Or at least have a response
23 to some of their concerns in the next time you're here;
24 right?

25 So I'm going to turn to the Office of Planning

1 just for a minute because since you were in approval, if you
2 can kind of tell us a little bit about your analysis, because
3 I am kind of curious -- since you're here -- so we can all
4 hear it?

5 MR. JESICK: Thank you, Mr. Chairman, and members
6 of the Board. My name is Matt Jesick. As with other cases
7 of this type over the years, we felt that there was a
8 practical difficulty -- or excuse me -- an exceptional
9 situation leading to a practical difficulty, and that is that
10 there's an existing lot -- actually, a parcel. It cannot be
11 expanded east or west without becoming a record lot that
12 can't get building permits. Therefore, it would just be a
13 vacant lot in perpetuity. So we felt that the variance was
14 justified in that way.

15 We felt that given the architectural changes that
16 we had proposed and the applicant has incorporated, that the
17 structure would blend in better with that portion of Girard
18 Place, so we didn't feel that there would be a detriment to
19 the public good. The side yards that are proposed are
20 similar to or even larger than other side yards that exist
21 in that area. So overall, we felt that the applicant had met
22 the standards for approval, and so we recommended approval.
23 I'd be happy to take any further questions.

24 CHAIRPERSON HILL: Thank you. I got a quick
25 question. Do you guys look at the burden of proof that the

1 applicant presents or you just base your own analysis off
2 your own analysis?

3 MR. JESICK: Well, we create our analysis but yes,
4 we certainly read the burden of proof and --

5 CHAIRPERSON HILL: What do you think of the
6 applicant's burden of proof?

7 MR. JESICK: I've seen better, I've seen worse.

8 CHAIRPERSON HILL: Okay. So -- and OAG, what I'd
9 be asking for at some time as well, like, you know, we denied
10 one of these applications that were a tax lot, and this is
11 a parcel. So afterwards, I'm kind of curious because talking
12 about tax lots and parcels just kind of to ask that.

13 So does the -- sure, one second Commissioner. Mr.
14 Davis, do you have anything to add or comment?

15 MR. DAVIS: No, sir.

16 CHAIRPERSON HILL: Okay. Commissioner --

17 VICE CHAIR HART: Are we hearing this case today?

18 CHAIRPERSON HILL: No.

19 VICE CHAIR HART: Okay.

20 CHAIRPERSON HILL: Commissioner --

21 VICE CHAIR HART: Just want to make sure.

22 CHAIRPERSON HILL: -- do you have anything to add
23 or comment?

24 MR. MONTAGUE: It's my feeling that as you said,
25 this is an ongoing issue. There are certain things that a

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1 business who's trying to win the graces of the community
2 should do. And it shouldn't be as though this is a pro forma
3 or just a de facto well, we'll do da-da-da-da-da and then
4 we'll just breeze through it, and the Zoning Board will just
5 roll over and say, you know, good, this, that, and the other.
6 Our community is not agreeable to that; okay? So we have
7 come with a prepared substantial case that says why this
8 should not occur, okay, in opposition to what the Office of
9 Planning said, you know, we can demonstrate that while they
10 may have a substantial difficulty of building it, there are
11 two other things that they don't meet the burden.

12 CHAIRPERSON HILL: Okay. All right. So
13 Commissioner -- so we'll see what happens. So Mr. Davis, I
14 guess -- and at least Mr. Davis, you don't have to hear all
15 of this again for your second case, but I think you're going
16 to hear similar things, but it just won't be as lengthy. The
17 -- if you can go ahead and try to see what you can do with
18 your ANC, try to present to the ANC. I mean the other thing
19 that I'll mention is the Office of Planning had asked for
20 revised plans. You did get them to the Office of Planning,
21 but I think they came kind of late, you know. It seemed like
22 you were going to say something, Office of Planning. I'm
23 sorry.

24 MR. JESICK: They're at Exhibit --

25 CHAIRPERSON HILL: Right, but when did you get

1 them? That's all right.

2 MR. JESICK: I don't --

3 CHAIRPERSON HILL: That's alright, it seemed as
4 though they asked for revised plans and the revised plans
5 kind of came late, so -- but maybe that's just another case
6 that I'm thinking of. I don't know. So Mr. Davis,
7 Commissioner, you have a question?

8 MR. MONTAGUE: I have a witness here and I know
9 it's out of order but they took time off to be here.

10 CHAIRPERSON HILL: Sure.

11 MR. MONTAGUE: Is that permissible?

12 CHAIRPERSON HILL: I'm trying to think. I mean
13 I understand -- you need to turn your microphone on -- I'm
14 sorry -- off. I'm trying to think if we don't hear the case
15 -- and this has happened before. And I'm sorry, I'm just
16 trying to figure it out. Like if we don't hear the case, we
17 postpone the case, then we're not hearing the case so I can't
18 hear witnesses?

19 MR. RITTING: Well, you'd be continuing the case
20 or you've --

21 CHAIRPERSON HILL: Okay. All right. Okay.

22 MR. RITTING: -- you started the hearing.

23 CHAIRPERSON HILL: That's fine.

24 MR. RITTING: It is possible.

25 CHAIRPERSON HILL: Give me one second so I can

1 figure it out but thank you. Okay. So -- all right, so we
2 are going to postpone this case. I'm sorry, we're going to
3 continue this case. We'll continue this case. So we're
4 going to see if there's any -- is there anybody here wishing
5 to speak in support?

6 (No response.)

7 CHAIRPERSON HILL: Okay. Is there anybody here
8 wishing to speak in opposition? Please come forward. Did
9 you get sworn in already?

10 Okay. You can just stand there and if there's
11 anybody who needs to get sworn other than this witness, if
12 you could please stand and take the oath administered by the
13 Secretary to my left?

14 SECRETARY MOY: Do you solemnly swear or affirm
15 that the testimony you're about to present in this proceeding
16 is the truth, the whole truth, and nothing both the truth?

17 MS. WILSON: I do.

18 SECRETARY MOY: Thank you. You may be seated.

19 CHAIRPERSON HILL: Okay. Great. If you could
20 please introduce yourself for the record?

21 MS. WILSON: Alison Wilson, the owner of 2801 25th
22 Street, Northeast.

23 CHAIRPERSON HILL: Okay. Is that -- is --

24 MS. WILSON: It intersects with Girard so what
25 happens is Girard comes up and a little piece of 25th Street

1 goes down.

2 CHAIRPERSON HILL: Okay.

3 MS. WILSON: And that piece of 25th Street narrows
4 to the size of a driveway going into the dead end of the
5 street where our house is.

6 CHAIRPERSON HILL: Okay. Got it. All right. Ms.
7 Wilson, is that what you said? I'm sorry. Wilson? Okay.
8 If you could please -- so you'll have, as a member of the
9 public, three minutes to give your testimony, and you can
10 begin whenever you like.

11 MS. WILSON: Can I connect to the Solstice?

12 CHAIRPERSON HILL: I don't know. Connect to the
13 Solstice?

14 MS. WILSON: Yes. It says you have Solstice
15 Client, which I do as well.

16 CHAIRPERSON HILL: Okay.

17 MS. WILSON: And there's an IP address.

18 CHAIRPERSON HILL: That's new on me.

19 MS. WILSON: I'm just going to --

20 CHAIRPERSON HILL: Let me see if IT support could
21 come out and help?

22 MR. RITTING: Chairman, while we're waiting,
23 there's one other issue I wanted to bring up for the
24 continued hearing, which is in the Office of Planning report,
25 it notes that there are some additional areas of relief that

1 were not specifically requested by the applicant. And I
2 think that if we're going to continue this and we're going
3 to ask for additional briefing on the burden of proof and to
4 address the other issues that were raised by the ANC and
5 discussed by the Board members, that the applicant should
6 also submit a revised self-certification form reflecting the
7 full nature of the relief that's required. Of course, the
8 applicant would have to consider for themselves whether they
9 think that additional relief is, in fact, required. But I
10 think that they should take the Office of Planning's report
11 seriously when they make that consideration.

12 CHAIRPERSON HILL: Okay. Thank you. So Mr.
13 Davis, again, what the Office of Planning is -- I'm sorry,
14 the OAG is pointing out is that your application is not even
15 asking for the things that the Office of Planning thinks you
16 need. And also -- and I couldn't remember which case it was,
17 so it was this one, that that also means you didn't even
18 provide a burden of proof for the things that the Office of
19 Planning thinks you need. So that's something else that you
20 need to check with the Office of Planning, understand what
21 it is the Office of Planning thinks you need, and then supply
22 a burden of proof to defend that area of relief. Do you
23 understand?

24 MR. DAVIS: Yes.

25 CHAIRPERSON HILL: Okay. All right. And then

1 you'll have to re-caption. I mean not re-caption; you know,
2 give us a revised caption.

3 MR. DAVIS: Sure.

4 MEMBER WHITE: Mr. Chair, so the things that the
5 Office of Planning is suggesting they need, was it lot area
6 and lot width?

7 MR. JESICK: That's correct, yes.

8 MEMBER WHITE: Okay.

9 CHAIRPERSON HILL: All right. So in other words,
10 they think you need -- and this was in my notes -- you need
11 variance relief from lot -- I didn't think we were going to
12 get this far -- lot area, width, and then -- sorry -- lot
13 width and area relief. And then -- so you just only made an
14 argument for side yard, okay. So there's two areas of relief
15 that still need to make an argument for; okay? Okay.

16 MS. WILSON: Thank you for your patience.

17 CHAIRPERSON HILL: No problem. You're the one
18 down here taking the day off. We have to be here.

19 (Pause.)

20 CHAIRPERSON HILL: Okay, Ms. Wilson.

21 MS. WILSON: Okay.

22 CHAIRPERSON HILL: So you can go ahead and get
23 settled in and begin whenever you like.

24 MS. WILSON: Okay. Commissioners Hill, Hart,
25 Miller, White, and John, thank you so much for allowing this

1 this morning. I am the homeowner of 2801 25th Street,
2 Northeast, which is just if you look out of my door, you see
3 the lot for -- this is sort of like the view from my house.
4 And so 2431 is under renovation right now. There was a
5 private sale in which a company named Girard 2018 set up,
6 bought the house which was listed, and we were hoping a nice
7 family would buy this house and we'd have more kids in the
8 neighborhood. But this LLC bought it and then District
9 Properties cherry-picked the lot on the left, the lot on the
10 right, and another developer got the lot in the middle. I
11 pulled all the sales records and the closings were done
12 within two days of each other. And so they created this
13 practical difficulty for themselves by not buying all of the
14 lots. They bought the ones they wanted. I got a letter in
15 the mail. I asked Mr. Sikder to come talk to me and my
16 neighbor, Theresa Westover, because we both share this view.
17 And she backs out of her driveway, she has to go -- like sort
18 of navigate around this debris right now. So if a house was
19 there, she could potentially back into the house.

20 Anyway, in February, Mr. Sikder came down with an
21 associate and admitted he had never seen the lot before. And
22 when he stood at our houses, he said -- his associate said,
23 "Oh, now that I'm seeing it, I'm going to have to re-look at
24 plans." And so they were actually filing the variance for
25 that lot first. They pulled them, and then filed the

1 variance for the other lot, 19967, that we are very grateful
2 that you denied at the last time that we were here.

3 They have not respected our property at all. This
4 is a picture of my teenage son trying to clean up the lot to
5 the best that he can, because they came in and just razed the
6 parking pad for no reason. I later found out from Sherry --
7 and I don't know her last name but she's renovating the house
8 -- she found out that District Properties made it contingent
9 upon the sale that the parking pad be razed so that it would
10 be ready for build. But what has happened is since they
11 haven't done anything, it's just turned into a hot mess, as
12 you can see, for lack of a better term.

13 So this is what 25th Street looks like, and I
14 wanted you to see this. It's particularly important because
15 it narrows, basically to a driveway. So there's a house
16 under renovation and District Properties is trying to put a
17 house to the left of that, so we already have problems
18 getting garbage pickup. The trucks navigate very oddly and
19 slowly to come get our garbage and recycling, trash pickup.
20 And in the winter, snow plowing is -- I mean we have to call
21 and beg them to come to plow snow and they don't. What they
22 do right now is they send a special truck in and they send --
23 they push it all to the right, so that would be where the
24 house District Properties is proposing to build would be.

25 Sorry. I don't know what happened there. Also,

1 I told Mr. Sikder that we did a survey of our land to build
2 a fence, and it was done by Joseph Eldon Snider, and it
3 revealed that we actually own part of that lot. And he had
4 used orange paint to show us how much of the driveway we
5 owned, and it's a substantial amount. It's all razed now,
6 so they destroyed our property in trying to get ready to file
7 for their variance. So I asked Mr. Sikder to please have a
8 full site survey done with stakes. He never did it.

9 So we ask that you vote "no." District Properties
10 didn't put their signage up in a timely manner, and we're
11 grateful that you're continuing. But even if you approve
12 their request on this day, we ask that you consider the
13 character of our neighborhood. I found this planning
14 workshop for ANC Commissioners from the Office of Planning,
15 and it says that projects should maintain neighborhood
16 character, and special exceptions should not adversely affect
17 the use of neighboring property in accordance with zoning
18 regulations and maps. The Office of Planning is not looking
19 carefully at these plans and how they affect the houses
20 around them, and that's why we are respectfully asking you
21 to please look at this very carefully. Thank you.

22 CHAIRPERSON HILL: Okay. Thank you, Ms. Wilson.
23 Does the Board have any questions for the witness?

24 VICE CHAIR HART: Just one really quick question.
25 Did you have an opportunity to be able to purchase that

1 property?

2 MS. WILSON: No.

3 VICE CHAIR HART: Okay. Were you aware that it
4 was being sold?

5 MS. WILSON: So it was posted. We were watching
6 it closely on the MLS. It was posted as 2431 Girard. It
7 looked as though they were selling the house with the yard,
8 with the tree and a parking space, because we all have
9 parking spaces on that street. So we actually -- every time
10 we would see a family come look with the for sale in the yard
11 and they had little kids, we'd get excited because both
12 myself and Theresa have kids. So it was never -- there was
13 never any indication that it was three separate pieces for
14 sale. And in fact, I asked for a meeting with Kenyan
15 McDuffie to see if there could be legislation that would
16 force owners or realtors to put that -- to list if something
17 is three separate parcels that could be split up, because we
18 -- if we had known that, we certainly would have purchased
19 that to ensure that something like this couldn't happen.

20 VICE CHAIR HART: Thank you.

21 CHAIRPERSON HILL: Ms. Wilson, so what was there
22 -- so there was a -- I'm a little confused. There was a
23 driveway there before?

24 MS. WILSON: Yes. Ms. Ethel Taylor's driveway.

25 CHAIRPERSON HILL: Okay. And then they tore out

1 the drive. So before District Properties bought it, it was
2 just being maintained how, from the -- whoever the property
3 owner was? But I just want to make sure --

4 MS. WILSON: Yes.

5 CHAIRPERSON HILL: -- it was better off before
6 they bought it. Now it's just kind of neglected?

7 MS. WILSON: Torn up and neglected, right.

8 CHAIRPERSON HILL: Okay.

9 MS. WILSON: So if you were -- it wasn't -- Ethel
10 Taylor was in a nursing home and her son was also in a VA
11 facility, so the house was actually unoccupied for years.
12 So the parking pad that's -- that was there was something
13 that if you were backing out of the Westover's house, they
14 could back into it to make sure that they could get out. It
15 was just something that was there, yes.

16 CHAIRPERSON HILL: Okay. All right. So does the
17 -- sure, does anybody else? Please, go ahead.

18 MEMBER JOHN: One question. I'm still confused
19 about what was there before. So there was Ms. Ethel's house.

20 MS. WILSON: Yes.

21 MEMBER JOHN: And what was on either side of her
22 house?

23 MS. WILSON: On the right side --

24 MEMBER JOHN: Yes. You mentioned three parcels,
25 right? MS. WILSON: Yes.

1 MS. WILSON: So I'll go from left to right.

2 MEMBER JOHN: Sure.

3 MS. WILSON: Her driveway, her house, and her
4 yard.

5 MEMBER JOHN: So she had three --

6 MS. WILSON: Correct.

7 MEMBER JOHN: She had three parcels with one house
8 in the middle?

9 MS. WILSON: Correct.

10 MEMBER JOHN: That entire parcel was sold?

11 MS. WILSON: Correct.

12 MEMBER JOHN: And two people bought the lots in
13 the middle? Where is the new lot, on the end beside 25th
14 Street?

15 MS. WILSON: District Properties purchased her
16 driveway.

17 MEMBER JOHN: In the middle?

18 MS. WILSON: On the end nearest to our house.

19 MEMBER JOHN: Okay.

20 MS. WILSON: District properties purchased the --
21 her yard, and a woman named Sherry purchased the house.

22 MEMBER JOHN: In the middle?

23 MS. WILSON: In the middle.

24 MEMBER JOHN: Okay.

25 MS. WILSON: And they both closed within days of

1 each other.

2 MEMBER JOHN: Okay. That helps me. And 25th
3 Street is next to the District Properties' house on the left?

4 MS. WILSON: Correct. I'm going to just quickly
5 -- this is important so I want to pull it up, 2801. So you
6 can see on this map --

7 VICE CHAIR HART: It's not displaying on our --

8 MS. WILSON: Oh, yes. So what happened is these
9 three houses -- oh, it's not displaying?

10 VICE CHAIR HART: No.

11 MS. WILSON: Oh --

12 VICE CHAIR HART: Which one is it? I can't tell
13 which key it is. I think our IT person's going to --

14 MS. WILSON: Thank you. So on this map, it looks
15 like 25th Street just kind of slopes into Girard, but it
16 doesn't. If you look at the picture, you'll see that 25th
17 Street actually goes down, and you can actually see Ms.
18 Taylor's old driveway right there. I don't know how to swirl
19 it a little bit.

20 MS. WILSON: And then if I can move over. See,
21 this is what it used to look like.

22 VICE CHAIR HART: It's okay. I think we
23 understand where that is.

24 MS. WILSON: Thank you.

25 VICE CHAIR HART: Thank you.

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1 MS. WILSON: Sure. Thank you.

2 CHAIRPERSON HILL: Ms. John?

3 MEMBER JOHN: I'm sorry. Thank you.

4 CHAIRPERSON HILL: Are you okay?

5 MEMBER JOHN: Yes, I'm fine.

6 CHAIRPERSON HILL: Okay.

7 MEMBER JOHN: Thank you.

8 CHAIRPERSON HILL: All right. Does anybody have
9 any more questions for the witness? Okay. Commissioner, do
10 you have any questions for the witness? You're a party.

11 MR. MONTAGUE: Not really.

12 CHAIRPERSON HILL: Okay. Mr. Davis, do you have
13 any questions for the witness?

14 MR. DAVIS: No.

15 CHAIRPERSON HILL: Okay. All right. Ms. Wilson,
16 thanks so much for your testimony.

17 MS. WILSON: Thank you.

18 CHAIRPERSON HILL: Oh, sure.

19 MEMBER JOHN: Will this be in the record that we
20 can look at later or is that something that's an option?

21 CHAIRPERSON HILL: Yes, sure. She can submit it
22 if she likes.

23 MS. WILSON: I did. I submitted -- it was late
24 last night and I apologize. So you probably didn't get to
25 read it over the weekend, but I did submit a memo along with

1 Theresa Westover. You can see both our houses in these
2 pictures.

3 CHAIRPERSON HILL: And the PowerPoint; I'm saying
4 you submitted the PowerPoint?

5 MS. WILSON: Oh, I did not.

6 CHAIRPERSON HILL: Okay.

7 MS. WILSON: Can I submit that?

8 CHAIRPERSON HILL: Yes. You can go ahead and
9 submit the PowerPoint.

10 MS. WILSON: Thank you.

11 CHAIRPERSON HILL: Okay. All right. Let's see,
12 I guess -- so that's it Ms. Wilson. Thank you so much. Mr.
13 Davis, I guess, again, my only comment about this is I guess
14 -- I mean we're just taking a lot of time with you guys, and
15 the more and more time we take, the probably more difficult
16 it's going to be for you guys to get stuff done, because --
17 you know, I guess what I'm trying to point out is the good --
18 as one of my colleagues used say, like the good neighbor
19 policy or just coming to us and showing that, you know, you
20 actually, you know, are trying to do well for the
21 neighborhood.

22 Like, for example, if you have a lot that's just
23 collecting trash and nobody's paying attention to the lots,
24 I mean that's just not something that we will look well upon
25 when we're going through, you know, your application. And

1 it does seem like your community outreach, again, is lacking.
2 Like it doesn't seem like -- you know, it seems to be every
3 time you guys come forward, people seem to be upset about how
4 you're going about doing this.

5 To the witness and then also the Commissioner, as
6 you know, Commissioner, you know, a lot of times we are --
7 our hands are somewhat tied, as I mentioned, because like the
8 variance is what the variance is, the special exception is
9 what the special exception is. Literally, if we don't like
10 the people, we can't not vote yes, right? And not that I
11 don't like you, Mr. Davis -- but, so, if we don't think that
12 the applicant has been, you know, working well with the
13 community, we're kind of stuck. And so I'm just kind of
14 throwing that out. I'm throwing that out to you. You can
15 come back and argue with me later, but -- that's okay -- but
16 I'm just -- you know, you will have an opportunity to come
17 back.

18 What were you going to say, Mr. Commissioner? I'm
19 sorry.

20 MR. MONTAGUE: No. And I understand the three-
21 prong test and so therefore, the substantial detriment to the
22 community is generally the one which allows you to -- the
23 thing, how does it affect -- negatively affect the community,
24 and you need to be able to substantiate -- so our burden is
25 to prove that this is a substantial detriment. So they have

1 to -- the applicant has to meet all three in order to get
2 your approval. So if my argument is substantial and
3 successful in knocking just one of the three, then it doesn't
4 happen.

5 CHAIRPERSON HILL: I agree and I guess in my
6 experience thus far in terms of the Board is that tends to
7 also be a little judgmental in terms of, you know, whether
8 we think it's, you know -- if somebody was supposed to have
9 an easier access, like turning around their car and now they
10 don't, that might not be something that we would agree with.
11 You know, anyway -- but then -- you know, I'm just trying to
12 share with the people here so okay. Yes, please, go ahead.

13 MEMBER JOHN: So Mr. Davis, where would the
14 entrance be to this house? The picture we're looking at now,
15 is that the lot with the tree; is that the one that you're
16 developing?

17 MR. DAVIS: No. Our property does not touch that
18 and so right to the left of that white house is where our
19 property is. And so we don't have a driveway.

20 MEMBER JOHN: Yes. That's the property I was
21 talking about. Is that --

22 MR. DAVIS: Yes. So that is the property, and so
23 where the tree is is not -- that's public land which we're
24 not going to touch. So, basically, what the hedges are
25 bounding is our property.

1 MEMBER JOHN: Okay. I see. So where will the
2 entrance be; where will the front door -- where will the
3 front door be? How is it oriented on the lot; do you
4 remember?

5 MR. DAVIS: It is -- basically, the way -- and I
6 can't remember if I uploaded the renderings, because I did
7 it for 2429 based on the Planning Office wanted to see how
8 our houses would, you know, match the character of the
9 existing houses. So what is -- so with 2433, it would be
10 right adjacent to 2431. And so it would be the same front
11 entrance as the white house. It would be basically a mirror
12 of the white house.

13 MEMBER JOHN: Okay. Thank you.

14 CHAIRPERSON HILL: Okay. So all right, I think
15 there's a lot of things, Mr. Davis, that you guys are going
16 to have to get right with us. And so we're going to go ahead
17 and postpone this -- oh, I'm sorry -- continue the hearing,
18 have a continued hearing with this. And Mr. Moy, I mean I
19 know that September's really jammed up already, so you are
20 looking at October when? Like what's October looking like?

21 MR. MOY: I'm actually beginning to place
22 applications in actually the month of October, but we could
23 start with October 2 would be fine.

24 CHAIRPERSON HILL: What's -- how many is on
25 October 2 right now?

1 MR. MOY: Less than a handful so it would be a
2 good --

3 CHAIRPERSON HILL: Okay. All right. So Mr.
4 Davis, we're going postpone you til October 2nd, okay. And
5 so by then, hopefully, again, what I know you need to do on
6 this application is so go ahead, you know, post properly.
7 Give your affidavit of maintenance properly. Go ahead and
8 speak with the ANC, see if there's anything you can do. I
9 would suggest your company clean up the lot and maintain the
10 lot in a way that the neighborhood doesn't have to use their
11 children to clean up the lot. I would then also reach out
12 to the Office of Planning and make sure that you're on the
13 same page in terms of the variance, in terms of the relief
14 that you're requesting and then also the burden of proof,
15 that you're actually making an argument for why you're
16 meeting the different standards for the -- you know, the
17 relief that you need. I think that's it. So that's it for
18 that one. Okay. And there you go.

19 So Commissioner, thanks for coming down. Mr.
20 Davis, thanks for coming down. You might as well just stay
21 there, Mr. Davis, but -- because we're going to call your
22 case next again. Thank you.

23 Mr. Moy, we're talking about 20046, correct?

24 SECRETARY MOY: Yes, sir.

25 CHAIRPERSON HILL: Whenever you like.

1 MR. MOY: All right. So before the Board for
2 hearing is Case Application Number 20046 of District
3 Properties.com, captioned and advertised for area variance
4 from the side yard requirements, Subtitle D Section 206.2.
5 This would construct a new detached principal dwelling unit,
6 R-2 Zone at 3003 7th Street, Southeast, Square 5952, Lot 31.
7 And again, there's a preliminary matter where the applicant
8 is requesting the Board to accept an untimely notice of
9 posting.

10 CHAIRPERSON HILL: Mr. Moy, it's 20046, correct?

11 SECRETARY MOY: Yes, sir.

12 CHAIRPERSON HILL: Okay. If the applicant could
13 please introduce themselves for the record?

14 MR. DAVIS: Adam Davis representing District
15 Properties.

16 CHAIRPERSON HILL: Okay. So Mr. Davis, since the
17 way this works is people see these things only -- they're
18 individual cases, so I can't necessarily refer somebody back
19 to the previous case. But we did kind of go over a lot of
20 discussions in terms of, you know, the process in which your
21 company is coming towards us. Can -- if you want to go ahead
22 and explain the waiver that you're trying to ask for in terms
23 of the posting?

24 MR. DAVIS: Yes. I want to say that that's my --
25 that was my mistake. Now I don't want that to refer badly

1 on my company, but that was my mistake. I missed -- messed
2 up the -- mixed up the 10-days affidavit of posting with the
3 10-day -- excuse me, the 10 days affidavit of maintenance as
4 well as the affidavit of posting. That was my mistake so
5 that was my personal mistake.

6 CHAIRPERSON HILL: Okay. All right, Mr. Davis.
7 So again, I think that based upon what we had discussed with
8 the previous case in terms of, you know, there always seems
9 to be something of a mix up with your company thus far in
10 terms of either -- I mean the last one, the last case, like
11 you guys weren't even arguing the right thing. There were
12 still other things that you still needed to argue in terms
13 of your relief requested.

14 I mean, I would still be in favor of just going
15 ahead and putting this with the last one that we did, which
16 was on October 2nd, so that they could go ahead and make sure
17 they get all their, you know, ducks in a row, and we don't
18 have to -- you guys can come to us with your ducks all in a
19 row. Does the Board have any other thoughts?

20 MEMBER WHITE: I agree with you, Mr. Chair, and
21 I have particular concerns because there's no community
22 information in the record, so -- including no ANC report.
23 So that will at least give us an opportunity to perhaps get
24 a response from them as well.

25 CHAIRPERSON HILL: Okay. I'll let you respond,

1 Mr. Davis. Just one second. Right. Okay. Mr. David, you
2 like to respond to that?

3 MR. DAVIS: Yes, Attorney White. The ANC Meeting
4 was actually last night. It was originally scheduled for
5 July -- excuse me -- yes, July 3rd, and it was postponed
6 twice. So it was actually last night. So I was hoping that
7 they would -- they were going to write us a letter of support
8 --

9 MEMBER WHITE: Thank you.

10 CHAIRPERSON HILL: What -- I'm sorry, what
11 happened at the ANC meeting?

12 MR. DAVIS: I presented it last night and they
13 took a vote of 4-2-1 in favor of it, of this project.

14 CHAIRPERSON HILL: Okay. So I guess the other
15 thing, Mr. Davis, in terms of the timing that you guys are
16 doing things, like you're doing things pretty tight, meaning
17 that if you -- even if you had -- you said July 2nd was
18 supposedly the ANC meeting --

19 MR. DAVIS: Third.

20 CHAIRPERSON HILL: The 3rd. So that was when it
21 should have happened, is that correct?

22 MR. DAVIS: Yes.

23 CHAIRPERSON HILL: Right. So this is the 10th so
24 meaning you're -- you guys are already -- I'm just saying to
25 help yourself out, you might want to go to the ANC meeting

1 and give them plenty of time to get to us, because you're
2 actually asking the ANC to do a lot in terms of helping you
3 out by getting a report really quickly. And so I think that
4 -- that in terms of again, as you guys are looking to
5 probably come up with a different type of best practice, if
6 you want to be successful here, that might be another thing
7 to look at in terms of the timing as to how you go to the
8 ANC.

9 So Mr. Moy, I would go ahead and propose that we
10 postpone this to October 2nd so that we can again get the
11 applicant on the same page.

12 MR. MOY: Yes, sir.

13 CHAIRPERSON HILL: Okay. All right, Mr. Davis,
14 thank you very much. Good luck to you. Have a nice summer.

15 (Laughter.)

16 CHAIRPERSON HILL: Okay. We're going to take,
17 sorry, a five-minute break, just five minutes.

18 (Whereupon, the above-entitled matter went off the
19 record at 11:45 a.m. and resumed at 11:55 a.m.)

20 CHAIRPERSON HILL: All right, Mr. Moy.

21 MR. MOY: Thank you, Mr. Chairman. So the Board
22 is back in session. It's about 11:57, at or about. Okay.
23 So I believe -- I'll take a shot that we're back at the top
24 of the order which would be Case Application Number 20030 of
25 Blair Zervos, Z-E-R-V-O-S, and Mr. Chairman, there are

1 additional filings in the record that's going to, I believe
2 -- which include some preliminary matters for the Board to
3 address. I believe a revised self-certification as well as
4 the request to waive time requirements to make that filing,
5 and it goes to -- I'm going to read the amended relief, which
6 is for special exceptions under Subtitle C Section 1504 from
7 the penthouse setback requirements of Subtitle C Section
8 1502.1(a) and (c), and pursuant to Subtitle X, Chapter 10,
9 for an area variance from the height requirements of Subtitle
10 E Section 5102.1 and Subtitle G Section 1102.2, to construct
11 a roof deck addition and a rooftop enclosure, MU-4 and RF-1
12 Zones at premises 1323 Rear Linden Court, Northeast, Square
13 1027, Lot 857. And I would ask the applicant to confirm what
14 I've just read.

15 CHAIRPERSON HILL: Okay. Could you please
16 introduce yourselves for the record?

17 MR. DZIERZANOWSKI: Sure. Matuesz Dzierzanowski
18 here with DC Architecture.

19 MR. ZERVOS: And Blair Zervos, property owner at
20 1323 Linden Court, Northeast.

21 CHAIRPERSON HILL: Okay. Mr. Dzierzanowski, I
22 assume you're going to be presenting to us?

23 MR. DZIERZANOWSKI: Yes, I will.

24 CHAIRPERSON HILL: Okay. Did you hear what the
25 Secretary had to say about clarifying what you're here for?

1 MR. DZIERZANOWSKI: Yes.

2 CHAIRPERSON HILL: Could you clarify for us what
3 you're here for?

4 MR. DZIERZANOWSKI: Correct. We're here seeking
5 -- it's listed as three forms of relief, one of which is a
6 similar form of relief being iterated twice because the
7 property splits across RF-1 and MU-4 Zoning, one being a
8 special exception for one-to-one setback, and then the other
9 being area variance in subcategories (a) and (c) for
10 exceeding the 2-story and the 20-foot max height, so a
11 penthouse in this case.

12 CHAIRPERSON HILL: Okay. All right. I'm on the
13 same page as that one. All right. So Mr. Dzierzanowski, I'm
14 going to put 15 minutes on the clock so I know where we are,
15 and then -- oh, sorry.

16 Mr. Dzierzanowski, you're lucky you're not here
17 a lot. So there are some preliminary matters.

18 MR. DZIERZANOWSKI: Correct.

19 CHAIRPERSON HILL: And again, it's affidavit of
20 posting, affidavit of maintenance, and then you already have
21 a revised self-cert in there that I assume speaks to what
22 you're now here for, correct?

23 MR. DZIERZANOWSKI: Correct, yes.

24 CHAIRPERSON HILL: And so the motion is to accept
25 the untimely filing of the self-cert, so that's one thing

1 that you're asking for the motion for, correct?

2 MR. DZIERZANOWSKI: Correct.

3 CHAIRPERSON HILL: And I think that you clarified
4 why you needed the self-certification -- I'm sorry -- the
5 revised self-certification so unless the Board has any
6 issues, I'm going to go ahead and approve the motion to
7 accept the untimely filing of the revised self-cert. Is that
8 okay with everybody? Okay. By consensus, that seems to be
9 okay.

10 Could you please explain to us why the affidavit
11 of posting and the affidavit of maintenance is late?

12 MR. DZIERZANOWSKI: Sure. So this is a project
13 that initially upon our application, we went back and forth
14 with AOG on just clarifying and verifying the -- that both
15 forms of relief that reference both RF-1 and MU-4 needed to
16 be filed. Basically, what it did was it started a lot of the
17 process such as our ANC reviews, our outreach, various other
18 tasks and elongated that from where our actual hearing date
19 would be. So there's been plenty of outreach. We do believe
20 that, again, we nailed the posting and everything.

21 The main issue was with the affidavit of
22 maintenance. We actually went back the same day we were
23 looking to file the affidavit of maintenance to replace the
24 boards following the storms over the weekend. And that was
25 just a timeliness for us to be able to re-upload that same

1 day.

2 CHAIRPERSON HILL: Okay. And at the ANCA, you
3 presented what you're about to present to us, correct?

4 MR. DZIERZANOWSKI: Correct. We presented to
5 their subcommittee, the full ANC, and we've also in the last
6 memo'd re-upload submitted digital copies of all of the
7 letters of support, which was also a request and a driving
8 factor for the ANC.

9 CHAIRPERSON HILL: Okay. All right. I don't have
10 any issue with granting the waiver. Does the Board have any
11 issues?

12 VICE CHAIR HART: I will just, you know, say a
13 little piece. I -- Mr. Dzierzanowski, you probably heard our
14 discussion from previous cases and may not have been -- may
15 have been trying to figure out where you guys were ending up
16 on this. I understand there -- this case I look at as well,
17 the affidavit of posting is supposed to let the neighborhood
18 know kind of what's going on. We have an ANC report that's
19 been filed at Exhibit 16?

20 MR. DZIERZANOWSKI: Correct.

21 VICE CHAIR HART: And they are in support of this.
22 As you noted, there are various support letters as well that
23 we have for this. We do not have anything that's actually
24 in opposition to it. To me, this tells me that the community
25 has been well-aware of the project and has provided their

1 comments on it. And that was not something that we had in
2 previous cases, which is why I would be in favor of accepting
3 the waiver -- excuse me -- the waivers for both affidavit of
4 posting and the affidavit of maintenance so. And I
5 understand the -- what you also just described as some of the
6 concerns or some of the rationale for why this was an issue
7 in this particular case so.

8 MEMBER JOHN: So just a quick question. When was
9 the notice posted?

10 MR. DZIERZANOWSKI: The -- it's stated
11 specifically on the affidavit of posting. We do believe we
12 actually had a posting earlier, at the time of the ANC, but
13 finding clear-cut record of that is where it became the issue
14 leading to the posting. So everything was posted, I believe,
15 last -- right along the 4th holiday, so the 4th or the 5th
16 is when we initiated that that posting had existed
17 officially. And then the maintenance came out back on
18 Monday. Sorry, maintenance was done to the posters on
19 Monday. They had to be repaired.

20 MEMBER JOHN: So that's really not sufficient.
21 It's supposed to be 15 days.

22 MR. DZIERZANOWSKI: Sure. And it's --

23 MEMBER JOHN: And --

24 MR. DZIERZANOWSKI: -- in this particular case,
25 all I'd just say is we had full confidence in how we posted

1 and initially marketed the project. And I think the biggest
2 issue was just again with the delay between our hearing and
3 when we had engaged and initiated with a lot of community
4 events. That just kind of, you know, fell to the way so
5 again, it's not something -- like you said, we're not here
6 as often. We definitely -- this is not something we've ever
7 had to file for before. It's kind of a one-off so we do hope
8 that all of our good faith and community outreach, especially
9 on behalf of the owner, is taken into consideration for the
10 waiver.

11 MEMBER JOHN: So we're supposed to show that
12 they're - you're supposed to show that there is no prejudice
13 to other parties, and in this case, the ANC does approve.
14 So that's in your favor but you were here this morning, and
15 you heard how very frustrating it is for us to have to do
16 this week after week. So, I will support the waiver in this
17 instance and -- but it's this instance.

18 MR. DZIERZANOWSKI: We understand. We appreciate
19 that.

20 MEMBER JOHN: Okay. Thank you.

21 CHAIRPERSON HILL: Okay. All right. So Mr.
22 Dzierzanowski, so if you could go ahead and walk us through
23 your project and what you're trying to do. And I guess, you
24 know, really kind of make the argument in terms of the
25 variance, as to how you're meeting the three prongs of the

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1 test, and you can begin whenever you like.

2 MR. DZIERZANOWSKI: Sure, absolutely. So the
3 project involves the -- a lot. It's an alley lot at 1323
4 Rear Linden Court. As mentioned earlier, the existing
5 structure is a two-story masonry structure with wood framing.
6 It does straddle two different-zoned areas, but the majority
7 of work looking to be done is within the RF-1. These are
8 some photographs you can kind of see in the aerial here in
9 either projection. So the property to its north side faces
10 open rear yard to what's now a redeveloped residential PUD
11 there. And then -- or a development -- excuse me. And then
12 to the south side, we are a party to another alley structure
13 of the same height.

14 The overall proposal is that the -- our client
15 does not have any lot space or legitimate yard space. His
16 structure occupies it in its entirety, and in the proposal
17 or what's looking to be done is to create a roof deck space
18 to come up so that there's additional areas of, again,
19 recreation, the potential for greenery, and other things that
20 a typical single family with a rear yard would be allotted
21 to. What's being shown here, the top is an existing
22 condition of just the roof as it exists adjacent to the one
23 property.

24 Our proposal is what's there below, and it
25 consists of basically three parts, a stairwell enclosure for

1 the new circulation to bring you up to the roof; the majority
2 of the deck which would span from the party wall to the
3 perimeter wall or the exterior masonry wall; and then also
4 a small area that is not enclosed. We are showing just some
5 pergola beams there for stability, but it's still an open
6 area which would be ideal for, again, a space for seating or
7 recreation.

8 The one big driver -- and I'm going to bring you
9 to the elevations to the project. So this is the widest
10 elevation at the western end of the property, and there's two
11 challenges that were really brought up. The first was that
12 the existing structure is not capable of supporting a roof
13 just directly on top of itself. We've had structural
14 engineers come out to the site and assess an opportunity in
15 which at the most appropriate place of the adjacent party
16 wall, we would be able to attach structure and then have that
17 structure span onto the masonry of the building. To do
18 anything else would come at great inconvenience and financial
19 cost to have to replace what is currently finished roofing,
20 ceiling, second floor spaces just to accommodate the correct
21 structure. So spanning from the existing structural bearing
22 points was key in being able to do this without destroying
23 a lot of the existing home.

24 And then even when we looked at the narrowest or
25 lowest solutions, any of which -- including like a roof hatch

1 or other means of access to that roof would put us beyond,
2 even from its operability, put us beyond the threshold of
3 what's considered either a penthouse element. It would, you
4 know, extend us beyond that 20-foot cap. And while we are
5 not viewing this a second-story addition, it's not -- sorry
6 -- a third-story addition or an additional story, it's not
7 enclosed in any manner, it would have triggered the
8 requirement one way or another just for my client to, again,
9 be able to obtain the use of this space as we've designed it.
10 So that point, that's where we implemented multiple design
11 elements, various wood slat screening to improve any
12 potential concerns of, again, privacy both to our client but
13 any potential neighbors who have concerns of them looking
14 out. Again, standard typical railings for safety along the
15 perimeter, and then the stairwell enclosure itself which
16 situates itself directly above the existing vertical
17 circulation in the house as we know it.

18 The adjacent property owner that shares that party
19 wall is in support of our proposal. The adjacent lots that
20 sit to the north -- again, I'll go back -- are -- it's all
21 part of the development to which the rear yards of their
22 property, which are very shallow rear yards, already back up
23 to and the existing heights of that proposal, having been
24 approved previously in another BZA case, go a full story-and-
25 a-half above our client's. So we don't believe that what

1 we're proposing for the rooftop deck is in any way -- this
2 is -- the photograph in the middle here, you can kind of see
3 the height of the structure beyond. There's a continuation
4 of that with a narrow rear yard space to all those properties
5 that are adjacent to our client's property.

6 VICE CHAIR HART: Mr. Dzierzanowski?

7 MR. DZIERZANOWSKI: Yes.

8 VICE CHAIR HART: What is that right here that I
9 circled on the thing?

10 MR. DZIERZANOWSKI: That's an existing chimney.

11 VICE CHAIR HART: And you're extending that up?

12 MR. DZIERZANOWSKI: Correct, in --

13 VICE CHAIR HART: Which is what we see in the
14 other -- in the -- on the elevations?

15 MR. DZIERZANOWSKI: -- correct, you see it --

16 VICE CHAIR HART: That's this?

17 MR. DZIERZANOWSKI: Correct, exactly.

18 VICE CHAIR HART: Okay. That's fine. I just --

19 MR. DZIERZANOWSKI: Sure, understood. So we feel
20 that both with the exploration of like transparency with the
21 wood slatting; you know, varying the heights and then making
22 sure that not more than an additional 10 feet is being added,
23 we don't believe that this is becoming a detriment to that
24 alley lot. That all in itself is very unique, very diverse.
25 There's a lot of interesting and funky structures, and when

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1 we first really set to make this proposal, we wanted to make
2 sure that it was, again, aesthetically pleasing, that we
3 played with, again, natural material, and that we provided,
4 you know, a nice place for our client, again, to be able to
5 explore, you know, green space and additional recreation,
6 etcetera.

7 So this final axon is kind of a diagraming of the
8 full extent of the proposal as it sits above the existing
9 structure. Thank you.

10 MEMBER WHITE: What type of feedback have you
11 gotten from the adjacent neighbor and also the neighbor
12 across the alley? Is that an alley there?

13 MR. DZIERZANOWSKI: Sure. So --

14 MEMBER WHITE: That's a nice drawing there but I
15 was just wondering if they're on board with this.

16 MR. DZIERZANOWSKI: Sure. So, both sides, the
17 eastern and western extent of the structure actually open out
18 to alleys, and we've gotten letters of support, I believe,
19 from people who have line of sight opposite of the alley.
20 And I'll let the owner speak to this briefly.

21 MEMBER WHITE: Okay.

22 MR. DZIERZANOWSKI: And then the adjacent
23 properties that exist there are still part of that recently
24 finished development. So one of the owners who also had
25 involvement has signed a letter of approval.

1 MEMBER WHITE: Okay.

2 MR. DZIERZANOWSKI: And since then, one additional
3 property has been, I think, acquired but we haven't had a
4 chance to make face. Everything that we've proposed, just
5 to speak to that further, makes sure that we stay within the
6 existing plane of that wall and that building that their
7 properties back up to. But the owner did a lot of the
8 legwork in getting the letters of support, so I'll let him
9 speak to that briefly as well.

10 MR. ZERVOS: Hi. Thank you. So I did, as part
11 of the ANC process, they really wanted me to make best
12 efforts to go out to the neighborhood and canvas. I went out
13 personally. I knocked on door-to-door along G Street, anyone
14 that abutted the alley or had line of sight. I walked down
15 13th Street, Northeast, again, for all the houses that
16 abutted the alley or had line of sight. I got multiple
17 letters from some people. Some people I repeatedly tried to
18 get in touch with. I was not able to. I went to each of the
19 property owners that actually abut my property and got
20 letters of support from each of them.

21 As he did mention, the developer who developed the
22 old auto body shop right next to me, in the -- as this was
23 all going on, he actually sold one of the units which had
24 been up for sale for a while now, and that new owner, from
25 what I understand from the other owner -- I also tried to get

1 in touch with him -- he works for the State Department in
2 some sort of diplomatic fashion and I am told is out of
3 country or out of town 80 percent of the time. So I simply
4 haven't had the opportunity to talk to him.

5 MEMBER WHITE: But you've received no opposition?

6 MR. ZERVOS: No -- no.

7 CHAIRPERSON HILL: Okay. Does anybody have any
8 questions for the applicant? All right. I'm going to turn
9 to -- oh, sorry, please, Commissioner Miller.

10 COMMISSIONER MILLER: I think that this is the
11 case -- thank you, Mr. Chairman, and thank you for your
12 presentation and the information you provided. It's very
13 helpful. You may -- this may be in the record and you may
14 have stated it, but what is the square footage of the
15 proposed deck, because I think one of the arguments you made
16 is that if you met the setback requirements, it would be half
17 the size and not as usable obviously.

18 MR. DZIERZANOWSKI: Correct. So we're floating
19 around what would be about 500 square feet to the overall
20 deck. The big challenge with the one setback is the
21 narrowness of the lot. So in our discussions with OP, what
22 was deemed as boundary to the building that would require
23 those setbacks start to make the lot very, very skinny and
24 narrow. So between that the circulation to get up to it,
25 that's where we really would hurt on square footage for the

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1 proposal. But the flip side to that was based on what we
2 believe is the more efficient approach to structuring the
3 deck, that structure still has to go to the full extent. So
4 you're paying for the same construction cost or the approach
5 but getting, again, 3-foot minimum offsets on three of the
6 opposing sides. So it really would hinder the proposal.

7 COMMISSIONER MILLER: And it would be about half
8 the square footage, 250 square feet?

9 MR. DZIERZANOWSKI: Correct. Yes. Half if not
10 slightly less.

11 COMMISSIONER MILLER: Okay. Thank you.

12 MR. DZIERZANOWSKI: No problem.

13 CHAIRPERSON HILL: Anyone else?

14 MEMBER JOHN: So really, you're saying that this
15 is a really small lot, 957 square feet, 13 feet wide, and so
16 because of that limitation, you need to -- and no yard space,
17 you need usable space, and that is your exceptional
18 condition; is that what you're saying, because you're asking
19 for a variance --

20 MR. DZIERZANOWSKI: Correct.

21 MEMBER JOHN: -- that creates a practical --
22 basically, I'm walking you through your burden of proof.

23 MR. DZIERZANOWSKI: Correct, yes. So we state
24 that and in addition, we also just try to stress upon that
25 because of the existing conditions, both structurally and

1 with the height of the building, almost any approach taken
2 in some form of renovation start to put us over that
3 threshold which would trigger the requirement for the
4 variance. So again, in the overall design, the approach
5 we've taken to the project, we wanted to make sure that we're
6 doing the best we can to validate a space that was worth
7 building with some of the struggles and the challenges that
8 exist on the site currently.

9 CHAIRPERSON HILL: Okay. I'm going to turn to the
10 Office of Planning.

11 MS. MYERS: Hello. Crystal Myers for the Office
12 of Planning. The Office of Planning is recommending approval
13 of the variance relief and the special exception relief.
14 Just, I guess, two things I'd want to note. In our report,
15 we noted that the applicant needs penthouse setback relief
16 from the side, but we were recommending it, but the applicant
17 hadn't requested it. I have now been advised by the record
18 and the applicant is now in support of doing that as well and
19 has revised their submittal to reflect that.

20 And the other thing I just note is in this case,
21 the height relief, OP was primarily supportive of it because
22 it allows access to the rooftop deck. I know there's a
23 pergola related to this case, but the height relief is the
24 height of the access, the penthouse stairway -- stairwell is
25 what's generating the height relief, and the pergola's height

1 is within that same height relief needed for the penthouse
2 stairwell, so OP was comfortable with that.

3 So with that, OP is recommending approval of this
4 case and stands on the record of the staff report.

5 CHAIRPERSON HILL: Okay. Great. Thank you. All
6 right. Does the Board have any questions for the Office of
7 Planning? Does the applicant have any questions for the
8 Office of Planning?

9 MR. DZIERZANOWSKI: No.

10 CHAIRPERSON HILL: Okay. Is there anyone here who
11 wishes to speak in support? Is there anyone here who wishes
12 to speak in opposition? Mr. Dzierzanowski, is there anything
13 you'd like to add at the end?

14 MR. DZIERZANOWSKI: We just thank the Board for
15 their time and their considerations.

16 CHAIRPERSON HILL: Okay. I'm going to close the
17 hearing. Is the Board ready to deliberate? Would someone
18 else like to start the deliberations?

19 MEMBER JOHN: I will try to start. So I'm in
20 support of the application, especially as amplified in the
21 Office of Planning's report and in your oral testimony
22 concerning the burden of proof. And I was interested to hear
23 what the applicant said about the pergola because we seem to
24 be getting a few of these, and I find them quite interesting.
25 But in this case, it's the height of the access stairwell

1 that's really driving it, not because you need to put a
2 pergola up there so -- because that would meet the variance
3 test. So I thought that the Office of Planning's report was
4 quite good, and so there is no opposition and the ANC, and
5 the ANC supports, and so I am in support of the application.

6 MEMBER WHITE: Mr. Chair, I'm also in support of
7 the application. You know, they're asking for a special
8 exception under C 1504 from the penthouse setback
9 requirements and the area variance from height requirements
10 of E 5102.1 and G 1102.2 to construct a roof deck addition
11 and rooftop enclosure in the MU-4 and the RF-1 Zones. I also
12 agree with OP's recommendation that C 1502.1(c) for a
13 penthouse setback from the side instead of C 1502.1(b) be
14 requested for the penthouse setback from the front.

15 The building has an irregular shape, an L shape
16 to it. There was some need for additional usable space. I
17 think they met the criteria for both the special exception
18 and the variance given the structure of the building and what
19 they were trying to accomplish here. Also, with ANC support
20 and no concerns voiced by the community, I would be in
21 support of the application.

22 CHAIRPERSON HILL: Okay. Does anybody else have
23 anything they'd like to add? Okay. I'll agree with my
24 colleagues. I'm going to make a motion to approve
25 Application Number 20030 pursuant to 11 DCMR Subtitle X

1 Chapter 9 for special exceptions under Subtitle C 1504 from
2 the penthouse setback requirements of Subtitle C 1502.1(a)
3 and (c) and pursuant to Subtitle X Chapter 10 for an area
4 variance from the height requirements of Subtitle E 5102.1
5 and Subtitle G 1102.2 to construct a roof deck addition and
6 a rooftop enclosure in the MU-4 and RF-1 Zones at premises
7 1323 Rear Linden Court, Northeast, Square 1027, Lot 857, and
8 ask for a second.

9 MEMBER WHITE: Second.

10 CHAIRPERSON HILL: The motion made and seconded.
11 All those in favor, say aye?

12 (Chorus of ayes.)

13 CHAIRPERSON HILL: Aye. All those opposed?

14 (No response.)

15 CHAIRPERSON HILL: Motion passes Mr. Moy.

16 MR. MOY: Staff would record the vote as 5-0-0.
17 This is on the motion of Chairman Hill to approve the
18 application for the amended relief; seconding the motion,
19 Vice Ms. White; also in support, Ms. John, Vice Chair Hart,
20 and Zoning Commissioner Robert Miller.

21 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.
22 Moy. Thank you, gentlemen.

23 MR. DZIERZANOWSKI: Thank you.

24 MR. ZERVOS: Thank you.

25 CHAIRPERSON HILL: I guess we're going to take

1 another five-minute break real quick.

2 (Pause.)

3 CHAIRPERSON HILL: All right. We we're just going
4 to take a quick break and then we're going to make it through
5 the three cases, we hope.

6 (Whereupon, the above-entitled matter went off the
7 record at 12:21 p.m. and resumed at 12:38 p.m.)

8 CHAIRPERSON HILL: All right. Mr. Moy, if you
9 could just call us back, please, and call our next case?

10 SECRETARY MOY: Thank you, Mr. Chairman. The
11 Board is back in session, and it's about, what, 12:45, at or
12 about. So anyways, I see the parties have rushed to the
13 table and this is to Case Application Number 19917A of Sean
14 Ward and Audrey Tomason. And this is a request for a
15 modification of significance to the relief approved in BZA
16 Order No. 19917, and pursuant to 11 DCMR Subtitle X, Chapter
17 9, for a special exception under Subtitle E Section 5201 from
18 the lot occupancy requirements of Subtitle E Section 304.1,
19 to construct a two-story rear addition to an existing,
20 attached principal dwelling in an RF-I Zone at 913 7th
21 Street, Northeast, Square 888, Lot 46.

22 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.
23 Moy. Could the people please introduce themselves for the
24 record?

25 MS. WILSON: Alex Wilson from Sullivan & Barros

1 on behalf of the applicant.

2 MS. YDROBO: Laura Ydrobo from Blue Star on behalf
3 of the applicant as well and designer.

4 CHAIRPERSON HILL: Great. Could you say your name
5 again for me, please?

6 MS. YDROBO: Laura Ydrobo.

7 CHAIRPERSON HILL: Could you spell it for me?

8 MS. YDROBO: L-A-U-R-A --

9 CHAIRPERSON HILL: Could you put the microphone
10 just a little bit closer to yourself?

11 MS. YDROBO: Sure.

12 CHAIRPERSON HILL: Thank you.

13 MS. YDROBO: L-A-U-R-A, Laura, Ydrobo, Y-D-R-O-B-
14 O.

15 CHAIRPERSON HILL: Could you spell the last name
16 again?

17 MS. YDROBO: Y-D-R-O-B-O.

18 CHAIRPERSON HILL: Could you say it again?

19 MS. YDROBO: Ydrobo.

20 CHAIRPERSON HILL: One more time?

21 MS. YDROBO: Ydrobo.

22 CHAIRPERSON HILL: Ydrobo?

23 MS. YDROBO: Yes.

24 CHAIRPERSON HILL: Ydrobo, okay. Thank you. All
25 right. Let's see, Ms. Wilson, I guess you're going to

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1 present to us?

2 MS. WILSON: Yes.

3 CHAIRPERSON HILL: Okay. If you could walk us
4 through your application in terms of what your client is
5 trying to do, and then also how -- I mean, I see it's a
6 modification -- and how you're meeting the criteria for us
7 to grant the relief requested. I'm going to put 15 minutes
8 on the clock just so we know where we are, and you can begin
9 whenever you like.

10 MS. WILSON: Great. Thank you. So in the
11 original case, the applicant received relief from the 10-foot
12 rule pursuant to E 5201 in order to construct a two-story
13 rear addition. And after the approval, it was discovered
14 that the architect miscalculated the lot occupancy by not
15 including a 3-foot, second-story overhang. Once the 3-foot
16 overhang was included, the lot occupancy measurement totaled
17 62.39 percent.

18 CHAIRPERSON HILL: And what was it before that?

19 MS. WILSON: I believe it was 59.6 percent.

20 CHAIRPERSON HILL: Okay. That's fine. I'm just
21 kind of -- that's fine. You can go --

22 MS. WILSON: It was just under --

23 MS. YDROBO: It was just --

24 MS. WILSON: -- 60.

25 CHAIRPERSON HILL: All right. It was just under

1 -- okay, 60. All right. Thank you.

2 MS. WILSON: And so we are asking for a
3 modification of significance for lot occupancy because the
4 previous relief was reviewed under the same standard as the
5 requested relief, and there are no changes in the plans. And
6 for a modification of significance, the scope of the hearing
7 conducted pursuant to Subtitle Y 704.1 shall be limited to
8 the impact of the modification on the subject of the original
9 application.

10 This is the approved and proposed site plan. It
11 shows the three-foot overhang which was included in the
12 original request for the 10-foot rule. It just was not
13 calculated into the lot occupancy. I'm going to skip to show
14 the overhang. So if you can see the second story, it shows
15 the overhang on the left-hand side, and the second story
16 hangs over the first story by three feet. And so it's that
17 portion that was not included in the lot occupancy
18 calculation, although this was part of the original request
19 as the plans are not changing.

20 Regarding the requirements of E 5201.3, the
21 proposed modification will not have an undue impact on the
22 light and air. The addition is maintaining the existing
23 court by converting it from an open court to a closed court,
24 which will minimize any potential impact on the northern
25 neighbors light and air. We've included shadow studies

1 showing the impact to the neighboring properties would be
2 minimal.

3 Regarding the privacy needs of enjoyment, there
4 will be no windows or decks facing the adjacent properties,
5 and the privacy fence encloses the property. And the
6 addition shall not substantially visually intrude upon the
7 character, scale, or pattern of houses along the street or
8 alley, as there are no changes to the front of the house, and
9 the privacy fence makes it so the -- only the second story
10 addition will be visible from the alley.

11 The applicant has provided photographs, maps, and
12 renderings, and the lot occupancy is limited to 62.39
13 percent. The applicant will comply with Board directives for
14 protection of adjacent nearby properties. The applicant is
15 not requesting to introduce or expand a nonconforming use,
16 and the applicant is not requesting to introduce or expand
17 nonconforming height or number of stories.

18 In conclusion, the applicant is not asking the
19 Board to approve new plans, only to grant requested relief
20 so that the applicant may construct what was already
21 approved. The ANC supports the modification of significance.
22 OP is recommending approval. DDOT has no objection and the
23 adjacent neighbors supported the original application which
24 has not changed.

25 CHAIRPERSON HILL: Okay. Does anybody have any

1 questions for the applicant?

2 (No response.)

3 CHAIRPERSON HILL: Okay. I'm going to turn to the
4 Office of Planning.

5 MS. MYERS: Hello, again. Crystal Myers for the
6 Office of Planning. The Office of Planning continues to
7 recommend approval of this case, so, recommends approval of
8 the modification, and stands on the record of the staff
9 report.

10 CHAIRPERSON HILL: All right. Does anybody have
11 any questions for the Office of Planning?

12 VICE CHAIR HART: Just a quick question. So what
13 do you consider to be undue impacts for shadow study? I mean
14 it seems as though this -- when this came before us
15 previously, I had some issues because there wasn't a shadow
16 study. Now there is so we do have an understanding what that
17 is. It is already a building that is longer -- that is --
18 extends farther than the building adjacent to it. It is
19 extending farther passed what it currently is, and it just
20 seems like that, you know, that issue about what is undue is
21 somewhat of a key issue for this, and I just felt that it was
22 showing that it seemed as though it was impacting the next
23 door neighbor. Even though the neighbor is signed off on it,
24 I understand that, but we're supposed to look at what -- if
25 we believe that it's undue, not what -- not if the neighbor

1 is okay with it.

2 MS. MYERS: When determining about undue impact
3 when it comes to the lighting, we look at the existing, the
4 matter of right as well as the proposed scenarios, and we
5 compare them that way. With this particular one, we didn't
6 feel that the increase was substantial enough to consider it
7 an undue impact. We're not saying that there isn't any
8 impact. It's more of the undue level. And usually, when we
9 look at that, it's for a sustained period of time, a pretty
10 large shadow cast, and we compare all of those issues. And
11 again, in this case, we didn't feel that this rose to the
12 level of being undue.

13 VICE CHAIR HART: Thank you.

14 CHAIRPERSON HILL: Okay. Anyone else for the
15 Office of Planning? Does the applicant have any questions
16 for the Office of Planning?

17 MS. WILSON: No, thank you.

18 MS. YDROBO: No.

19 CHAIRPERSON HILL: Is there anyone here wishing
20 to speak in support?

21 (No response.)

22 CHAIRPERSON HILL: Is there anyone here wishing
23 to speak in opposition?

24 (No response.)

25 CHAIRPERSON HILL: Does the applicant have

1 anything they'd like to add to the end?

2 MEMBER WHITE: No, thank you.

3 CHAIRPERSON HILL: Okay. Going to go ahead and
4 close the hearing. Is the Board ready to deliberate? Okay.
5 I was in favor of the previous application, and I also do
6 think that since the design isn't changing, and I can agree
7 with the understanding of it being -- could you turn your
8 microphone if you wouldn't mind? Sorry. Thank you. If --
9 you know, I agree with the analysis provided by the Office
10 of Planning in terms of how they're meeting the modification
11 standard and also, they've gone through the process of
12 working with the ANC. The ANC was in support to begin with
13 -- I'm sorry -- of the previous design, and so the design
14 didn't change. There was just an error that the architect
15 had made. And so I will be voting in support. Is there
16 anything else anyone would like to add?

17 VICE CHAIR HART: I'm not changing my vote from
18 last time, so I'm going to be voting in opposition as I did
19 previously. I just -- I think the issue about the undue
20 impacts are still there, and I do appreciate the sun study,
21 but I just feel that that seems like it is unduly impacting
22 the next door neighbor. And regardless of what they've
23 submitted as being in support of the project, we're -- my
24 understanding is we're supposed to be looking at the --
25 whether or not we believe it's unduly affected, and I just

1 think it does. So again, I understand that that's my -- I'm
2 in the minority here so it's fine. I just wanted to make
3 sure that was understood.

4 CHAIRPERSON HILL: Okay. And as again, right,
5 Vice Chair Hart, was voting in opposition of the original
6 application. Does anyone else have anything else they'd like
7 to add?

8 MEMBER WHITE: No. I'm in support of the
9 application, Mr. Chair.

10 CHAIRPERSON HILL: Okay. I'm going to make a
11 motion to approve application Number 1991A as captioned and
12 read by the secretary and asked for a second?

13 MEMBER WHITE: Second.
14 Motion made and seconded. All those in favor, say aye?

15 (Chorus of ayes.)

16 CHAIRPERSON HILL: Aye. All those opposed?

17 VICE CHAIR HART: No -- nay.

18 CHAIRPERSON HILL: The motion passes. Mr. Moy.

19 MR. MOY: The staff would record the vote as 4-1-
20 0. This is on the motion of Chairman Hill to approve the
21 application for the relief requested; seconding motion, Ms.
22 White; also in support, Ms. John, Ms. White, Zoning
23 Commissioner Robert Miller; opposed, Vice Chair Hart.

24 CHAIRPERSON HILL: Yes. Vice Chair Hart was
25 opposed. Okay, exactly. Okay. Thank you very much. Thank

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1 you, Mr. Moy, and you can call our next case, I guess, when
2 you get a chance.

3 MR. MOY: Okay. The next Case Application before
4 the Board is Number 20051 of Kevin and Lauren McDermott,
5 captioned and advertised for a special exception under
6 Subtitle E Section 5201 from the lot occupancy requirements
7 of Subtitle E Section 304.1, to construct a two-story rear
8 addition to an existing attached principal dwelling in RF-I
9 Zone at 633 7th Street, Northeast, Square 891, Lot 79.

10 CHAIRPERSON HILL: Okay. Great. Thank you.
11 Could you please introduce yourselves for the record?

12 MS. WILSON: Alex Wilson from Sullivan & Barros
13 on behalf of the applicant.

14 MS. YDROBO: Laura Ydrobo from Blue Star on behalf
15 of the applicant as well.

16 CHAIRPERSON HILL: Okay. Great. Ms. Wilson, I
17 again assume you're presenting to us?

18 MS. WILSON: Yes.

19 CHAIRPERSON HILL: Okay. So in this case, I guess
20 you can kind of walk us through what you're trying to -- or
21 what your client is trying to do and how they're meeting the
22 standard for which we can grant the application. There was
23 some discussion about light and air to a neighboring
24 property, so I suppose if you could also speak to that light
25 and air issue to the neighboring property as well as if you

1 have any comments about their discussion about the market
2 value of the property and how it would be unduly affected.
3 And I will put 15 minutes on the clock so we know where we
4 are and you can begin whenever you like.

5 MS. WILSON: Great. Thank you. And we've
6 actually come to -- the applicant has come to an agreement
7 with the neighbor to the south, a construction management
8 agreement, so they are no longer in opposition. I know their
9 letter is really extensive in the record. And the ANC report
10 actually notes that we've come to a construction management
11 agreement with them, and that was part of the ANC approval.
12 So I just wanted to address that --

13 CHAIRPERSON HILL: Okay. No, I appreciate that.
14 Was that in the record? Did we -- is that a new addition?

15 MS. WILSON: So it should be in the ANC report.
16 We haven't submitted the construction management agreement,
17 but it is --

18 CHAIRPERSON HILL: Meaning it's in the -- but I
19 mean the fact that the -- okay, I'll take a look as to where
20 I'm missing -- where the person is no longer in opposition.
21 And so -- but still, nonetheless, go ahead and speak to the
22 light and air, and you can begin whenever you like.

23 MS. WILSON: Great. Thank you. So we are
24 requesting special exception relief pursuant to E 5201 from
25 the lot occupancy requirements of Subtitle E 304.1, in order

1 to construct a two-story rear addition to an existing rear
2 dwelling. The addition replaces a two-story deck and fills
3 in the existing court to the south. And the addition will
4 increase the lot occupancy to 69.86 percent.

5 These are photos of the rear of the existing
6 building and existing court. The house to the south, which
7 is the brick house, is set back from the property line, so
8 the windows won't be completely covered. And like I
9 mentioned, the owner has reached a construction management
10 agreement with that neighbor. The neighbor to the north
11 submitted a letter in support of the application.

12 This is the site plan with the proposed addition
13 and surrounding properties. The addition extends the
14 building by about nine feet. The existing deck was
15 approximately five feet long so it's only four additional
16 feet of length and I --

17 CHAIRPERSON HILL: Ms. Wilson, just regarding --
18 I'm sorry to interrupt you -- 78, is that the one that was
19 opposed at one point?

20 MS. WILSON: Yes. That is the one that was
21 opposed.

22 CHAIRPERSON HILL: Okay. Thank you.

23 MS. WILSON: And as you can see, it's still -- the
24 building to the south is still significantly longer than the
25 proposed building or proposed addition.

1 MEMBER JOHN: Can I follow up? Could you go back
2 to the previous slide. Is that the one with the high fence?

3 MS. WILSON: Yes. It's the one with the higher
4 fence.

5 MEMBER JOHN: Okay. Thank you.

6 MS. WILSON: You're welcome. So I'm going to jump
7 to the shadow studies to address the light and air concerns
8 although I'm happy to go back to the floor plans if you have
9 any questions. So the shadow studies showed very limited
10 impact between the existing and proposed building.

11 MEMBER JOHN: Okay.

12 MS. WILSON: The building to the south is the
13 longer one, and the building to the north is on the right-
14 hand side. There's virtually no impact in the summer and
15 fall, and the biggest difference is in December in the
16 morning, and it's only on the house to the north. And as you
17 can see, by 12 p.m., the rears are all in shadow regardless
18 of the addition, so there's no impact on the building to the
19 south. So as I mentioned, as demonstrated by the shadow
20 studies, the proposed addition will not unduly effect the
21 light and air available to neighboring properties. The
22 addition is only two stories in height and 8'9" in length.
23 It is replacing an existing two-story deck and filling in the
24 court to the south. The building the south is still
25 significantly larger than the proposed building.

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1 Regarding privacy and use of enjoyment, the
2 renovated structure would have windows only on the rear
3 facade, but the configuration would not be any different than
4 what could be achieved as a matter of right, and there would
5 be no windows on either of the sidewalls. The addition will
6 not substantially visually intrude upon the character, scale,
7 or pattern of houses along the street or alley. Any
8 visibility of the addition from the alley would be limited
9 by the rear garages, roll up doors, and the fences. Even so,
10 the scale of the addition would not be out of character with
11 the other buildings on the square and, in fact, the completed
12 house would still be much shorter in depth than the
13 neighboring house to the south and other nearby homes.

14 The Board may approve lot occupancy of up to 70
15 percent, and we are requesting 69.86 percent lot occupancy.
16 The ANC unanimously supports. OP is recommending approval.
17 The adjacent owner to the north is in support, and the
18 applicant has worked out a construction management agreement
19 with the neighbor to the south who was originally opposed.
20 Thank you.

21 CHAIRPERSON HILL: Okay. Does the Board have any
22 questions for the applicant? I got a quick question. The
23 one to the south, so they were just worried about the
24 construction? I mean what I understood from their letter is
25 they seemed to be talking more about the light and air

1 issues, but you're saying that it was a construction
2 management issue that they seem to be most concerned about?

3 MS. WILSON: So there is some background with the
4 neighbor where they originally said they would support the
5 application, and so we were a little taken aback by that
6 letter. And I might have Laura speak more to their concerns
7 as she's been more involved.

8 MS. YDROBO: Hi. So the concern about the
9 neighbor on the south is more of what's going to happen with
10 the construction is going on. So they are more concerned
11 about their property being damaged, the trash dumpsters, and
12 our team working in there. So that's why the neighbors and
13 the homeowner have come to an agreement, a construction
14 agreement during the time of the construction.

15 CHAIRPERSON HILL: Okay. I mean the reason why
16 I'm asking is because we do a lot of stuff with some of these
17 dogleg fill-ins, and it just seems like there -- it's a
18 really long dogleg now that's being created there. And so
19 it just makes me wonder whether they're going to come here
20 and they're going to try to fill in that dogleg, not that you
21 all would know. But I mean you don't know, correct?

22 MS. YDROBO: No.

23 CHAIRPERSON HILL: Okay. I'm going to turn to the
24 Office of Planning.

25 MR. JESICK: Thank you, Mr. Chairman, and members

1 of the Board. My name is Matt Jesick. The Office of
2 Planning is happy to rest on the record in support of the
3 application. Thank you.

4 CHAIRPERSON HILL: Okay. Does anyone have any
5 questions for the Office of Planning?

6 MEMBER WHITE: Just one question. Does the
7 addition change the character at all with respect to that
8 block from the alleyway? And I'm just looking at the special
9 exception criteria just to make sure. It sounds like
10 everybody's supporting it, but I just want to make sure I can
11 check off that third test.

12 MR. JESICK: It would not, in our opinion, change
13 the character as viewed from the alley. As you can see on
14 sheets 01 of Exhibit 37, which is the site plan for the
15 block, there are a variety of depths of houses. This one
16 would, in fact, be shorter than many existing. Also, the
17 view from the alley is highly obscured by garages and fences
18 and that sort of thing, so no, the character of the view from
19 the alley would not be significantly changed.

20 MEMBER WHITE: Thank you.

21 CHAIRPERSON HILL: Okay. Anyone else for the
22 Office of Planning? Does the applicant have a question for
23 the Office of Planning?

24 MS. WILSON: No, thank you.

25 CHAIRPERSON HILL: I have a quick question again

1 for you guys. You're not going back, right? You're going
2 10 feet from the nearest wall, correct?

3 MS. WILSON: It's about eight feet and nine inches
4 I believe.

5 CHAIRPERSON HILL: Okay.

6 MS. WILSON: We're at -- yes, right --

7 CHAIRPERSON HILL: You're at the lot occupancy --

8 MS. WILSON: Yes.

9 CHAIRPERSON HILL: -- right? Okay. All right.
10 Okay. Is there anyone here wishing to speak in support? Is
11 there anyone here wishing to speak in opposition?

12 (No response.)

13 CHAIRPERSON HILL: All right. Ms. Wilson, do you
14 have anything in conclusion?

15 MS. WILSON: No, thank you.

16 CHAIRPERSON HILL: Okay. Go had and close the
17 hearing. Is the Board ready to deliberate? Okay. I can
18 start. I think that the applicant and their burden of proof
19 as well as the analysis that was provided by the Office of
20 Planning as well as the analysis that was provided by ANC 6C,
21 I would agree with all of that and vote to approve. I think
22 that they're meeting the standard with which we can grant
23 this special exception, and I will be voting in favor. Is
24 there anything else that anyone would like to add?

25 VICE CHAIR HART: Only that we now understand that

1 the neighbor to the south is -- that's at 631 is in -- 7th
2 Street -- is in -- has reached an agreement and with the
3 applicant so that there is -- that opposition issue is no
4 longer a concern.

5 CHAIRPERSON HILL: Okay. Thank you for pointing
6 that out. I'm going to go ahead and make a motion to approve
7 Application Number 20051, as captioned and read by the
8 Secretary, and ask for a second.

9 VICE CHAIR HART: Second.

10 CHAIRPERSON HILL: Motion made and seconded. All
11 those in favor, say aye?

12 (Chorus of ayes.)

13 CHAIRPERSON HILL: Aye. All those opposed?

14 (No response.)

15 CHAIRPERSON HILL: The motion passes. Mr. Moy.

16 MR. MOY: Staff would record the vote as 5-0-0.
17 This is on the motion of Chairman Hill to approve the
18 application for the relief requested; seconded the motion,
19 Vice Chair Hart; also in support, Ms. John, Ms. White, and
20 Zoning Commissioner Rob Miller.

21 CHAIRPERSON HILL: Thank you, Mr. Moy. Thank you
22 very much.

23 MS. YDROBO: Thank you for your time.

24 CHAIRPERSON HILL: All right. Mr. Moy, if you can
25 call our last case today, please, when you get a chance.

1 MR. MOY: All right. Mr. Chairman, that would be
2 Case Application Number 20055 of Stephen and Maria Cashin,
3 C-A-S-H-I-N, captioned and advertised for a special exception
4 under Subtitle D Sections 1206.4 and 5201, from the rear
5 addition requirements of Subtitle D Section 1206.3. This
6 would construct a two-story rear addition to an existing
7 semi-detached principal dwelling, R-20 Zone at 3414 Volta
8 Place, Northwest, Square 1253, Lot 857.

9 CHAIRPERSON HILL: Okay. Great. If you could
10 please introduce yourselves for the record? You need to push
11 the button, sir.

12 MR. WILLIAMS: I'm Richard Williams, Architect,
13 principal of Richard Williams Architects.

14 CHAIRPERSON HILL: Could you spell your last name
15 for me, sir.

16 MR. WILLIAMS: Williams.

17 CHAIRPERSON HILL: Oh, Williams. Oh, I'm sorry.
18 I didn't hear you. Okay. Great.

19 MR. WILLIAMS: Thank you.

20 CHAIRPERSON HILL: Sure.

21 MS. WILSON: Alex Wilson from Sullivan & Barros
22 on behalf of the applicant.

23 CHAIRPERSON HILL: Okay. Great. Ms. Wilson,
24 again, I assume you're going to be presenting to us?

25 MS. WILSON: Just the introduction. Then I'll tur

1 it over to Mr. Williams.

2 CHAIRPERSON HILL: Okay. All right. So then I
3 guess if either one of you can kind of walk us through what
4 you're proposing as well as specifically speaking to the
5 standard with which we can grant the application. I'm going
6 to put 15 minutes on the clock so we know where we are, and
7 you can begin whenever you like.

8 MS. WILSON: Great. Thank you. So we are
9 requesting relief pursuant to D 5201 from the 10-foot rule
10 in order to construct a two-story addition to a semi-detached
11 building located in the R-20 Zone. The addition is small,
12 measuring only two stories in height and approximately 105-
13 1/2 square feet, which is about 2.8 percent of the total lot
14 occupancy. The addition is set back approximately 2-1/2 feet
15 from the shared property line with the building to the north.
16 As the building is already 10 feet passed the adjacent
17 property to the north, the applicant needs relief to
18 construct the addition. And with that, I'll turn it over to
19 Mr. Williams.

20 MR. WILLIAMS: So this is an aerial view of the
21 subject property. You can see it culled out there. And
22 we're primarily concerned about the neighbor to the east,
23 which is 3410 Volta, because the existing house rear wall to
24 the south is already about 10 feet passed the closest wall.
25 That's probably a little easier to sort of see, really, in

1 this site plan here. So you can see the hatched sort of wall
2 of the neighbor to the east, so the -- exactly. So the
3 existing house is about 10 feet and our window bay is about
4 8-foot-7 or so projecting, but it's about 30 inches in from
5 the property line, as Alex indicated.

6 This photograph, from Volta, actually shows that
7 the subject house, the two-story stucco dwelling -- it's an
8 interesting house; it was the laboratory for Alexander Graham
9 Bell from about 1880 to 1922, and it was a carriage house
10 that he sort of converted to his laboratory. What you see
11 to the left and the yellow house, this is actually quite a
12 large house, which is the neighbor to the east. So here you
13 can see that the typical block is not a series of row houses
14 or, you know, attached houses in any respect. They're sort
15 of all over the map, to be honest. So our house is a little
16 bit of an outlier there.

17 So this is the plan of the addition. We have done
18 sun and shading studies. I guess I should point out going
19 to the plan that it's not an alley lot, and so the actual
20 addition cannot be seen from any public space. It has
21 received approval from the Old Georgetown Board ANC and OP
22 and various others, but it has been reviewed in the Historic
23 Prevention and for aesthetics as well.

24 We have done sun and shade studies. The adjacent
25 property is quite large, has a swimming pool and sort of a

1 large rear garden. Again, I'm showing really only, I think,
2 two views -- well, three -- two views; one in March and I'd
3 say in the shoulder seasons when the sun is lowest in the
4 afternoon in the sky, there is some impact as a result of the
5 two-story window bay addition, but it's fairly minor
6 considering the size of the house and the size of the lot.
7 In June, 3:00 p.m., again, the afternoon, there's some shadow
8 into the yard but none on the building itself.

9 So essentially, there is no impact in terms of the
10 character of the block because it's not seen from public
11 space. The addition is quite modest and really does not
12 impact the light and air or the privacy.

13 We've had extensive conversations with the
14 neighbor at 3410. She has received copies of the drawings
15 and she is not opposed to the project and did not come to the
16 ANC meeting. So I think that's basically it, and I'll turn
17 it back to Alex, unless you have any questions.

18 CHAIRPERSON HILL: Yes. I do real quick --

19 MR. WILLIAMS: Okay.

20 CHAIRPERSON HILL: -- Mr. Williams. So like
21 what's the program for that space? Like how did you guys get
22 to that size, why is it, what is it? I didn't really
23 understand.

24 MR. WILLIAMS: Okay. It's a fairly small house,
25 and the client is downsizing. So the program is kind of a

1 garden room with a wet bar off of the living room on the
2 ground floor. And there actually are no windows to the east.
3 I should have pointed this out. There are no windows to the
4 east on the ground floor. On the second floor, it's a small
5 sitting room off the master bedroom for the client's study.
6 So it's a garden room, wet bar on the ground floor; small
7 study on the second floor. It's not an additional bedroom.
8 It's not a bath, anything like that. It's a little bit of
9 expansion of fairly small spaces in the house.

10 CHAIRPERSON HILL: It looks nice. Anyone for the
11 applicant?

12 MEMBER WHITE: Just one question. Did the
13 adjacent neighbor submit anything in the record?

14 MR. WILLIAMS: She did not, actually. I think
15 she's traveling right now. We -- you know, we offered --

16 MEMBER WHITE: But you're basically testifying
17 that you've had conversations?

18 MR. WILLIAMS: Absolutely. And all the neighbors,
19 of course, were sent the notice, but we specifically met with
20 her on several occasions.

21 MEMBER WHITE: Okay.

22 MR. WILLIAMS: Yes.

23 MEMBER WHITE: Thank you.

24 CHAIRPERSON HILL: Sure, of course.

25 MEMBER JOHN: So did you say the owner is

1 downsizing? I didn't understand --

2 MR. WILLIAMS: That's correct.

3 MEMBER JOHN: -- the connection --

4 MR. WILLIAMS: But --

5 MEMBER JOHN: -- between and the size of this
6 property. I didn't understand the relevance.

7 MR. WILLIAMS: Yes. The only relevance is I mean
8 they're moving from a fairly large house in the Cleveland
9 Park area and this -- they're empty nesters now, so it's a
10 downsize.

11 CHAIRPERSON HILL: This is the downsize.

12 MR. WILLIAMS: Yes. It's one that I would be very
13 happy to --

14 CHAIRPERSON HILL: Yes. Here's the downsize.

15 MR. WILLIAMS: -- upsize to.

16 (Laughter.)

17 CHAIRPERSON HILL: If you're confused -- don't be
18 confused, because this is the downsize.

19 MEMBER JOHN: Okay. So I don't know why I thought
20 when I read the case, looked at the record, that the owner
21 was living in the house.

22 MR. WILLIAMS: No.

23 MEMBER JOHN: So when you said "downsize" --

24 MR. WILLIAMS: No -- no -- no.

25 MEMBER JOHN: -- and adding --

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1 MEMBER JOHN: I'm sorry.

2 MEMBER JOHN: -- space, and so, okay, what am I
3 missing. Okay. So thank you for the clarification. I'm
4 glad I provided some levity for my colleagues --

5 CHAIRPERSON HILL: Oh, Oh know. I'm just jealous,
6 you know, so. Okay. Turn to the Office of Planning.

7 MR. KIRSCHENBAUM: Good afternoon, Chair Hill, and
8 members of the Board. Jonathan Kirschenbaum from the Office
9 of Planning. We recommend approval of the special exception
10 relief, and I'm available for any questions. Thank you.

11 CHAIRPERSON HILL: Okay. Does anybody have
12 questions for the Office of Planning? Does the applicant
13 have any questions for the Office of Planning?

14 MS. WILSON: No, thank you.

15 CHAIRPERSON HILL: Is there anyone here wishing
16 to speak in support? Is there anyone here wishing to speak
17 in opposition?

18 (No response.)

19 CHAIRPERSON HILL: Ms. Wilson, do you have
20 anything you'd like to add in conclusion?

21 MS. WILSON: No, thank you.

22 CHAIRPERSON HILL: Okay. Going to go ahead and
23 close the record. Is the Board ready to deliberate? Well,
24 I would agree with, again, the analysis that the Office of
25 Planning has provided as well as that of the testimony of the

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1 applicant in terms of the burden of proof. I also think that
2 they met the standard, and I don't have an issue with the
3 project, and I will be voting to approve. Is there anything
4 else any of my colleagues would like to add?

5 VICE CHAIR HART: Only that Alexander Graham Bell
6 seems to have quite a few places in D.C.

7 We actually looked at a case, I don't know, maybe
8 six months ago that was --

9 CHAIRPERSON HILL: Interesting.

10 VICE CHAIR HART: -- another residence of
11 Alexander Graham Bell so --

12 CHAIRPERSON HILL: All right. Okay. So with
13 that, I'm going to go ahead and make a motion to approve
14 Application Number 20055 as captioned and read by the
15 Secretary and ask for a second?

16 VICE CHAIR HART: Second.

17 CHAIRPERSON HILL: Motion made and seconded. All
18 those in favor, say aye?

19 (Chorus of ayes.)

20 CHAIRPERSON HILL: Aye. All those opposed? The
21 motion passes. Mr. Moy.

22 MR. MOY: Staff would record the vote as 5-0-0.
23 This is on the motion of Chairman Hill to approve the
24 application for the relief being requested; seconding the
25 motion, Vice Chair Hart; also in support, Ms. White, Ms.

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1 John, and Zoning Commissioner Robert Miller.

2 CHAIRPERSON HILL: Thank you very much, Mr. Moy.

3 Thank you all very much. Bye-bye.

4 (Whereupon, the above entitled matter was
5 concluded at 1:10 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 07-10-19

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.



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