

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 17, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOT
MATTHEW JESICK
JONATHAN KIRSCHENBAUM
STEPHEN J. MORDFIN

The transcript constitutes the minutes from the
Public Hearing held on July 17, 2019.

CONTENTS

Case Number: 20004	4
Case Name: Application of General Services Inc	
Case Number: 20066	6
Case Name: Application of William Stewart	
Case Number: 20069	61
Case Name: Application of Deidra Barksdale	
Case Number: 19999	67
Case Name: Application of Sanjay Bajaj	
Case Number: 20064	96
Case Name: Application of Mount Sinai Baptist Church	
Case Number: 20061	117
Case Name: Application of MDP 1353 Wisconsin LLC	
Case Number: 20067	152
Case Name: Application of National Childrens Center Inc	
Case Number: 20070	159
Case Name: Application of Peter Roushdy and Kelly Franklin	
Case Number: 19988	165
Case Name: Application of Rupsha 2011 LLC	
Case Number: 20027	181
Case Name: Application of Kara Benson	
Adjourn	219

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
 1323 RHODE ISLAND AVE., N.W.
 WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

10:05 a.m.

VICE CHAIRPERSON HART: So I guess we can move to the public hearing portion of the agenda, and I guess that first case is 20004. It looks like there's a preliminary matter for that.

SECRETARY MOY: Yes, so to read into the transcript, this is case application number 20004, General Services Inc. Caption advertised for a use variance from the use restrictions Subtitle U, Section 301.1, to construct a new three-story mixed-use building with ground floor office and storage space in an R-2 zone. This is at 5415-5417 Eads Street, that's E-A-D-S Street, Northeast, Square 5231, Lot 16, 17, and 18, and as you hinted at, Mr. Vice Chair, under Exhibit 48 the Applicants were requesting a postponement.

VICE CHAIRPERSON HART: Yes. So, after reviewing the postponement request, I think that, and I understood that we had quite a few questions and comments for the Applicant at the last time that we heard this. I'd be in favor of postponing the case, which would allow the Applicant more time to kind of work on the proposal. I just wanted to see what, I mean, I think that it's, they did have quite a bit of work to do on it.

Like I said, I would be in support of it. Looks like the ANC is also supportive of postponing it as well.

1 Does anybody else have any comments?

2 MEMBER WHITE: I agree, Mr. Vice Chair. I think
3 it's important to get community feedback on this before we
4 make a decision.

5 VICE CHAIRPERSON HART: Yes, and also get updated
6 drawings, because that was a big part of this as well.

7 MEMBER WHITE: Right, exactly.

8 VICE CHAIRPERSON HART: Okay. So I think by voice,
9 folks, it seems like we are voting to postpone it. They're
10 looking to at least till September 25, but I don't know what
11 our September agenda, the end of September agenda is like,
12 and I don't know if it's October, early October or end of
13 September that would work.

14 SECRETARY MOY: Mr. Vice Chair, for September 25,
15 I do have already inked in for that date six cases that have
16 been postponed or continued. I have new cases coming on that
17 date, so the Board should expect to have a full docket for
18 that day. You could add this to that, or move it to October
19 2. It's your choice.

20 VICE CHAIRPERSON HART: Board member White.

21 MEMBER WHITE: I notice in their letter that they
22 requested that the case be postponed until October 9, if I'm
23 reading it correctly, in Exhibit 49,

24 VICE CHAIRPERSON HART: Looks like the ANC would
25 like it to be postponed until October 9. I'm not exactly sure

1 why they are suggesting that particular date. The Applicant
2 has stated September 25. I'm not sure what that is, it looks
3 like Mr. Sullivan is here, so if you could please come and
4 introduce yourself.

5 MR. SULLIVAN: Thank you, Mr. Chair. Marty Sullivan,
6 with Sullivan and Barros, on behalf of the Applicant. We're
7 fine with October 9.

8 VICE CHAIRPERSON HART: So we could do it, is
9 October 9 open?

10 SECRETARY MOY: Absolutely, sir.

11 VICE CHAIRPERSON HART: That is -- then we will do
12 it then. Thank you very much. So, I don't know which case
13 we are moving to, Mr. Chairman, but the floor is yours.

14 BZA CHAIR HILL: Let's go ahead and move up one
15 case. Is anyone here for 20066? Okay. Then Mr. Moy, let's go
16 ahead and call that one first, when you get a chance.

17 SECRETARY MOY: Thank you, Mr. Chairman. If I can
18 call parties to the table, this is the case application
19 number 20066, of William Stewart. Caption advertised for a
20 special exception under Subtitle C, Section 703.2, from the
21 minimum parking requirements, Subtitle C, Section 701.5, to
22 raise existing detached commercial building and to construct
23 a new 41-unit residential apartment building. MU-4 Zone, this
24 is at 1214 through 1216 Bladensburg Road Northeast, Square
25 4078, Lot 880.

1 BZA CHAIR HILL: Okay. If you could please
2 introduce yourselves for the record, from my right to left.
3 You can go first, sir.

4 MR. HORGAN: Kevin Horgan, I am representing on
5 behalf of the ANC. I'm co-chair of their recently formed
6 zoning and development committee.

7 BZA CHAIR HILL: Okay. Could you spell your last
8 name for me?

9 MR. HORGAN: Horgan, H-O-R-G-A-N.

10 BZA CHAIR HILL: Okay, great. Thank you,
11 Commissioner. Welcome.

12 MR. HORGAN: Not a commissioner, just representing
13 --

14 BZA CHAIR HILL: Oh, okay. We'll get that in one
15 second as well. Next, please?

16 MR. SULLIVAN: Good morning, Mr. Chair. Marty Sullivan,
17 with Sullivan and Barros, on behalf of the Applicant.

18 BZA CHAIR HILL: Okay.

19 NICOLE WHITE: Good morning. Nicole White, Symmetry
20 Design, transportation plan.

21 MR EDWARDS: John Edwards, with Bonstra Haresign
22 Architects.

23 BZA CHAIR HILL: Okay, could you say your name
24 again?

25 MR EDWARDS: John Edwards.

1 BZA CHAIR HILL: Edwards. Okay, so Mr. Sullivan,
2 you're going to present to us, correct?

3 MR. SULLIVAN: Yes.

4 BZA CHAIR HILL: And then, Mr. Horgan, I'm just
5 trying to make sure, so you, there's something in here that
6 says that you're able to speak on behalf of the ANC?

7 MR. HORGAN: Yes, the ANC report. I think it's the
8 form 129, when they signed at the bottom they did list me as
9 one of the two people authorized to speak on behalf.

10 BZA CHAIR HILL: Okay. Is the ANC here?

11 MR. HORGAN: No, the single-member district
12 commissioner, she is on vacation this week, and the
13 chairperson of the ANC is also on vacation this week.

14 BZA CHAIR HILL: Okay. The only reason why I'm
15 asking, you guys moved up because there was a commissioner
16 here that I thought was actually on this case, but you guys
17 -- Anyway, so, I got misinformation there. You're right,
18 exactly, you guys are benefitting from the mistake, unless
19 Mr. Sullivan has other cases and he's going to be here all
20 day anyway.

21 Let's see, so then, Mr. Sullivan, you can go ahead
22 and give your presentation, and then Mr. Horgan, you know,
23 you're a party to the case. I see that you have a slide deck
24 here, at least something that you'd like to present to us,
25 so as a party you have an opportunity to ask questions of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Applicant and ask questions of the Office of Planning, do
2 your presentation as well, and then we'll have any conclusion
3 that you'd like to add. I sometimes forget whether or not
4 you're, anyway you'll have a conclusion.

5 So, Mr. Sullivan, if you want to go ahead and just
6 kind of like walk us through your application and what you're
7 trying to propose, and then also how you think you're meeting
8 the relief, you know, the standard by which we can evaluate
9 the application. I'm going to put 15 minutes on the clock
10 just because, unless you think you want me to put more on
11 there right now.

12 MR. SULLIVAN: I think, I believe that's enough.

13 BZA CHAIR HILL: Okay. So we'll see you in 15
14 minutes and in that case, Mr. Horgan, you'll also get 15
15 minutes for your presentation, just so you know what's going
16 on. Mr. Sullivan, you can begin whenever you like.

17 MR. SULLIVAN: Thank you, Mr. Chairman, members of the
18 Board. The request is for special exception relief from a
19 parking requirement of 12 spaces for a 41 unit multi-family
20 building. We're asking for special exception relief under
21 Subtitle C, 703.2. I'm going to turn it over to Nicole to
22 handle the, to talk about her traffic study, parking study,
23 and then I'll go over the criteria after that. Thank you.

24 MS. WHITE: Good morning. My name is Nicole White
25 and I'm a principal with Symmetry Design. Our firm was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 retained by the Applicant to prepare a transportation study.
2 The scope of the study was coordinated with DDOT as part of
3 the comprehensive transportation review process.

4 As you can see from the image before you, the site
5 is landlocked and does not have alley access or access from
6 Bladensburg Road. There are a number of constraints that
7 preclude a potential curb cut on Bladensburg Road including
8 -- just go back for one second -- please, including proximity
9 to the M Street NE intersection.

10 You'll see a crosswalk there just in front of the
11 site. There's a bus stop near the site, and then if you could
12 also go forward, there are also a number of street trees and
13 their required setbacks from street trees. Thus, as outlined
14 in DDOT's July 5th report, DDOT would not support a curb cut
15 at the site location.

16 As part of the transportation study we performed
17 a parking assessment of on-street spaces within a two-block
18 radius of the site. The scope of the parking study and
19 methodology were coordinated with DDOT. The parking study
20 area included 148 spaces. The study was conducted on an
21 hourly basis on a typical Tuesday from 6:00 p.m. until 10:00
22 p.m. The peak parking period was 9:00 p.m., when
23 approximately 65 percent of the spaces were occupied and 48
24 spaces were available.

25 The parking study indicates parking restrictions

1 and parking demand on a block by block basis. This slide
2 illustrates the number of available spaces during the peak
3 parking period, when there were 48 total spaces available.
4 I will note that of the 48 spaces available, 39 spaces were
5 non-RPP spaces.

6 As outlined in DDOT's July 5th report, DDOT finds
7 the amount of available on-street parking within a two-block
8 walk sufficient to meet the needs of the project.

9 The Applicant has committed to offering
10 transportation demand management measures to reduce traffic
11 and parking demand. The TDM measures are consistent with
12 DDOT's suggested measures for a project of this size and
13 nature. Proposed TDM measures include identifying a
14 transportation coordinator, providing welcome packets and
15 carpool information and posting TDM commitments on a website.

16 In response to community feedback, the Applicant
17 expanded the TDM plan to also include Capital Bikeshare
18 membership for three years, a \$100 SmartTrip card, and a
19 CarShip membership at the time of initial sale of each unit.
20 In addition, it should be noted that Bladensburg Road is not
21 an RPP street, and residents would not be eligible for RPP.
22 The Applicant has agreed to advertise in marketing materials
23 that residents would not be eligible for RPP. The site would
24 be most attractive to future residents that live a car-free
25 lifestyle.

1 The project will provide 14 bicycle parking spaces
2 indoor, in accordance with zoning requirements. Also, the
3 elevator will accommodate bicycles for those residents that
4 prefer to store their bicycles in their individual units.

5 As outlined in DDOT's report, DDOT finds the
6 Applicant's proposed TDM plan robust for this proposed
7 parking relief.

8 MR. SULLIVAN: I'd just like to address some of the
9 community outreach and responses that we've had. We've been
10 to five ANC-related meetings to date, including two full ANC
11 meetings, a Zoning Committee meeting, and an on-site meeting.
12 As Nicole mentioned, the TDM was increased based on the
13 feedback that we got from the Advisory Neighborhood
14 Commission.

15 Regarding trash removal, although it's not
16 directly related to the relief, the Applicant is working with
17 the adjacent property owner to secure some type of easement
18 in order to take the trash out, and one of the things that
19 the ANC mentioned is, could we use an easement to get parking
20 spaces back there. But that would just take parking spaces
21 away from that property, and then they would have to ask for
22 relief. To our understanding, they are proposing a project
23 that does not require parking relief on the adjacent
24 property.

25 Just to clarify, too, in the ANC report it states

1 that the Applicant was unwilling to redesign due to
2 investors' concerns. While in the end maybe that's the end
3 result, but the redesign is not really possible. It's not
4 possible to get parking on this site because of how it's
5 situated.

6 In conclusion on this part of it, the location is
7 bikeable. It's within a half-mile of six Metro bus routes.
8 We have the support of DDOT and the Office of Planning as
9 well.

10 Regarding the project itself, we have submitted
11 plans and elevations, and the architect is here if the Board
12 would like to hear any details about the specifics of the
13 project in that regard.

14 BZA CHAIR HILL: I don't know, Mr. Sullivan. Let's
15 see how we kind of get through the plans, if the Board has
16 any questions. Are you going to talk through again the
17 standard of --

18 MR. SULLIVAN: Yes.

19 BZA CHAIR HILL: Okay. Does anybody have any
20 questions of the architect at this point? Sure, go ahead.

21 MEMBER WHITE: Quick question. Can you respond to
22 the loading process? Is there a plan for loading in and out
23 of the building? You talked about the trash. And also, I was
24 curious how close the bus routes and Metro subway routes
25 would be, locations would be to the project.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. WHITE: In response to your first question about
2 loading, residents would be required to go through the process to
3 reserve on-street spaces, which is typical throughout the city,
4 and as noted in the DDOT report that would take place on Meigs
5 Place, not on Bladensburg Road. That was the recommendation
6 for DDOT. Trash removal would occur on Bladensburg Road, so
7 there is a bus stop, and if you go back to the aerial, you'll
8 see how close we are to the bus stop.

9 That is one route on Bladensburg Road. The other
10 five routes are on Benning Road, which is still within the
11 walkable distance.

12 MEMBER WHITE: What's the closest Metro stop?
13 Subway to --

14 MS. WHITE: It's outside of, I think it may be New
15 York Avenue, but it's outside of --

16 MEMBER WHITE: This particular area.

17 MEMBER WHITE: Yes.

18 ZC CHAIR HOOD: Yes, Mr. Chairman. Ms. White, you
19 talked about it being attractive to folks who don't own a
20 car. Explain to me how that's going to work. He said it was
21 going to be in the leases that you're going to get a car in
22 RPP. Explain to me how that's going to work, and do we have
23 any tract records showing, throughout the city, to your
24 knowledge, that that actually works.

25 MS. WHITE: So what I would say is that if you own

1 a car and there's no parking here, what I'm saying is this
2 might not be the site for you. There are plenty of people in
3 the city that don't own cars, and would find this site
4 attractive. So that's, in general, what I'm saying.

5 Also we did look at census information in this
6 particular census block, and car ownership rates are, about
7 50 percent of the people do not own cars in this census
8 block, which is a higher non-auto ownership than the rest of
9 the city which is about 35, 36 percent.

10 And so it's not to say that you absolutely
11 wouldn't own a car. We're saying that it would be more
12 attractive if you didn't own a car and that there are these
13 TDM measures in place that would encourage other modes of
14 transportation. By the way, the parking study also indicates
15 that there is a lot of on-street spaces in the area.

16 ZC CHAIR HOOD: So then, to understand that, you
17 also mentioned about RPP. What did you say about RPP?

18 MS. WHITE: Yes. There are, the area has about, and
19 if you go to the slide that shows on a block by block basis,
20 you'll see there's a dashed blue line, this is not the
21 clearest graphic, but on Meigs Place and Lyman, those are the
22 RPP blocks in the vicinity of our parking study area. So what
23 I'm saying is, if you exclude those spaces, so there were
24 nine, seven spaces plus two, nine spaces that were available
25 within the RPP area. We acknowledge that this site would not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 be RPP eligible so even if you removed those spaces there are
2 still 38 available on-street spaces in the site area.

3 ZC CHAIR HOOD: Do we know, you said it's not RPP
4 eligible. Do we know how that's working with the city?

5 MR. SULLIVAN: Well, because it's a commercial
6 address and a commercial street, it doesn't have the ability
7 to appeal for an RPP. That was one of the items that we
8 focused on with the ANC, in that we will make sure people
9 know when they're prospective purchasers, that you're not
10 going to be able to get an RPP permit because you have a
11 commercial street address.

12 ZC CHAIR HOOD: So let me help you on that a little
13 bit. I actually know the answers to all those questions I was
14 asking. The city, we're not doing a great job on this, and
15 this has been in front of the Board and the Commission a lot.
16 We need to do this, I think this area might be able to get
17 by with it. Waiting to hear what some concerns of the
18 community are.

19 But I can just tell you that we're actually not
20 doing a good job with this. You say it's not RPP eligible,
21 I've been on this issue for a couple years now and I can tell
22 you that people are getting RPP so that proffer and offer to
23 the Board and the Commission, for me, falls on deaf ears
24 because we need to do -- I'm not putting the, blaming you,
25 I just want to know what has changed since two weeks ago?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 Probably nothing.

2 So I think we need to start looking at other
3 alternatives when we come down and make those proposals,
4 because putting the community on promise land, that
5 somebody's not going to be RPP eligible, and then they ride
6 around the corner and a new person got RPP sticker. I'm not
7 just putting it on you yourself, Ms. White, but I just think
8 we need to continue to try to discover that more and make
9 that work in the city.

10 BZA CHAIR HILL: You want to ask something?

11 MR. SULLIVAN: I just want to make sure I understand it
12 too, and make sure it's clear, that we're not proposing that
13 we're going to restrict it or that it would be a condition
14 of the order. We're saying that the city won't allow, to my
15 knowledge, won't allow it on a commercial street. We actually
16 had a project on H Street, in a case where the ANC
17 specifically wanted us to make it a condition that we not use
18 the cross-street address, because that's what some developers
19 can do. If you're on a corner, you can use a cross-street
20 address and it becomes a residential street, then you can get
21 RPP.

22 This was on H Street, and the ANC effectively
23 prevented us by just conditioning that we must have an H
24 Street address. So my understanding is that that would
25 trigger, not the BZA conditions.

1 ZC CHAIR HOOD: So you want to do the same thing
2 here. That's what you're proposing.

3 MR. SULLIVAN: It exists. That's the way it is. We can't
4 --

5 (Simultaneous speaking.)

6 ZC CHAIR HOOD: Well, that's what they're saying
7 now because of Bladensburg Road, but you all are also going
8 to do the same thing here that you did on H Street.

9 MR. SULLIVAN: Yeah, and the important thing is that we
10 want purchasers to know when they come. The reason why they
11 want us to advertise that more prominently is that so people
12 know, okay, this is a place where I might not really want to
13 have a car because I won't be able to get a permit.

14 MS. WHITE: And just to point out, there's no other
15 option for another street address here. It would only be
16 Bladensburg Road, unlike the case that Mr. Sullivan is
17 noting.

18 ZC CHAIR HOOD I'm not going to belabor the point
19 with you all. There are some bigger discussions, so -- Thank
20 you, Mr. Chairman.

21 BZA CHAIR HILL: Okay. I guess we're asking
22 questions. Does anybody have some questions? No? I have a
23 couple. Mr. Sullivan, they're for sale? I got confused.
24 They're not apartments. I mean, they're not rentals?

25 MR. SULLIVAN: Yes, these are condominiums.

1 BZA CHAIR HILL: Right. And now just to follow up,
2 because we're going to continue having this discussion with
3 the RPP staff, right, the fact that it is a commercial
4 street, that's what you're saying, that lot, and it's
5 landlocked, so they can't, you wouldn't be able to get RPP.

6 MS. WHITE: That's correct.

7 BZA CHAIR HILL: That's according to DDOT.

8 MS. WHITE: Right. That is correct. And so what
9 we're saying now is in addition to not being able to get it,
10 we agree to advertise it.

11 BZA CHAIR HILL: Right. No, I got that. So now it's
12 kind of just to the Board, and even Chairman Hood, he's kind
13 of over there that brought this one up. So then they can't,
14 so I still don't understand how sometimes we can't, I thought
15 it wasn't possible -- Oh, never mind. Forget it.

16 ZC CHAIR HOOD: I want to hear your question,
17 because I know that it can be done.

18 MS. WHITE: Right.

19 BZA CHAIR HILL: Well, I was confused I thought
20 they, no, no, no, I thought that we couldn't set up a
21 building so that there wouldn't be RPP. And so if they have
22 a commercial street address, they can't apply for RPP. So I'm
23 going to learn something later about how we might be able to
24 actually --

25 All right, so, Mr. Horgan, do you have any

1 questions of the Applicant based on their presentation?

2 MR. HORGAN: Yes. First is are there any shared
3 investors between, I acknowledge your lot is landlocked at
4 1214-1216. Are there any shared investors between that lot
5 and the adjacent lot, which does have access to Meigs Place?
6 That kind of bears --

7 BZA CHAIR HILL: I understand the question. That's
8 okay. Mr. Sullivan?

9 MR. SULLIVAN: My understanding is that there is, and we
10 can have, we have a representative of the owner here that can
11 talk about that, but we're not proposing that that be part
12 of the application.

13 BZA CHAIR HILL: Okay.

14 MR. SULLIVAN: It's not a total, they're not, there's
15 different decision-makers behind --

16 BZA CHAIR HILL: I got you. And Mr. Horgan, just
17 so you know, are you being, if you can help me out. It's not
18 that bad right now but when we've got both microphones on at
19 the same time we get feedback, so just go ahead and -- Your
20 next question?

21 MR. HORGAN: It was actually more of a, before I
22 get into my own presentation, more involved in the RPP.
23 Commissioner Shropshire and I did also speak with DDOT
24 yesterday to get clarification on the RPP, and something that
25 they told us is that, again, and they acknowledged that,

1 because of the address you could not. What happens sometimes
2 is the address in the DMV database is incorrect and there may
3 have been an old 30-year-ago RPP or something equivalent, and
4 it's not updated, and that is, as DDOT explained to us, how
5 sometimes addresses that shouldn't, do get RPPs because the
6 DMV database is out of date.

7 They said, I was speaking with Erin and Kelsey,
8 and she said that they would go confirm with the DMV that it
9 was properly set in the database.

10 BZA CHAIR HILL: Okay, Mr. Horgan. You can speak
11 to that during your presentation. Do you have any questions?

12 MR. HORGAN: No further questions.

13 BZA CHAIR HILL: Okay, Mr. Horgan, I'm going to put
14 15 minutes on the clock, Mr. Moy.

15 MR. SULLIVAN: Mr. Chair, sorry to interrupt. I didn't
16 get to go through the criteria when he asked about that.

17 BZA CHAIR HILL: Oh, that's all right. I'm sorry.
18 That's okay, right. And then we interrupted your time by
19 starting to ask questions when you introduced the architect.
20 So why don't you go ahead and walk us through the standard,
21 or whatever you would like to do with another five minutes
22 of your time.

23 MR. SULLIVAN: Okay, thanks. As the Board knows, this
24 relief has several different categories of criteria, any one
25 of which can satisfy the requirement. We focused on, in our

1 PowerPoint presentation we focused on A, 703.2 A, that due
2 to the physical restraints of the property, the required
3 parking spaces cannot be provided either on the lot or within
4 600 feet of the lot, in accordance with Subtitle C 701.8.

5 In addition to that, we did argue also the fact
6 in our Applicant statement, some of the other criteria as
7 well. Subsection B, the use for a structure is particularly
8 well-served by mass transit, shared vehicle or bicycle
9 facilities. Granted the ANC has issue with that, and that's
10 arguable.

11 But another one I think that's helpful is H, the
12 property does not have access to an open public alley,
13 resulting in the only means by which a motor vehicle could
14 access the lot is from an improved public street and either
15 a curb-cut permit for the property has been denied by the
16 District Department of Transportation, or we can't provide
17 a driveway otherwise that would comply.

18 And while a curb-cut permit application has not
19 been denied, it has been stated in DDOT's report that they
20 would do so. So I think we satisfy that requirement as well,
21 without regard to any discussion of the other parking spaces
22 within 600 feet. Thank you.

23 BZA CHAIR HILL: Okay. Does any member of the Board
24 have any questions of the further testimony of the Applicant?
25 Okay. Mr. Horgan, do you need the PowerPoint there? Or the

1 computer, I should say? Take your time.

2 Please go ahead.

3 MR. HORGAN: Okay, and a copy of the presentation
4 has been submitted into the case record. First, I would like
5 to acknowledge that the Applicant has come before the ANC,
6 single member district meetings as well as recently to our
7 first Zoning Committee meeting, so we do appreciate the time
8 and effort that they've gone to.

9 Unfortunately, despite that the ANC still voted
10 unanimously to oppose this special exception. The primary
11 reasons, we looked at their application and we looked at the
12 reasons that they gave that they felt they should be awarded
13 this special exception, Subtitle C, 703.2, and list three
14 conditions. We went through them and we actually, the ANC
15 does not feel they meet any of those three. Later in this
16 presentation I'll go through point, point, point, our
17 thoughts on that.

18 I think the ANC's major concern wasn't so much
19 parking, because DDOT mitigated that concern. It had to do
20 more with safety. Because of the lack of the access to the
21 building's rear, all residents' pickups, drop offs, residents
22 unloading, loading during moves, daily mail, Pea Pod, Amazon,
23 trash collection, it's all intended for Bladensburg Road
24 which is a major city thoroughfare and so the ANC's major
25 concern was that there was a high risk of accidents,

1 pedestrian, that might occur right there.

2 There's a nearby school, a KIPP School. In the
3 morning parking in that area in the morning gets very
4 congested. If some of the residents in some of those areas
5 are not yet residential parking permit only are still
6 unrestricted. Right now those neighbors feel constrained in
7 the mornings.

8 The other major concern is there was a very, very
9 detailed impressive transportation study, but it covered one
10 single day and it covered the period of 6:00 p.m. to 10:00
11 p.m. at night. It kind of missed the period in the morning
12 drop off and the evening pickups that most concern neighbors,
13 and we're just not sure statistically how relevant is that
14 study for one day. And I'll go into more details.

15 The burden of proof, Subtitle, and I'm just
16 repeating here what's in 703.2, the Applicant listed, there's
17 like ten considerations the Board can consider. The Applicant
18 provided three of those. They attest that they meet 703.2 A.
19 B, and C. We looked at that and we did our own analysis, and
20 we didn't feel they met any of those.

21 703.2 A says, due to the physical restraints of
22 the property, required parking spaces cannot be provided
23 either on the lot or within 600 feet. I have the Applicant
24 statement here, but I'll just get into the ANC's response.

25 We fully agree there's no alley access, but in

1 their application they state that they provided a detail of
2 the use of properties was within 600 feet. There is a map on
3 Exhibit 12, page 1, but it doesn't really give a lot of
4 detail of what those lots are. Are they parking lots, was
5 there an effort made to get parking, to lease parking from
6 those owners?

7 Our biggest concern is that we know that there's
8 a shared investment with the lot next door. They do, they
9 actually do have a curb cut, that property. That lot next
10 door, 1200 Bladensburg, also goes up against Meigs Place. So
11 we looked at that lot, and by the way the ANC Zoning
12 Committee does have like three architects, we have a
13 developer on there, we have some very technical people on the
14 Zoning Committee to give us advice.

15 They look at that, and they were like, what makes
16 sense for both of these units is that there be a driveway in
17 the back. We're not proposing that there's parking, but at
18 least a driveway to a spot where there's loading and
19 unloading, so when there's deliveries, Pea Pod, groceries,
20 FedEx, UPS, throughout the day, Lyft and Uber pickups and
21 drop offs, that there's a safe location to do that without
22 those happening on Bladensburg Road, increasing the
23 probability of people double-parking, causing an accident on
24 a major thoroughfare.

25 We acknowledge there's a physical constraint, but

1 we don't think the Applicant has met the burden of proof. We
2 think there's an integrated solution for both of those
3 developments.

4 703.2B, the Applicant, there's a use in structure
5 particularly well-suited by mass transit, shared vehicle and
6 bicycle facilities. On slide 6 I provide, there's a copy of
7 the Applicant's statement. On slide 7, ANC's response is that
8 yes, there is a bus stop, but there's only one bus stop.
9 There's only one bus route right in front of that building.
10 There are other routes, but the only one run during school
11 session, analysis, I hate to read from the slide but this
12 part was written by an architect.

13 Commuters taking faster modes of transportation
14 tend to go up to one-half mile, and while the Applicant is
15 correct that these street cars within a half mile, it doesn't
16 move faster than busses and therefore would not attract
17 commuters to walk further any more than a bus line would. As
18 the Applicant stated, there's Capital BikeShare station .6
19 miles away, and a RideShare .8 miles away but commuters will
20 not walk this distance to find an option for commuting and
21 will tend to prefer a car.

22 The standard that lead for new construction used
23 to qualify for access, to qualify for transportation credits
24 is now a quarter mile for bus, streetcar or informal transit
25 stops and a half a mile for bus, rapid transit, passenger

1 rail or commuter ferry terminals.

2 The third provision that the Applicant felt they
3 met was the 703.2C, land use of transportation
4 characteristics of the neighborhood minimize the need for
5 required parking spaces. And again, on slide 8 I just repeat
6 the Applicant's statement.

7 Slide 9. The Applicant states in there that
8 there's a neighborhood, a walk score of 85, which is
9 considered very walkable, and that most errands can be
10 accomplishes on foot. While that's true, it doesn't take into
11 account the car traffic that's occurring right in front of
12 Bladensburg Road. It actually only has a transit score of 56.

13 Our concern is that given the Applicant hasn't
14 accorded -- access to the rear lot with 1200 Bladensburg, the
15 only access for future residents would be on Bladensburg Road
16 and that would almost ensure that future residents would
17 propose, DDOT in the future proposing dedicated bus lanes or
18 a dedicated bike lane right in front of the building, because
19 that's the only access point for -- the residents there. It
20 seems it might only be the only access, perhaps, for next
21 door.

22 The Applicant states that it's considered
23 bikeable, but there's only a bike score of 62 out of 100.
24 There's also no bike lanes on Bladensburg Road.

25 That, I think, concludes the part of my

1 presentation where I think I go into why we feel that they
2 haven't met the burden of proof that they said they met. So
3 703.2 A, B, and C. I hope I didn't rush through it, but we
4 feel that they met none of those three.

5 Our major concern, again, is that the fact that
6 there's a Transportation Demand Management just implies that
7 they tend to attract tenants that don't have cars, and that
8 they don't need parking spaces. You haven't heard me say that
9 we're opposing the issue. Really, the major issue is the fact
10 that everything's occurring on a major thoroughfare. If
11 anyone just brings up Google Street View, you can see how
12 wide Bladensburg Road is and that traffic flows through there
13 fairly fast in the morning.

14 There's going to be a lot of car sharing services,
15 delivery services, they're not that close to mass transit
16 there. Because of the zero loading area and zero temporary
17 parking in front of the building, because there's also an
18 existing bus stop there, it's safe to assume that delivery
19 vehicles will, we know it's human nature, UPS and FedEx and
20 Pea Pod, Lyft and Uber, they're just going to quickly double-
21 park on the street in front of the building.

22 Our concern is that that's going to create, we're
23 concerned that there's going to be an accident. There is one
24 pedestrian crosswalk almost immediately in front of the
25 building and then there's another just a little further down.

1 We're just concerned about creating a dangerous condition
2 there. We would hope that there would have been, with the two
3 properties, an integrated solution where there was rear
4 access and easement between 1214-1216 through the back of
5 1200 to Meigs Place. Because there's a shared investment
6 there we think that would make sense and keep the community
7 safe.

8 I've already addressed slide 11 here, the impact
9 to KIPP's School. Our major concern there was the study was
10 limited to a single day, Tuesday, May 21, and by the way this
11 all occurred, I think this application was submitted on May
12 7, it was certified with receipt on May 4. The ANC didn't
13 learn of this until May 31. So before the ANC had any
14 opportunity to have a conversation with anybody, this study
15 was completed and submitted to DDOT.

16 One thing that when Commissioner Shropshire and
17 I spoke with DDOT, we asked them, does this study, you know,
18 we wished in the future that when DDOT is, we found it
19 unusual that DDOT reaches out and basically has the Applicant
20 perform the study without requesting any feedback during that
21 study process. Because that study is what DDOT is using to make
22 their own decision.

23 We acknowledge DDOT supports this development, but they're
24 supporting it based upon this study that was done on one day for
25 a four-hour period.

1 Another concern that we had is the transportation
2 study. It is a very detailed study. One of the things we
3 learned speaking with DDOT yesterday is that DDOT is not
4 allowed to take into account what is going on as of, like,
5 today, in surrounding projects. If there's projects that are
6 like a week from delivering 45 units that are going to create
7 a parking impact, DDOT is not allowed to take that into
8 account. They can't make any future predictions. They can
9 only go by the study that is as presented to them.

10 On slide 13, at the very top of the project in the
11 maroon box there, that's the Applicant's property. Right
12 below it, 1200 is the adjoining lot. In the yellow box, that
13 is a 65-unit building, five-story. It's got rear parking
14 spaces, two handicapped spaces, I think it's a community for
15 55 years of age and plus. That looks like it's almost
16 finished.

17 Right below it there's a 65 unit that is, they've
18 got the foundation work done and are beginning to go up. I'm
19 not sure how long that will take, but you'll see some
20 pictures in the next few slides.

21 Further down, no more than .2 miles, it would take
22 you two or three minutes to walk that, there's another 45
23 units. There's a lot of units about to come live in that
24 community within the next six months. We look at that and
25 we're like, how is this parking study really capturing what's

1 going to happen by the time the Applicant submits building
2 plans?

3 This is a picture taken, you can see the
4 Applicant's site. It's kind of these two buildings here. It's
5 the small white building and there's a little dark-colored
6 building here. That's the Applicant's site. This is the 65-
7 unit building, it's just about to come live. This is directly
8 across the street. It's a much larger unit, it's 1151-1161
9 Bladensburg.

10 I couldn't, in the Civic Insight website I
11 couldn't find out how many units are going to be there,
12 whether it's going to be a mix of commercial/residential, but
13 it's a very large site. There's clearly going to be a parking
14 impact there.

15 This is, again, you can see that 55-plus unit is
16 almost completed, so this is again just one minute walk down
17 the road. 63-unit building, five story, these are all matter
18 of right, which means I can assume that they have parking in
19 the rear and they're probably providing the minimum parking
20 requirements.

21 But still, a 63-unit building, it probably
22 requires about 12 parking spaces, the other 45 residents
23 might have cars. If a quarter of them have cars, that is
24 eating into the available number of parking spaces that the
25 Applicant's transportation study says is currently available.

1 This, I wouldn't go so far as to say will impact,
2 it's .2 miles away, but this is another large building, it
3 actually spans this entire, this is Urban Land Company's
4 office here, a tall building here, it's another 45 units.
5 Again, this is a future project, this is that lot next door
6 Currently it's being used as a staging area for the
7 construction next door.

8 So, these are all developments that are coming,
9 that we feel are going to eat into, that we actually feel
10 like make the transportation study not reflective of what's
11 actually going to occur six months from now.

12 And again, I've repeated this many times, we think
13 that there needed to be an integrated solution with 1200
14 Bladensburg Road, and I don't know if that's legally
15 required, but we think if, you know, we don't think the
16 Applicant has met the burden of proof for 703.2 and we
17 actually think that when this building is built, with all of
18 these drop offs and loadings occurring right in front of the
19 building, the concern is that there's going to be an
20 accident. There's going to be pedestrian incident that nobody
21 wants.

22 Wrapping it up here, in conclusion we feel the
23 Applicant hasn't met the burden of proof. We think there's
24 going to be a safety concern. We would much rather the
25 Applicant come up with an easement to the rear of 1200, so

1 both of those developments could have all of deliveries,
2 pickups, drop offs, loadings, when residents move in and move
3 out, their moving truck, they could all occur hopefully from
4 the back.

5 We think there's going to be an impact to the
6 resident and KIPP School drop off, and we think that the
7 transportation study, as accurate as it is, captured too
8 narrow a time period and it won't reflect the parking that
9 will actually be in the neighborhood about six months from
10 now. That concludes my presentation.

11 BZA CHAIR HILL: Okay, Mr. Horgan, thank you. Does
12 the Board have any questions for Mr. Horgan?

13 VICE CHAIRPERSON HART: Just a quick question.
14 Thank you very much. It's a very thorough presentation. I did
15 have a question about the KIPP DC School. Where is the drop
16 off you're talking about?

17 MR. HORGAN: What happens in the morning is a lot
18 of parents will double-park on 16th Street. And 16th Street,
19 I'm not sure if this laptop has a -- all right -- it's not
20 on this map here but KIPP, you can see from my hand and
21 pointer, it's up around here.

22 VICE CHAIRPERSON HART: I'm actually looking at a
23 map, so I can --

24 MR. HORGAN: Okay. So, a lot of the parents in the
25 morning, I actually live just down the road here, in the

1 morning I know not to drive up Holbrook, because it becomes
2 a bottleneck congestion. A lot of parents will double-park
3 on 16th Street and just walk the kids over to the school. And
4 so, in the mornings, Commissioner Shropshire lives right on
5 16th Street herself, and so she sees it first hand in the
6 morning. She just feels like when a lot of these buildings
7 are delivered, parking's going to be very difficult.

8 I do understand, I think there may have been a
9 neighbor who is collecting a petition. I don't think it got
10 submitted into the case record. She might be here today. Back
11 here we do have a neighbor, actually, and she might come up
12 and speak for a minute but yeah, that's a --

13 VICE-CHAIR HART: That's fine. I just was trying
14 to figure out the kind of impact from Bladensburg to where
15 the school was, but I appreciate the information that you
16 have.

17 The other question that I had was actually for the
18 Applicant, and that was really around the 600 foot radius.
19 Could you just talk about that a little bit, in terms of how
20 much parking, what it is you've looked at, I don't know if
21 it's Ms. White or Mr. Sullivan, about that not having the
22 ability to park 600 feet from the site?

23 MR. SULLIVAN: Yes, and we did not provide real
24 detailed information on that and the Board hasn't required
25 that yet in the past, but we could do that. It's just an

1 evaluation of the site and required parking around there that
2 any other parking that might exist would have to be allocated
3 to specific use. In order for the parking to be available,
4 it can't be required parking for another property as well.

5 VICE-CHAIR HART: And that would also be, that
6 means like paid parking? Would it be a parking garage that
7 you'd be looking at, or you'd have a, your client would have
8 a deal or some sort of agreement with a neighboring property
9 to be able to use a portion of their side for parking? I'm
10 trying to figure out how do we --

11 MR. SULLIVAN: That's my understanding of it, but
12 we haven't, in all the cases that we've done, we've never
13 really found parking available for that, and then I think it
14 sort of, it goes counter to the idea that we want to
15 discourage parking. And it's more of a macro issue for the
16 community as well. We would still be bringing cars in if we
17 did have that parking.

18 That's why I brought up Section H2, because I
19 think it's a path of least resistance to the approval,
20 regarding we don't have alley access and we have effective
21 DDOT denial of a curb cut request.

22 VICE-CHAIR HART: Thank you.

23 MR. SULLIVAN: Thanks.

24 BZA CHAIR HILL: Okay, anyone else for Mr. Horgan?
25 Okay. Does the Applicant have any questions?

1 MR. SULLIVAN: No, thanks.

2 BZA CHAIR HILL: Okay. I'm going to turn to the
3 Office of Planning.

4 MR. MORDFIN: Good morning, Chair and members of
5 the Board. I'm Stephen Mordfin. The Office of Planning
6 supports this application, subject to the Applicant, subject
7 to the nine conditions that were included in the Applicant's
8 TDM plan that the Applicant implement those to mitigate the
9 impact of this building without the 12 parking spaces that
10 are required by Zoning.

11 Under the requirements, under Section 703.2, the
12 Applicant needs to just document that they are in conformance
13 with at least one of those. Office of Planning found that
14 they are in conformance with three of them, and therefore
15 finds that Office of Planning can recommend approval of their
16 request to reduce the parking. Therefore Office of Planning
17 recommends approval subject to those nine conditions that
18 were included in the TDM plan, and is available for
19 questions.

20 BZA CHAIR HILL: Okay. Does the Board have any
21 questions for the Office of Planning? Does the Applicant have
22 any questions for the Office of Planning?

23 MR. SULLIVAN: No. Thank you.

24 BZA CHAIR HILL: Mr. Horgan, do you have any
25 questions for the Office of Planning?

1 MR. HORGAN: No.

2 BZA CHAIR HILL: Okay. Mr. Sullivan, I have a
3 couple quick questions for you guys. You've heard from the
4 Office of Planning, I forgot to mention that. So you don't
5 have any issue with the TDM plan being implemented as a
6 condition?

7 MR. SULLIVAN: No.

8 BZA CHAIR HILL: Okay. And then also, I'm just
9 confirming, the doors that are swinging into public space,
10 no, I'm sorry, the doors do not swing into public space,
11 correct?

12 MR EDWARDS: Yes, that's correct.

13 BZA CHAIR HILL: And the pedestrian clear path will
14 be at least six feet wide on Bladensburg Road, is that
15 correct?

16 MR EDWARDS: That's correct as well.

17 BZA CHAIR HILL: And that the balconies and the
18 canopies will comply with open space regulations?

19 MR EDWARDS: We are going to make a code
20 modification request for the balconies and the canopy, based
21 on discussions that we've had with Office of Planning and
22 DDOT, that because of the situation on Bladensburg Road where
23 it's a very, very narrow sidewalk, they have been amenable
24 to code modifications for only balconies or canopies but no
25 other projections.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So we plan to, as part of the development
2 permitting process, ask for a code modification based on that
3 discussion. If we don't get that, the balconies won't,
4 obviously, occur.

5 BZA CHAIR HILL: Okay. Let's see then. This is just
6 kind of a question that I had for Mr. Horgan. Well, actually,
7 no, for the Applicant. What can you do matter of right there?

8 MR. SULLIVAN: I suppose we could do a five-unit
9 multi-family dwelling.

10 BZA CHAIR HILL: Five-unit.

11 (Simultaneous speaking.)

12 BZA CHAIR HILL: And then, Mr. Horgan, I know, oh,
13 and then I guess the Applicant. So, the, you guys have talked
14 with the ANC in terms of the alley that they're trying to
15 figure out. I'm not usually in favor of, I mean, it's a
16 different lot, it has nothing to do with your project, even
17 if it's a common investor. But do you guys talk about that
18 at all?

19 MR. SULLIVAN: We have, yes. And we're willing to
20 continue that, too, going forward. There are some shared
21 investors in the two properties. They've always been separate
22 properties, at least for the last 30, 40 years or so, there
23 is the ability to have some coordination there.

24 One of the thoughts we had, though, was if we do
25 provide a space back there, some sort of loading space, we're

1 not sure how we can control when FedEx or anything shows up
2 every day, or UPS --

3 (Simultaneous speaking.)

4 MR. SULLIVAN: But yes, we're, that would be in the
5 property owners' and the condos' and the developers' interest
6 as well, to see if there's some way to --

7 BZA CHAIR HILL: But you'd have to change the
8 design.

9 MR. SULLIVAN: No, I don't think change the design
10 of our building. We were just talking about, I think what
11 we're saying is maybe have a dedicated loading space on the
12 other property.

13 BZA CHAIR HILL: Okay, for your property.

14 MR. SULLIVAN: That maybe you would instruct
15 people, you can use that space if you're also going to this
16 property. But I'm not sure --

17 BZA CHAIR HILL: And you guys are still possibly
18 thinking about that.

19 MR. SULLIVAN: They'll continue to work on that.
20 I don't think it relates to the parking relief itself. It
21 relates to the larger macro of safety issues that they've
22 talked about.

23 BZA CHAIR HILL: And the property that you are,
24 that has the co-investors, or this co-investor, they're not
25 coming forward asking for any relief at this point?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. SULLIVAN: No, my understanding is that's a
2 matter of right project, including they're meeting parking
3 requirements.

4 BZA CHAIR HILL: They're meeting parking
5 requirements, okay.

6 VICE-CHAIR HART: Mr. Chair, just one follow-up
7 question. Ms. White, could you describe, Mr. Horgan talked
8 about the traffic study being a limited period of time and
9 a limited day, or on one day, could you talk about the
10 methodology for the traffic study?

11 MS. WHITE: Yes. The methodology was coordinated
12 with DDOT. It's typically the industry standard. It's
13 acceptable, it was a typical day, we would do a survey of
14 that nature on a Tuesday, Wednesday or Thursday. We avoid a
15 Monday or a Friday for this type of situation. We picked and
16 coordinated with DDOT the 6:00 p.m. to 10:00 p.m. slot
17 because it represents the residential peak parking demands.

18 So while I understand there's a school that may
19 have a different demand, that was the time period that was
20 coordinated with DDOT. We did have four different survey
21 periods, but within the same day.

22 VICE-CHAIR HART: Can you say that again?

23 MS. WHITE: Because we did it on an hourly basis,
24 so we looked at parking on an hourly basis.

25 VICE-CHAIR HART: 6:00 to 7:00, 7:00 to 8:00 --

1 MS. WHITE: Exactly.

2 VICE-CHAIR HART: And so for the, you didn't look
3 in the morning because that wouldn't be when people were
4 looking to park. You would think people would be leaving.

5 MS. WHITE: Yes, the residential demand, parking
6 demand, occurs during the evening.

7 VICE-CHAIR HART: Okay. I just was trying to
8 understand the, because I think they had some confusion as
9 to why you were just using one particular time period, one
10 particular day and then the evening time period as opposed
11 to when there may be some additional traffic that was coming.

12 You were focused on the parking aspect, that's why
13 you were looking at that particular point as opposed to
14 looking at a more comprehensive transportation impact,
15 almost, study, which would have looked at morning rush,
16 evening rush, you look at, you may have looked at some
17 different things.

18 MS. WHITE: Yeah, I think the nature of this
19 project was more focused on the parking aspect and not the
20 traffic, because the traffic would be minimal. That's why it
21 was excluded.

22 VICE-CHAIR HART: Okay. Thank you.

23 MEMBER WHITE: I guess this is one question for the
24 Applicant. I'm thinking about Uber and Lyft. I'm trying to
25 visualize how people, since we're not suggesting that people

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 drive, I'm thinking about how people will often call Uber.
2 How will they, will the driver double-park in order to have
3 the passenger get into the car, or is there an area where
4 they could pull, be instructed to pull over for pickup?

5 MS. WHITE: There's no parking area in front of the
6 site in relation to the curb, so that, and DDOT has stated,
7 that these sort of no parking areas can be used for FedEx,
8 they're used for quick deliveries, Uber drop offs, so this
9 is typical in our urban environment, and providing a curb cut
10 would just make the matters worse. So, I think this is
11 consistent and it wouldn't be a requirement to double-park.

12 MEMBER HOOD: Mr. Chair, I'm just curious, Mr.
13 Horgan, did the chairman of your commission just come in?
14 Okay. I just wanted to make sure for the record, we'll know
15 he's here if he wants to -- I don't know how you want to
16 handle it, Mr. Chairman. I just mentioned it.

17 MR. HORGAN: No, that's fine. I do want to, that
18 lane is a rush hour lane in the morning, that no parking
19 area. So in the morning hours if someone tries to do an Uber,
20 Lyft, they're stopping a lot of traffic coming in, and that's
21 one of the concerns about, you know, residents, future
22 residents, could be walking across the street and we've got
23 potentially people double parking really quickly on
24 Bladensburg, that's a rush hour lane. There's no parking in
25 the morning there.

1 MEMBER WHITE: That could be a concern. So there
2 may be, you may need to make, in the event this moves
3 forward, you may need to instruct them specifically what the
4 pickup and drop off process should be so it doesn't cause a
5 problem.

6 MS. WHITE: There's also, point of information, a
7 bus stop in that same lane that makes those sort of stops.

8 BZA CHAIR HILL: Final question, and then the
9 commissioner is welcome to step forward if he wanted to. The
10 ANC, so what is it that the ANC had hoped was going to happen
11 with that property? It looks as though, you know, everything
12 is slowly getting developed there on that thoroughfare. Do
13 you know what they had hoped was going to happen with that
14 property?

15 MR. HORGAN: I don't want to speak for the ANC
16 because our --

17 (Simultaneous speaking.)

18 BZA CHAIR HILL: Well, you were there, and he can
19 come forward in a second, but you were there in the meetings.

20 MR. HORGAN: I think they're happy that there's
21 development occurring, and we can see right now there's about
22 170 units about to go live in that area, but all those units
23 have ways, have a safe ways to drop off and pickup.

24 I think what we, when we learned that there was
25 shared investment between --

1 BZA CHAIR HILL: Ms. White, can you turn off your
2 microphone for me? Thanks.

3 MR. HORGAN: 1200 next door, we kind of thought
4 that actually, and because we now learned that there will be
5 parking in the back, that means there's going to be access
6 through Meigs Place. So there's some seven, eight-foot road
7 back there. Why not just have an easement and continue that
8 through to the back of the Applicant's property?

9 We're not advocating parking, although they could
10 do that, but at minimum, like, pickups, loadings, Pea Pod
11 deliveries, Ubers and Lyfts, there's clearly going to be some
12 means of egress through the back of 1200 if they're going to
13 be a matter of right development. Obviously, I assume that's
14 how they're going to provide access to their parking spaces.

15 BZA CHAIR HILL: Okay. All right, is there anyone
16 here who wishes to speak in support? Is there anyone here who
17 wishes to speak in opposition? You can come on forward. Sure.
18 Commissioner, did you get sworn in earlier?

19 MR. LEE: No, I didn't.

20 BZA CHAIR HILL: Okay. If I could swear you in, if
21 you could just stay standing, and if anybody else who's
22 planning on testifying today did not get sworn in, if you
23 could stand up, please, and take the oath administered by the
24 Secretary, to my left?

25 SECRETARY MOY: Good morning. Do you solemnly swear

1 or affirm that the testimony you are about to present in this
2 proceeding is the truth, whole truth, and nothing but the
3 truth?

4 MR. LEE: Yes.

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

6 BZA CHAIR HILL: Okay, was there someone else who
7 wished to speak in opposition? You can come forward, ma'am.
8 Mr. Commissioner, you're such a gentleman. All right, let's
9 see, if you could please introduce both of yourselves for the
10 record?

11 MR. LEE: Clarence Lee, Commissioner, Chairman 5D.

12 MS. JONES: Doretta Jones, I'm the neighbor behind
13 the building, that white fence thing, I live right there.

14 BZA CHAIR HILL: Okay. You said Jones, is that
15 correct?

16 DORETTA JONES: Doretta Jones, yes.

17 BZA CHAIR HILL: All right, Ms. Jones. Ms. Jones,
18 I mean, as Commissioner you can speak as much as you want.
19 I don't know if you had already kind of, I guess either you,
20 you had asked Mr. Horgan to present on you all's behalf?

21 MR. LEE: Yes. That's the question of priority. You
22 said what did the ANC think was going to happen with the
23 property.

24 BZA CHAIR HILL: Hoped, I guess.

25 MR. LEE: The property was used as a beer garden

1 a whole lot. We weren't aware that it was two separate
2 owners. The previous occupation of the lot was a beer garden
3 where they brewed the beer, had parties there, so, you know,
4 it was a problem for the neighbors because it would go on
5 into the night.

6 We really weren't aware that it was two separate
7 owners on the lot, so as far as I know as long as it's been
8 there it's been one lot that was used by one owner or one
9 occupant. The whole area. They used the storage and bar area,
10 and had outdoor seating, and they had the actual brewery was
11 outside in the lot adjacent to Meigs Street. So we never
12 thought that it was going to be split up and something built
13 there.

14 Because you see it's two small lots, and just like
15 everything else on Bladensburg Road, it really doesn't make
16 sense to us to build two smaller buildings, especially as you
17 can't get access, you can't have rear access to the building
18 since it's separate lots, so we never envisioned that it was
19 going to be split and this would come about.

20 BZA CHAIR HILL: Okay. So you didn't necessarily
21 know what was going to happen, but you didn't think this was
22 going to happen.

23 MR. LEE: Yes.

24 BZA CHAIR HILL: Okay. Ms. Jones, as a member of
25 the public, you'll have three minutes to give your testimony.

1 There's a clock up on the ceiling there. Mr. Moy, if you
2 could put three minutes on the clock for us. One second, Ms.
3 Jones, sorry. And then the clock's ready and you can begin
4 whenever you like.

5 DORETTA JONES: Listening to this, I finally kind
6 of understand what's going on. But pretty much I walked
7 around the neighborhood and I had them sign things, so we
8 pretty much now understand that we're pretty much going to
9 have that RPP parking, based on listening to all this, what
10 I'm listening to.

11 I have a few who have signed, nobody came, they
12 want to do it. Most of the area in the 200 block, we're
13 pretty much seniors and people with children. So we need that
14 RPP parking to park your car, because when we actually see
15 all the buildings we didn't know about, when they start,
16 people are going to park, all we've been saying, they going
17 to have cars and they going to park right in front of your
18 door.

19 Right now we have already parking in front of your
20 door, so to have that RPP parking would be good so that way
21 as least when you come home you will be able to park, instead
22 of oh, that person lives way over there, and you're looking
23 out the window watching them how they parking. You'll say,
24 right in front of my door, really? So that's going to be --

25 So, I think pretty much the RPP parking, we going

1 to have to have that. I can understand, they going to build
2 a building, I know they're going to build it, so if we have
3 parking, we can be neighbors and everything, just don't park
4 in front of our door.

5 We're okay with that, and we've signed, I didn't
6 know I'd need a whole lot of copies, I've only got one copy,
7 but people signed and we got the thing for the RPP -- I got
8 to mail it and see if we can do it, but I did do that because
9 I asked the guy, what am I supposed to do, he said go around
10 and ask, and I have a petition signed. So that's what I did.

11 So I know, I can feel now, we are going to have
12 this building, but just pretty much, can we have a RPP so
13 that we can have one in front of my door and not have to
14 worry about people parking in front of my door? Okay?

15 BZA CHAIR HILL: Got it. Yeah. I mean, the RPP
16 process, we're not part of that, but I think that you are on
17 the right direction in terms of at least getting that
18 analyzed. Whether or not this building happens or not, that's
19 what's happening right now. Does the Board have any questions
20 for the witness? Okay. Ms. Jones, thank you very much.
21 Commissioner, you can stay because you're part of the ANC,
22 or you can go back and sit down, whatever you want to do.

23 Does anyone have any more questions for the
24 Applicants or Mr. Horgan at this time? Okay. Mr. Horgan, do
25 you want to add anything in conclusion?

1 MR. HORGAN: Nope. I appreciate you taking time to
2 consider this and taking into account the analysis that we've
3 done. Thank you.

4 BZA CHAIR HILL: Mr. Sullivan, you have anything
5 to add in conclusion?

6 MR. SULLIVAN: Just that I think we have a, we've
7 built up a good dialog with the ANC on this, and we actually
8 attended the inaugural meeting of their new zoning committee,
9 and so we're happy to continue to work with them. I think a
10 lot of the issues that they raised, talked about safety
11 issues and loading, or issues maybe not related specifically
12 to the parking relief but more macro planning and traffic
13 issues, so the owner's happy to continue to work with them
14 on getting a potential space and anything else to mitigate.

15 But I think a lot of the issues that we're
16 bringing up would be there even if we had parking in the
17 back. People are still going to have Uber and they're still
18 going to have deliveries, and it's not, it doesn't really
19 affect the parking relief itself. But, just that. I think we
20 need the special exception criteria for approval.

21 BZA CHAIR HILL: Okay. I do have a quick question
22 for the Office of Planning. There's another lot, right, and
23 so it's a different lot, and if there were the same owners,
24 would that mean that they would technically have access to
25 a curb cut?

1 MR. MORDFIN: I don't know if they would have
2 access through that lot. I don't know how that lot is zoned
3 differently from this one. It's not the same lot. The subject
4 property doesn't have access. I can't comment on how the
5 ownerships between the two of them work.

6 BZA CHAIR HILL: Okay. Let's see. Commissioner Lee,
7 you guys have a lot of development going on in that area
8 there. I'm just kind of curious. What's your ANC think about
9 all of the development?

10 MR. LEE: Well, just the development right now,
11 even though it's not a BZA issue, what we're finding is that
12 we have the infrastructure issue. We're losing power. More
13 and more, we have the power outages that we've never had
14 before. So we just know, because all these new projects are
15 coming up, I know you guys are going to address
16 infrastructure, but it's putting a burden on the city's
17 infrastructure in this area of Bladensburg Road. We're just
18 seeing that. We just had one the other night, no storm, we
19 just lost power for four hours.

20 And that's impacted the whole Trinidad area. It
21 just goes, and it's sporadic. So as these new buildings are
22 coming up, that's what we're seeing. And we're not finding,
23 at least in my opinion, that some of the development is good,
24 but the housing is not meeting the needs of the people in
25 Trinidad so it's not like they're available to step up into

1 some better housing.

2 The neighborhood is transitioning, which is good,
3 but it's not providing the more the community. These
4 buildings don't bring an enhanced community that we're having
5 where we're really being more cohesive and working together.
6 Like in the ANC, they are coming to the ANC meetings, we have
7 new residents coming to the ANC meetings, but it's that pull.
8 Different pull, and, you know, and folks, because this isn't
9 really in a bad transportation spot.

10 The bus service there runs from Mount Rainier to
11 the southeast. So you're not like you're in a good spot where
12 you can run to downtown from here. You have to transfer
13 streetcar, subway, it's about a mile and a half from the
14 subway stop, so we're seeing it's going to be a different
15 type of person moves into this building.

16 It's going to be a person, maybe they won't have
17 a car but that availability to a car, I can't see them not
18 wanting to have a car because it's not really close to
19 anything. I would say the public transportation's not like
20 a, you're not going to walk down and hop on a streetcar,
21 because I'm in the middle of Trinidad, without really
22 exerting myself.

23 But that's all the way at the opposite end. So the
24 Metro would have to be used, but it's like three transfers
25 to do anything where people want to be unless you're stopping

1 at H Street.

2 So, it's like the other building is a matter of
3 right, it sort of moves some of the element off of
4 Bladensburg Road, which is a positive thing, because the
5 liquor stores, the guys loitering around the liquor store,
6 so as we get better neighbors, that alleviates. But then
7 those folks come from the shelter, too, so I don't know if
8 it's going to stop them. Hopefully, as they see more people
9 walking down the sidewalk, I think maybe they'll move away.

10 BZA CHAIR HILL: Okay. I was just curious. Mr.
11 Horgan?

12 MR. HORGAN: I just want to add, I think if this
13 lot was sitting right on H Street, in front of the streetcar
14 and there was underground, they dug down and did a basement,
15 so there would be underground loading, unloading, we'd be
16 having a very different conversation. We'd probably be
17 supporting the project.

18 And I know the BZA has supported in the past,
19 projects without any parking, but they're right next to
20 Metros and they have underground loading and unloading. I
21 think this is quite different from previous projects BZA has
22 supported. You're basically going to force -- there's 41
23 units there, and I'm trying to stay strictly to the zoning
24 code, there's 41 units, I think 35 of them are one-bedroom
25 units of about 550 square feet. I'm just quoting from memory,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 they're not family sized, they're asking for a special
2 exception, but I don't quite, they're only providing the bare
3 minimum number of IC units --

4 BZA CHAIR HILL: Okay. Well, they're providing what
5 they're supposed to provide. But, actually, I didn't even
6 think about the single, that actually kind of makes me think
7 there won't be cars. I mean, if they're family units then
8 they have more cars. But Mr. Horgan, thanks. Mr. Sullivan,
9 since you do get the last word and we've started to ask
10 different things, do you have anything else you'd like to add
11 again?

12 MR. SULLIVAN: No, I don't think so.

13 BZA CHAIR HILL: Okay. All right. I don't know what
14 to do. We're going to close the hearing. Is the Board ready
15 to deliberate? No? Okay, all right, I can start. I,
16 unfortunately, I only say unfortunately because the ANC is
17 here and it's the community that's in opposition, and I don't
18 like it when everybody's not happy.

19 But I think that they're meeting the standard. I
20 think that it is a landlocked lot, I don't think that they
21 can provide parking. I think that the report that's been
22 given by DDOT is accurate. I'm taking the analysis applied
23 by DDOT, I'm also taking the analysis supplied by the Office
24 of Planning.

25 I think that with, and I'm just kind of talking

1 amongst myself here, with my fellow Board members, in terms
2 of the concerns that the community has raised, those are kind
3 of concerns that would happen with any building. I mean, that
4 there would be the Uber, the drop offs, I mean I don't know
5 whether there would be, that they can't provide access to an
6 alley. You don't have alley access, they can't get a curb
7 cut.

8 And so, I actually just think that they meet the
9 standard. I wish there was a way that the Applicant could
10 continue to work with the community, which they've now said
11 that they would, but if there was some way they could work
12 with the community so that they could help, you know, if
13 there are safety concerns.

14 I'm sure that they as the developers also want
15 to make sure that the people that are buying those units are
16 safe and that there's a convenient way for them to pick up
17 their food, drop off their food, pick up the Uber, drop off
18 the Uber, and so I'm sure that, and hopefully, they will
19 continue to work with the community to try to make their
20 concerns, alleviate some of their concerns.

21 With regards to the property that was next door,
22 I think that it's a next door property and unfortunately we
23 don't control the ownership of the next door property.
24 However, I am somewhat comforted by the fact that there seems
25 to be some kind of dialog in that if the property owner, the

1 next door property owner were able to do something that would
2 benefit the other building, since they are shared investors,
3 it sounds like they would try to do something.

4 But with regard to the application, I think the
5 Applicant has met their burden of proof, and I do think that
6 they meet the criteria. So I'm going to be voting to approve
7 the application. Anyone else?

8 VICE-CHAIR HART: The only thing I'd add to it, I'm
9 actually in agreement with you. I think that the one thing
10 we need to add is that the DDOT conditions, because they had
11 basically approving the, or including the TDM plan
12 recommendations. I think that we should include that in the
13 order as well. And also note that DDOT said they wouldn't
14 allow the curb cut along Bladensburg Road.

15 And I guess this also gets to the, the Applicant
16 is meeting the dimensional requirements of the MU4 zone, so
17 the building itself, there isn't any relief that's being
18 requested with regard to that. The relief that they're
19 looking for is the parking. I understand that there are
20 concerns. It seems like one of the community members is
21 looking to get RPP for the areas where there currently isn't,
22 and that's probably a good thing to try to at least limit the
23 amount parking where that's occurring on some of these
24 streets, or if there's impacts they're going to try to
25 mitigate that.

1 That's kind of where I am. I would be in support
2 of the application. I think they met the criteria, kind of
3 given the things that I've said already, and also would
4 support the OP's conditions, which are basically DDOT's
5 conditions, for incorporating the TDM plan into the order.

6 MEMBER WHITE: Mr. Chair, Mr. Vice Chair, I agree
7 with your assessment. I think they did meet the criteria for
8 a special exception criteria under Subtitle C 703.2. Mr.
9 Horgan did a very good presentation, as well as Ms. White and
10 Mr. Sullivan and Mr. Lee regarding the issues and the
11 concerns of this particular location.

12 I do have concerns about the traffic, and I think
13 that the conditions in the TDM plan will mitigate some of it,
14 but I do think that the residential parking permit
15 application that Ms. Jones is going to submit, it's really
16 going to be critical, because I don't see these residents not
17 having cars. I think that that's going to happen, but that's
18 not what we're actually asked to look at today.

19 But I do think that the parties should continue
20 to work together, because this area is transitioning, Uber
21 and Lyft is becoming very popular, and it can cause major
22 problems if you have constant traffic flow. So alternatives
23 to kind of mitigate some of those adverse impacts, I would
24 be, I would recommend that the parties engage in those
25 discussions on an ongoing basis.

1 But for purposes of this application, I support
2 the relief that they're seeking today.

3 MEMBER JOHN: Mr. Chairman, I agree with everyone's
4 comments so far. I think that the Applicant has met the
5 standard of proof for a special exception for the parking
6 relief requested, and the Applicant needs only to meet one
7 of the different criteria. The Applicant has shown that there
8 is no alley access and DDOT has denied any request for a curb
9 cut. So those two factors alone are sufficient to grant the
10 special exception relief.

11 I am concerned, as the ANC is, with issues related
12 to safety, and I am encouraged that the Applicant is going
13 to continue to work with the ANC to see if there could be
14 some sort of access at the rear for unloading to ameliorate
15 some of the safety concerns. That's beyond the scope of the
16 Board, but it's encouraging to know that the Applicant is
17 willing to work with the ANC and I appreciate the very
18 thorough and lengthy presentation from the ANC as well as the
19 neighbor who is working on the RPP designation to that
20 property.

21 So I can support the application. I also give
22 great weight to OP's analysis.

23 MEMBER HOOD: Mr. Chairman, I am sorry I didn't go
24 before Board member John so she could agree with my comments
25 as well, but I actually don't believe that we have addressed

1 all the adverse impacts. I think the ANC has presented a
2 great case of actual impacts to this project.

3 But as I was sitting here thinking, I think the
4 impacts, now that I have sat here and listened to my
5 colleagues, are far beyond just this particular case. I think
6 there are some other impacts that need to be broadly
7 expanded.

8 I still will probably vote in favor of it, because
9 I cannot penalize this Applicant, but I think the impacts
10 have not been addressed in this case, and I'm not sure about
11 those matter of right cases, but I don't believe they've been
12 fully addressed. I don't think it's to the point where I can
13 penalize this Applicant. The lady said that there are still
14 some things that they are still discussing and working on.

15 But from an adverse impact, I don't think that a
16 due diligence was done. I think the ANC has made a prevailing
17 case for a special exception. We are supposed to address
18 impacts while they are tweaking them and they're still
19 working on them. I think there's some more work to be done.
20 I would encourage you to do it.

21 While I probably will vote for this, hesitantly,
22 and I'll make that clear, very hesitantly, because I don't
23 think the impacts have been addressed. I've heard them
24 discussed, I've heard some wishy-washy ways we can kind to
25 do some things, but I think the impacts, again, as I've

1 stated, maybe far proceed this project. I think as I've
2 stated, this project will bring great admiration to
3 Bladensburg Road, but I think that we still need to find ways
4 to address the adverse impacts.

5 That may sound contradictory, but that, this is
6 real. Not everybody can always afford to take Uber and Lyft.
7 We need to make sure that mass transit is a way people, for
8 us to be able to move around, the parking from my concern is
9 really a big issue. I am glad to hear, Mr. Horgan, that the
10 DDOT is still consistent with their response about this RPP.
11 I know you said it wasn't a major issue. It is for me,
12 because I deal with it all over the city.

13 But I'm glad to see that they're still using the
14 same response they've been using now for about a year. I have
15 been on them about it, and I will continue to be on them
16 about it. I know they're trying to work and resolve some of
17 those issues from DMV to DDOT and what can be enforced, and
18 making sure of the data base. We've been doing that.
19 Hopefully we are improving, but I will do another check. So
20 those are my comments, Mr. Chairman.

21 BZA CHAIR HILL: Okay, great. Thank you, Chairman
22 Hood. All right, I'm going to go ahead and make a motion to
23 approve application number 20066 as captioned and read by the
24 Secretary, and ask for a second.

25 VICE-CHAIR HART: Second.

1 BZA CHAIR HILL: Motion made and seconded. All in
2 favor say aye.

3 (Chorus of aye.)

4 BZA CHAIR HILL: All those opposed? Motion passes.
5 Mr. Moy? Oh, I'm sorry. Yeah, thanks. Actually, I'm going to
6 redo this because Board member White just mentioned to me.
7 I forgot to mention that the condition of the TDM plan. So,
8 again, going to make a motion to approve application number
9 20066, as captioned and read by the Secretary, including a
10 condition that the TDM plan that was approved by the Office
11 of Planning and DDOT be included in the order, and ask for
12 a second.

13 MEMBER WHITE: Second.

14 BZA CHAIR HILL: Motion made and seconded. All
15 those in favor say aye.

16 (Chorus of aye.)

17 BZA CHAIR HILL: All those opposed? Motion passes
18 once again. Mr. Moy?

19 SECRETARY MOY: Staff would record the vote as
20 5-0-0, based on the motion of Chairman Hood to approve the
21 application for the relief requested, along with the
22 conditions as the Chair has cited in his motion, the
23 conditions that are stated in the TDM plan. Second to the
24 motion, Ms. White. Also in support, Ms. John, Vice Chair
25 Hart, and Zoning Commissioner Anthony Hood.

1 BZA CHAIR HILL: Okay. Thank you, Mr. Moy. Thank
2 you, everyone, for coming down. Mr. Moy, we are going to try
3 to do one, well, we're going to take a break in a minute but
4 I want to try to do one other case that has some preliminary
5 matters to it, I think. That would be, I guess it's 20069.
6 Mr. Moy, if you wouldn't mind calling that one, and then
7 we're going to take a break.

8 SECRETARY MOY: Yes, thank you, Mr. Chairman. Bring
9 the parties to the table to Case Application 20069, Deidra
10 Barksdale. This is a -- as caption advertised for a special
11 exception from the general penthouse requirements Subtitle
12 C, Section 1500.4, and Subtitle C, Section 1504 for the
13 penthouse setback requirements, Subtitle C, Section 150.21C,
14 to construct a new rooftop access penthouse on existing
15 semi-detached flat, RF-1 zoned at 100 S Street NW, Square
16 3104, Lot 804.

17 As the Chair has remarked, there are preliminary
18 matters. One is, there is a request for party status under
19 Exhibit 15 by a Ms. Betsy McDaniel, and there is also under
20 Exhibit 29, request for postponement from the Applicant.

21 BZA CHAIR HILL: Okay. If you could please
22 introduce yourselves for the record, from my right to left?

23 MS. MCDANIEL: Good morning, Chairman Hill, members
24 of the Board, Chairman Hood. My name is Betsy McDaniel and
25 I'm a 200 footer resident, neighbor.

1 BZA CHAIR HILL: Okay, Ms. McDaniel. Please
2 introduce yourself?

3 MR. BARKSDALE: Good morning, Chair. My name is
4 Joseph Barksdale and I'm the resident there.

5 BZA CHAIR HILL: Okay.

6 MS. BARKSDALE: Good morning, everyone. My name is
7 Deidra Barksdale, resident.

8 BZA CHAIR HILL: Okay. So you guys have asked for
9 a postponement, correct?

10 MR. BARKSDALE: That's correct.

11 BZA CHAIR HILL: Okay. And you're trying to
12 postpone it to when, and why?

13 MS. BARKSDALE: We just found out that, through the
14 ANC, that, well, through the process, that we needed to
15 actually have the ANC weigh in on this case. They were the
16 ones that requested that we postpone it. They are in recess
17 until September, and then they also have required that all
18 BZA cases present at two of their meetings, which will be the
19 September and October meetings.

20 So they were the ones that actually, even though
21 I tried to get on the schedule in June, I believe that it
22 was, they had said we could not be heard at that particular
23 time. They are requesting that we postpone it.

24 BZA CHAIR HILL: When do you think you need to
25 postpone it to?

1 MS. BARKSDALE: I believe the ANC meets, I think
2 it's the fourth Tuesday or Wednesday of the month, so it
3 would be, we would probably need to postpone it until, I'm
4 thinking like, November, just to make sure we have
5 everything. I think they have seven days or something from
6 the time of the meeting, so I was going to suggest like
7 November 16.

8 BZA CHAIR HILL: Mr. Moy, are you even scheduling
9 that at this point?

10 SECRETARY MOY: I'm not sure what you mean by
11 scheduling. I could continue any cases to available dates.
12 If you meant in terms of --

13 BZA CHAIR HILL: You don't have any cases right now
14 scheduled for November 16.

15 SECRETARY MOY: No.

16 BZA CHAIR HILL: That's what I was trying to ask.
17 I'm sorry. So, Ms. McDaniel, I know that I read your party
18 status application, but do you want to speak to it again a
19 little bit in terms of how you think you're uniquely
20 affected. I know you've been here before, Ms. McDaniel, so
21 go ahead and let us know, please, how you think you meet the
22 criteria.

23 MS. MCDANIEL: You're correct, I have testified
24 before this Board before. I've never asked for party status.
25 So, I, it's hard to say. I feel like, even though I'm not

1 next door, I can see the project from every floor in my
2 house, my yard, I walk up and down the street and I see it
3 all the time. It's been going on for four years, I've been
4 watching it.

5 What this particular case is about, they received
6 BZA relief for the first part of the project. I think they
7 got two variances and one exception and they started
8 construction, and then they got a revised permit issued. This
9 is in response to the work they were doing then. This is the
10 fourth time they've applied to BZA --

11 (Simultaneous speaking.)

12 BZA CHAIR HILL: I'm trying to figure out how you
13 are uniquely qualified so that you get party status.

14 MS. MCDANIEL: Well, I've been following this case,
15 I don't know that anyone else has followed it to the extent
16 I have, and I'm more familiar with it.

17 BZA CHAIR HILL: Okay.

18 MS. MCDANIEL: And it, I guess it troubles me that
19 this, I think, mistake happened. Like I said, I have, I think
20 it affects the whole neighborhood in that this is a corner
21 house and it is visible from all directions, and it's really
22 an unusual --

23 BZA CHAIR HILL: One second. You'll get a chance
24 to give us testimony one way or the other. I'm just trying,
25 again, to figure out the party status right now in terms of

1 the criteria. I did see how you put, I mean, sorry, your
2 application in, sorry, your request in the record. I'm sure
3 you know, the standard with which we review, it's 404.13, the
4 Board shall grant party status only if the person requesting
5 party status has clearly demonstrated that the person's
6 interest would likely be more significantly, distinctly or
7 uniquely affected in character or kind by the proposed zoning
8 action than those of other persons in the general public.

9 And so, again, your argument is that you are, you
10 know, you can see it, is kind of your argument. And I mean,
11 I respectfully just want to point out that, since you have
12 come down here and everything, and I do think that you're
13 pretty well informed in terms of how we look at things, I
14 don't think that you meet the criteria for party status.

15 But I do think that you're going to have an
16 opportunity to come down and testify, and you can only ask
17 for like ten minutes in your presentation time, so I think
18 we will have an opportunity, or you will have an opportunity
19 to give us testimony and then we'll have an opportunity to
20 ask questions of you during the case. That's at least my
21 opinion. Does anybody else have anything they'd like to add
22 on the party status?

23 MEMBER WHITE: I agree with you, Mr. Chair. I'm
24 just looking strictly at the regulations. Obviously you're
25 in the neighborhood and it impacts you because it's a part

1 of your neighborhood, but I agree with Chair Hill that just
2 looking at the strict letter of the law, I don't think you
3 met the criteria for the actual party status.

4 You are able to testify when the case is actually
5 scheduled, and then we'll have an opportunity to obviously
6 drill down and ask you very specific questions if we have
7 some concerns or we need clarification that's tied directly
8 to the special exception request that they're requesting in
9 their application. So I would agree with you, Mr. Vice Chair.
10 I would deny the party status in this particular instance.

11 BZA CHAIR HILL: Okay. Anyone else? Okay. So Ms.
12 McDaniel, we're going to go ahead and deny your party status
13 request, but we will, you know, welcome your testimony on the
14 day of the hearing. I think that we're now going to, Mr. Moy,
15 you said November 16? So we're going to do a continued
16 hearing until November 16, unless the Board has any other
17 thoughts? Okay.

18 SECRETARY MOY: Mr. Chair, just on that date, the
19 first hearing in November is actually November 6, but if you
20 want the 16th time frame, then it would be November, the next
21 one's 11/13 and then 11/20.

22 BZA CHAIR HILL: Okay. Do you have any, you can
23 speak into the microphone.

24 MR. BARKSDALE: The 13th is fine.

25 BZA CHAIR HILL: Okay. So let's say the 13th so

1 they'll have enough time to go to the ANC, and I'm sure
2 obviously the public will also have an opportunity to speak
3 at the ANC meeting as well.

4 Okay, so thank you all very much, and we're going
5 to take a quick break, everyone. Also, at some point, just
6 so everybody knows, we are going to take lunch, which is
7 getting closer and closer to now. But we're just taking a
8 break right now. Thank you.

9 (Whereupon, the above-entitled matter went off the
10 record at 11:36 a.m. and resumed at 11:52 a.m.)

11 MR. MOY: All right, thank you, Mr. Chairman.

12 So, for the record, the Board is back in session
13 after a brief recess, and the time is 11:54.

14 So, if we can have parties to the table to case
15 application number 19999 of Sanjay -- is it Bajaj? B-A-J-A-
16 I, or actually, B-A-J-H-A, caption advertised for an area
17 variance from the street frontage requirements, Subtitle C,
18 Section 303.5 to subdivide two existing tax lots in a RA-2
19 and MU-4 zone. This is at 1920 17th Street SE, Square 5612,
20 Lots 827 and 833.

21 BZA CHAIR HILL: Okay, great, thank you, Mr. Moy.
22 Could you please introduce yourself for the record?

23 MR. DZIERZANOWSKI: This is Mateusz Dzierzanowski,
24 I'm with DZ Architecture, and I'm here on behalf of the owner
25 and applicant, Mr. Sanjay Bajaj.

1 BZA CHAIR HILL: All right, Mr. Dzierzanowski, you
2 were here last week, right?

3 MR. DZIERZANOWSKI: Yes, sir.

4 BZA CHAIR HILL: Okay. All right, did you guys
5 get your Affidavit of Posting and Maintenance done or are you
6 still asking for that waiver?

7 MR. DZIERZANOWSKI: No, we're not asking for a
8 waiver. We filed an Affidavit of Posting, the case was
9 postponed. In following up with the Zoning Office, we
10 updated the dates on the existing postings that were already
11 on site, and then filed that with our Affidavit of
12 Maintenance accordingly.

13 BZA CHAIR HILL: When did you file the Affidavit
14 of Maintenance?

15 MR. DZIERZANOWSKI: It should have been filed two
16 days ago.

17 BZA CHAIR HILL: Okay.

18 MR. MOY: It should be under Exhibit 45, Mr.
19 Chairman.

20 BZA CHAIR HILL: Okay, great.

21 MR. DZIERZANOWSKI: We added a notation as well
22 in the Affidavit of Maintenance to the changing of the date
23 on to the postings.

24 BZA CHAIR HILL: Okay. All right, okay, then
25 after that I guess if you want to go ahead and speak to the

1 application that you're doing, as well as how you're meeting
2 the standard for us to grant the application.

3 I'm going to put 15 minutes on the clock, Mr. Moy,
4 so I know where we are, and you can begin whenever you like.

5 MR. DZIERZANOWSKI: Thank you, Chairman Hill.
6 Members of the Board. Thank you for seeing our case this
7 morning slash afternoon.

8 We are seeking relief from, sorry, from alley lot
9 street frontage. The client's intentions are to subdivide
10 both existing tax lots and then to erect a multi-family unit
11 building at this location.

12 Both sites sit adjacent to each other and they,
13 this is kind of an aerial of the site, so what's kind of
14 shaded is the overall proposal between both properties. The
15 form of relief, this might be a cleaner diagram, so what's
16 in blue is Lot 827, what is in orange is 833.

17 The frontage between the two lots that exist there
18 is 28.5 as opposed to the 30 which is required, and what we
19 are seeking relief from.

20 The existing of both, the existing conditions of
21 both sites are that what faces 17th Street, so Lot 827 has
22 an existing vacant structure on it, appears to have been a
23 single-family or potentially a two unit dwelling. The lot
24 towards the rear, which has direct alley access and sits
25 adjacent to ours, 833, has some existing like, storage shed.

1 And it's our client's intention to be able to unify both lots
2 so they can maximize and take advantage of providing a multi-
3 unit structure at this location.

4 Some of the challenges, especially to Lot 833 are
5 that without direct access to the street, or a less appealing
6 access from the alley, it makes it difficult for that lot to
7 be developed separately, or independently, as well as it's
8 facing the rear of the rest of the lots along 17th Street.

9 So, it is for this intention to be able to bring
10 one proposal from the front to the rear that we believe will
11 most successfully utilize Lot 833.

12 In our efforts with this, and as well as what's
13 filed on the record, we went ahead and have met multiple
14 times with the ANC to make sure that they were comfortable
15 with this. We canvassed the local community, we explained
16 to them what the intentions were for the proposal. We also
17 provided and came to terms with a neighborhood agreement that
18 benefitted both the community, as well as what the overall
19 proposal is.

20 We do want to clarify that while drawings and
21 documents files of the proposal are filed for the record,
22 it's nothing with regards to the building itself is seeking
23 relief. That was done at the request of the ANC to make sure
24 they can see, for the record, what the intentions of the
25 owner and the client are, and how parts of that design and

1 parts of the goals for the project were meeting the
2 neighborhood agreement that was drafted with the ANC.

3 So, we do believe that just because of the
4 existing conditions of the lot, the inability to alter that
5 frontage that exists and the intentions in really trying to
6 improve and provide a structure and a use type that would
7 benefit both lots is what is being sought.

8 As this application went on, we also did review
9 OP's report in full. What is provided in the middle is just
10 a diagramming showing the additional requirements and
11 conditions that OP had provided in their report, which our
12 client and developer has gone ahead and already assumed and
13 adjusted an initial pass at the design to cater to.

14 So again, I'm just speaking a little bit towards
15 what the proposed intention is, but it all goes to further
16 the benefits and the reasoning and the intentions for the
17 subdivisioning of these two lots.

18 BZA CHAIR HILL: Okay, Mr. Dzierzanowski, I'm
19 going to interrupt you there for a second.

20 MR. DZIERZANOWSKI: Sure.

21 BZA CHAIR HILL: So, okay, just out of curiosity,
22 how are you getting those two cars back there?

23 MR. DZIERZANOWSKI: So, it's going to be three
24 parking spaces, two of which can reside -- I'm going to pull
25 up a different slide to show that -- but two of which will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 be able to reside -- they all are accessed from the alley.

2 BZA CHAIR HILL: Okay.

3 MR. DZIERZANOWSKI: And one, which we did confirm
4 at a high level with OP would be allowed to kind of fit
5 within a deemed setback requirement. So, as I go here --

6 BZA CHAIR HILL: I see.

7 MR. DZIERZANOWSKI: -- you see the two cars are
8 here? There will be a third parking space entirely on our
9 property that's wedged in this location as well.

10 BZA CHAIR HILL: Okay, all right. Let's see.
11 And, then in terms of the ANC, I mean you guys entered into
12 an agreement, correct?

13 MR. DZIERZANOWSKI: Correct.

14 BZA CHAIR HILL: Okay. All right, does the Board
15 have any questions of the Applicant?

16 All right, I'm going to turn to the Office of
17 Planning.

18 MR. JESICK: Thank you, Mr. Chairman, and members
19 of the Board. My name is Matt Jesick.

20 The Office of Planning reviewed this application
21 against the three part variance test, and we felt that the
22 application did face an exceptional situation resulting in
23 a practical difficulty, that being initially that the two
24 lots in question are both tax lots, and in order to receive
25 building permits, they must be converted to record lots.

1 In order to do that, they need a certain width
2 facing the street, 30 feet. The Lot 827 is just shy of that
3 30 foot width, at about I believe 28 and a half feet. So
4 it's not a large deviation, but it is, it would require
5 variance relief. And without that relief and the ability to
6 change the tax lot to a record lot, the Applicant would not
7 be able to receive building permits.

8 In regard to detriment to the public good, we felt
9 that there would be no detriment to the public good if the
10 building that is to be built on the site is in conformance
11 with the established character of 17th Street, that being
12 largely two-story homes.

13 Therefore, we have proposed three conditions of
14 approval regarding the height of the building, as well as the
15 footprint of the building. And with those conditions, we
16 feel that any development on the site would not result in a
17 detriment to the public good.

18 So, the Office of Planning can therefore recommend
19 approval of the application, and I'd be happy to take any
20 questions.

21 Thank you.

22 BZA CHAIR HILL: Okay, great, thank you. The
23 applicant, you guys are aware of the conditions from the
24 Office of Planning and you're in agreement with them?

25 MR. DZIERZANOWSKI: Correct. We are.

1 BZA CHAIR HILL: Okay. Does the Board have any
2 questions for the Office of Planning?

3 VICE CHAIRPERSON HART: Just one quick question.
4 So, the Applicant is combining these two lots, but the lot
5 that's on the street could be developed individually, and the
6 lot that is along the alley could be developed individually?
7 Separately?

8 MR. JESICK: That's correct. The lot facing the
9 street could be a single-family home, perhaps. The alley lot
10 uses, we would have to go back and see what uses are
11 permissible on the alley lot. It might be limited, but it
12 could theoretically be developed.

13 VICE CHAIRPERSON HART: Thank you.

14 BZA CHAIR HILL: Okay, all right, does the
15 applicant have any questions for the office of Planning?

16 MR. DZIERZANOWSKI: No further questions.

17 BZA CHAIR HILL: All right. Is there anyone here
18 wishing to speak in support? Is there anyone here wishing to
19 speak in opposition? Mr. Dzierzanowski, is there anything
20 you'd like to add at the end?

21 MR. DZIERZANOWSKI: No. As always, thank you for
22 the Board's time.

23 BZA CHAIR HILL: All right, I'm going to close the
24 hearing. Is the Board ready to deliberate? Okay, I'm ready
25 to deliberate as well. I can start.

1 I would be in agreement with the Office of
2 Planning and their recommendation. I think their analysis
3 how they're meeting the variance test, is I would agree with
4 it. I also agree with the burden of proof that has been
5 presented by the applicant, as well as the ANC's, report and
6 was their approval.

7 With one note in terms of the ANC report. I mean
8 I don't think that the things that the ANC has put forward
9 are necessarily zoning related, or within our purview, so I
10 don't think that they are things that we could add as
11 conditions. However, I do, did note that they had agreed,
12 and the applicant has gone into a voluntary agreement with
13 the ANC, and I would expect they would live up to those
14 agreements that they put forward.

15 And so I would be in approval of this application
16 with the conditions that also were provided by the Office of
17 Planning concerning the height and the other two conditions.

18 Does the Board have anything else it would like
19 to add?

20 MEMBER WHITE: One thing that I would note just
21 based on my review. I don't think that the Office of
22 Planning's conditions necessarily address any of the adverse
23 impact, so I don't know whether or not those should actually
24 be adopted.

25 BZA CHAIR HILL: I would actually -- wouldn't

1 probably agree with that now that I've taken a little bit
2 closer look.

3 Does anybody have any other thoughts on that or
4 what do we have to say about the conditions?

5 VICE CHAIRPERSON HART: No thoughts on that --
6 yeah. I didn't have any additional thoughts on that. I was
7 just trying to -- the question for OP was just trying to
8 understand the kind of development.

9 It seems as though the development of this project
10 is in keeping with the neighborhood. There are different
11 types of, looking at the images that we've been provided and
12 looking on where it is in Google Earth, I guess, that there
13 are a different number of units that are kind of provided in
14 this neighborhood. Got single-family, duplexes, apartment
15 houses, you know.

16 So, it was kind of a mix and I thought that that
17 would be fine. I would be in agreement with the OP report
18 to approve the application as well. I was just trying to
19 understand that, that aspect a little bit better.

20 But the conditions, I guess yeah, I could
21 understand they're outside of our wheel well. So, it does
22 seem like they may be things that the applicant has already
23 agreed to do, and I'm just not sure if we need to include
24 them in themselves.

25 BZA CHAIR HILL: Okay, actually I'm going to

1 reopen the record here because I didn't get a chance to
2 really kind of talk to OP about this. So, I'm going to turn
3 it back over to OP.

4 So, the conditions that you guys have put forth,
5 how do you think that they are addressing adverse impacts?

6 MR. JESICK: Well, the regulations anticipate a
7 30 foot lot width for a lot to be used for an apartment
8 building. This lot is slightly less than that. So, given
9 the character of 17th Street, which is mostly, and I am
10 looking specifically at 17th Street rather than the broader
11 neighborhood, but given the character of 17th Street, which
12 is mostly two-story homes, we felt that it was important that
13 any future development in this site be somewhat in keeping
14 with the character of that street, getting I guess, directly
15 to the second point of the variance test.

16 Not that it has to be exactly the same height, but
17 something maybe not up to the maximum height permitted in the
18 RA-2 zone, which would be 50 feet. We felt something a
19 little bit more moderate would be appropriate.

20 BZA CHAIR HILL: Okay, now I'm just kind of
21 talking with my fellow Board members.

22 I mean, in this particular case, I actually am
23 kind of leaning towards the Office of Planning in terms of
24 like, adding as a condition, because I think it's a weird
25 little lot and I wouldn't want also, you know, they're coming

1 forward with this design, but then it might be, you know,
2 they might come, I mean I kind of am agreeing with the Office
3 of Planning's conditions, but I can go both ways in terms of,
4 you know, including them or not including them, so I'm asking
5 for thoughts.

6 MEMBER WHITE: I would just, I mean I think I'm
7 still kind of of the opinion, but if OAG is comfortable with
8 that, then that would be fine. But, I think it could present
9 some issues for them in trying to adopt it as part of the
10 order.

11 BZA CHAIR HILL: Actually, I guess I can turn real
12 quick before -- I know Ms. John's about to say something.
13 But Ms. John, you want to say something?

14 MEMBER JOHN: Well, Mr. Chairman, at first I was
15 not sure how the conditions would mitigate any potential
16 adverse impacts, but listening to the Office of Planning's
17 analysis and recommendation and the applicant's presentation
18 this morning, I do feel we should include the conditions
19 because they, you know, 17th Street has mostly two-story or
20 small houses.

21 And I think it's important to try to maintain the
22 character of that street. So, I would include the conditions
23 in this case, and the applicant agrees with OP's position and
24 has committed to including them in the design.

25 So, I would support the application and the

1 conditions.

2 BZA CHAIR HILL: Okay, anyone else?

3 ZC CHAIR HOOD: I would echo Board Member John.
4 Like she's saying, the applicant has agreed to it and so I
5 don't see any harm, you know, with, I just don't see any harm
6 of having these conditions.

7 BZA CHAIR HILL: Okay, all right, then I'm going
8 to close the record once again and go back to deliberation.

9 In terms of the application, I do, as I don't
10 think -- did I finish? Maybe I finished.

11 (Laughter.)

12 BZA CHAIR HILL: That I was in agreement with the
13 Office of Planning's recommendations as well as those of the
14 -- actually, I don't think I, I think I said everything I was
15 going to say.

16 Does anyone else have anything else they'd like
17 to add?

18 Okay. Then I'm going to make a motion to approve
19 application number 19999 as caption read by the secretary,
20 including the conditions that were suggested by the Office
21 of Planning, and ask for a second.

22 MEMBER JOHN: Second.

23 BZA CHAIR HILL: Motion made and seconded.

24 All those in favor say aye.

25 (Chorus of aye.)

1 BZA CHAIR HILL: All those opposed?

2 The motion passes, Mr. Moy.

3 MR. MOY: Staff would record the vote as 5-0-0.
4 This is on the motion of Chairman Hill, to approve the
5 application for the relief requested, including the three
6 conditions as listed in the OP report. Second in the motion
7 of Ms. John, also supported Ms. White, Vice-Chair Hart and
8 Zoning Commissioner Anthony Hood.

9 BZA CHAIR HILL: Thank you, Mr. Moy.

10 Thank you, sir.

11 MR. DZIERZANOWSKI: Thank you.

12 MR. MOY: The next case application before the
13 Board is if we can get parties to the table to application
14 number 19-20061 of MDP 1353 Wisconsin Avenue LLC, caption
15 advertise for area variance from the FAR, the Floor Area
16 Ratio requirements, Sub-title G, Section 402.2 to renovate
17 existing commercial retail space and to convert the existing
18 residential units into office space in the MU-4 zone.

19 This is at 1353 through 1355 Wisconsin Avenue NW,
20 Square 1243, Lot 812.

21 BZA CHAIR HILL: Okay, just so everybody knows,
22 this particular application might take a little bit of time,
23 and then we're going to have lunch.

24 So, if you're here -- there you go.

25 All right, if you please introduce yourselves for

1 the record.

2 MR. LINAM: I am John Linam, the architect for the
3 project.

4 BZA CHAIR HILL: Could you spell your last name
5 for us, sir?

6 MR. LINAM: Sure, it's L-I-N-A-M.

7 MR. UTZ: I'm Jeff Utz with Goulston & Storrs,
8 land use counsel.

9 MR. MARTIN: I'm Chris Martin, the property owner.

10 BZA CHAIR HILL: Okay, hold on one second, please.

11 Who's here for 20064?

12 Who's here for 20064? Okay, we'll take 20064 and
13 then we're going to go to lunch.

14 Okay, so I mean you just turned bright red when
15 I said we're going to lunch.

16 (Laughter.)

17 Okay, all right, Mr. Utz. I guess you're going
18 to present?

19 MR. UTZ: Yes.

20 BZA CHAIR HILL: Okay, so, why don't you go, I
21 mean, you know what you have to do.

22 MR. UTZ: Okay.

23 BZA CHAIR HILL: And, so go ahead and explain to
24 us why you think you're meeting the variance test, okay?

25 MR. UTZ: Okay, sure.

1 BZA CHAIR HILL: And I'm going to put 15 minutes
2 up on the clock so I know where we are. You can take longer
3 if you like, but that would be nice. And you can begin
4 whenever you like.

5 MR. UTZ: Great, thank you very much.

6 And, thank you, members of the Board for letting
7 us present this afternoon.

8 We are pleased to present today the proposed
9 rehabilitation of the existing buildings at 1353 to 1355
10 Wisconsin Avenue NW.

11 As stated in our application materials, we are
12 here to request an area variance from Sub-title G, Section
13 402.2 for the proposed location of the commercial FAR for the
14 project, rather than an FAR variance itself.

15 This relates to the location of allowable FAR,
16 rather than the --

17 BZA CHAIR HILL: Can you say that one more time,
18 Mr. Utz?

19 MR. UTZ: Yes. This variance relates to the
20 location of the commercial FAR, rather than the commercial
21 FAR itself. 402.2 limits a property to 2.0 FAR of commercial
22 on the, essentially the first and second floor, it's not
23 quite worded that way, but that's the implication here, at
24 least.

25 So we are asking to take a piece of that and move

1 it up to the third floor of a property.

2 So, 2.0 FAR of non-resi is allowed for a building
3 here, on the first and second floor, and we're asking to take
4 a piece of that allowable additional FAR and move it to the
5 third floor.

6 So, it's essentially an area variance from a
7 locational element of Section 402.2.

8 MEMBER JOHN: Mr. Chairman, can I ask a quick
9 question? Why is it not a use variance?

10 MR. UTZ: Because there --

11 MEMBER JOHN: Is it it's currently residential now
12 on the third floor?

13 MR. UTZ: There was residential space up there
14 before, it's actually vacant. It's been vacant for about a
15 decade on the third floor, and then the back portion of the
16 second floor has been vacant for about that same amount of
17 time.

18 MEMBER JOHN: What's on the second floor now?

19 MR. UTZ: It is two-thirds retail and then one-
20 third vacant, and then the third floor is 100% vacant.

21 MEMBER JOHN: But was it vacant commercial or
22 vacant residential?

23 MR. UTZ: Vacant residential for the one-third on
24 the second floor.

25 MEMBER JOHN: Okay. I was a little confused by

1 the --

2 MR. UTZ: Materials?

3 MEMBER JOHN: Yes. So, if you could talk to those
4 issues as you --

5 MR. UTZ: Sure.

6 MEMBER JOHN: -- go through your burden of proof
7 and walk us into why this is not a use variance.

8 MR. UTZ: Okay, sure.

9 MEMBER JOHN: Thank you.

10 MR. UTZ: Happy to do it. And we have some detail
11 on the subsequent slides about that. We have some of the
12 floor plans to resolve some of those elements of confusion.

13 So, as outlined in our application materials, the
14 applicant proposes approximately 1.87 FAR of all commercial
15 use for the project, which represents the square footage of
16 the existing structures now.

17 The project is subject to an unusual application
18 of the zoning regs that we just discussed, 2.0 FAR permitted
19 for the first and second floor. Otherwise, 1.5 FAR of non-
20 residential would be permitted if they were asking to locate
21 essentially .37 FAR on the third floor.

22 We have very strong community support for the
23 project, and specifically for the requested variance to
24 provide office space on the third floor.

25 This portion of Wisconsin Avenue is in particular

1 need of reinvestment and the community has been very clear
2 that they strongly prefer an office tenant to residential
3 units shoe horned into this specific location to assist with
4 a community wide effort to stimulate daytime traffic along
5 Wisconsin Avenue.

6 We have a report with no objection in the record
7 from DDOT, and the Office of Planning has submitted a report
8 recommending denial and we can have that discussion as well,
9 address those points as well.

10 But, I'd like to turn it over to Chris Martin to
11 talk about the applicant and the project a bit, and then
12 we'll have John Linam walk through the plans and resolve some
13 of those FAR questions.

14 MR. MARTIN: Thank you, Jeff, and thank you
15 members of the Board for the opportunity to speak to you
16 today.

17 I am the owner, as well as I own the adjacent
18 Georgetown Theater, which is recently restored, and I'm
19 pleased to say that we revitalized that by bringing the
20 flagship Compass Coffee location for D.C. in there, as well
21 as we doubled the size of Framebridge, which is an online
22 tech retailer, for office space in the building.

23 Simply put, this section of Wisconsin Avenue has
24 been blighted for years, and there's enormous energy and
25 support from numerous groups to be able to try to

1 reinvigorate this property.

2 Illustrated in the slide is the rear of the
3 building, which we presented to OGB and received approval to
4 restore the building.

5 You'll note there's actually a tree growing out
6 of the back of it. The building is in quite a serious state
7 of disrepair.

8 Going to the next slide, the existing -- I'm
9 sorry, John, next slide. Thank you.

10 The existing properties Jeff mentioned is a three-
11 story building on a 4,166 square foot lot. We occupy 1.87
12 FAR. The first floor is entirely retail. The second floor
13 is two-thirds retail, one-third apartment, and the top floor
14 is all apartment.

15 The apartments have been vacant for over a decade.
16 There was some severe fire damage which we have pictures of
17 later in the record. And, what we're proposing is for, to
18 maintain retail on the ground floor, and to renovate the
19 building to provide for offices on the second and third
20 floor.

21 As I mentioned earlier, there's enormous focus on
22 trying to reinvigorate this commercial corridor by adding new
23 retail businesses and adding more daytime population.

24 One of the interesting elements that we
25 experienced next door, and also in other parts of the city,

1 has been enormous demand from boutique office firms,
2 generally tech and design focused, for office suites in the
3 size range of generally 3,000 to 6,000 square feet, in these
4 MU-4 zones.

5 In particular, we've actually recently done four
6 leases to that effect, including the one next door that I
7 referenced earlier. And, there are six active tech firms
8 looking for space to grow in in Georgetown in this
9 neighborhood.

10 We think that the ability to be able to offer them
11 a larger footprint would enable the ability to have more
12 daytime population, thereby supporting the retail, and
13 supporting the walkable nature of this neighborhood.

14 So, during our analysis of the property, we did
15 consider other options beyond just office for the ground
16 floor, or for the second floor and the third floor. We
17 looked at potentially staying within the 1.5 FAR that does
18 not have a floor limitation, and as you'll see from my
19 architect John, in a little bit on the floor plans, the
20 layouts are compromising to the efficiency of the building,
21 as well as the use of the building for the target uses.

22 The second thing is that we evaluated potentially
23 doing nothing on the third floor. And this could be
24 manifested in a couple of different ways. One way could just
25 be to abandon the third floor in its entirety. The other

1 could be to go back to OGB to expand the rear of the second
2 floor to be able to provide more FAR on the second floor to
3 meet the 2.0 requirements.

4 In both cases, it's not economically feasible, so
5 it's really not something that we're focused on, but we did
6 evaluate it.

7 VICE CHAIRPERSON HART: So why is, you said
8 residential use is not viable at this location. There are
9 currently how many units on the site?

10 MR. MARTIN: There are two units on the second
11 floor and four units on the third floor.

12 VICE CHAIRPERSON HART: Okay. And, I understand
13 that they haven't been used, but I don't quite understand why
14 they haven't been. Why they've been unused for essentially
15 10 years it seems like, it sounds like. I don't quite
16 understand that.

17 MR. MARTIN: Certainly. So, notably this property
18 was two properties on two separate lots that were combined.
19 So the width, the interior width of the buildings is less
20 than 16 feet, and the way that the units were laid out, the
21 bedrooms were facing the exterior and the living rooms were
22 on the interior with no natural light. They wouldn't meet
23 today's standards. So, that's why they haven't been occupied
24 for a very, very long time because they don't meet the
25 standards.

1 For example, in the Georgetown Theater next door,
2 we added four apartments and --

3 VICE CHAIRPERSON HART: I kind of understand.
4 What I'm trying to get to is there are a number of
5 configurations that work, right? So, people -- 20 years ago
6 people wouldn't go for you know, 400 square foot units.
7 We've got micro units, right?

8 MR. MARTIN: Uh huh.

9 BZA CHAIR HILL: So, these things kind of change
10 over time and I'm trying to understand why a reconfiguration
11 of the interior does not work to the extent that you're
12 looking for a variance.

13 I could understand if you said, well, you know,
14 this just kind of doesn't work and so we can't do this. I
15 don't understand what the issue is with not -- if residential
16 could be there at one point, and I understand that you're
17 saying that the configuration is such that it just doesn't
18 work now.

19 Buildings can be refigured. I mean you're
20 probably going to have to cut this building anyway to do
21 that. So, I just don't understand what that, why that
22 reconfiguration can't occur.

23 MR. MARTIN: Understood. Thank you, Board Member
24 Hart.

25 May I have that addressed shortly?

1 VICE CHAIRPERSON HART: Sure, I --

2 MR. MARTIN: Once we get into the actual plans to
3 be able to better articulate that.

4 VICE CHAIRPERSON HART: That's fine.

5 MR. MARTIN: Thank you.

6 I'd also just like to note that I do own three
7 other buildings on this block, and I do have nine apartments
8 ranging from the size of studio to two bedrooms. So, that
9 has informed our analysis of what we believe we can
10 physically configure and accommodate for what the market's
11 demanding.

12 The last thing I'll say on the residential aspect
13 before, just the last bullet point before transitioning, is
14 that I wholeheartedly agree with a need for more housing
15 along the commercial corridor. I just don't think that this
16 property lends itself well to it.

17 So, for example, our neighbors to the north, the
18 Solomon family, JBG's project, the Weaver family, the Elliott
19 family, the Schneider family. They're in the process of
20 adding 300 units along this corridor, which I think will help
21 support the office and the retail and make it a better
22 ecosystem in general for the neighborhood.

23 The last thing that I would say is from a
24 community support perspective, we were very proactive with
25 the community, and this is not the tail wagging the dog. The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 community has advocated the need to be able to revitalize
2 this street and be able to support more businesses and
3 daytime traffic for the neighborhood.

4 And so we have full support from the ANC, from the
5 Community Association of Georgetown, from Georgetown Main
6 Street, Georgetown Business Association. We have existing
7 retail tenants and business owners who support us. We have
8 office who support us. We have residential neighborhoods
9 directly affected by this project who support us, and we have
10 commercial owners who support us. DDOT supports the project.

11 The only support that we do not have right now is
12 from OP.

13 So with that, I'd like to turn it over to John who
14 will be able to walk you through some of the physical
15 constraints that we've identified in this project.

16 BZA CHAIR HILL: Yeah, and as you kind of start
17 this, I mean, Mr. Utz, I mean, like, you know, I mean, I know
18 where the property. I know what the applicant's speaking to
19 and I mean I'm not, I don't think, well at least I'm not
20 necessarily in disagreement in terms of what would, you know,
21 possibly the argument in terms of why the office is
22 beneficial and that you know, that all of the community
23 support that you have.

24 It's again that we're having to now understand,
25 you know, the first prong on the variance test, and that's

1 really what, you know, you can kind of continue to focus on.

2 MR. UTZ: Right.

3 BZA CHAIR HILL: I mean, you're here for the
4 variance.

5 MR. UTZ: Yep.

6 BZA CHAIR HILL: And so, if we could just, you
7 know, I again, I think the Compass Coffee's a great shop also
8 right there next door, and but again, you're arguing the
9 variance standard.

10 MR. UTZ: Yep. So, we're about to head into the
11 specific questions I think, that are being asked now about
12 the exceptional conditions and then the practical
13 difficulties created thereby.

14 BZA CHAIR HILL: Okay.

15 MR. UTZ: So, I think we're about to cover
16 hopefully, many of the questions and we can, if not, we'll
17 continue to --

18 BZA CHAIR HILL: Okay.

19 MR. UTZ: -- answer your questions. But I think
20 we'll turn it over to John to hopefully hit that head on.

21 BZA CHAIR HILL: Okay, great. Thank you.

22 MR. LINAM: Yes, thank you.

23 BZA CHAIR HILL: Mr. Utz, if you want to turn off
24 your microphone there. Thanks.

25 MR. LINAM: Thank you, Chairman and Board for the

1 opportunity to present this to you.

2 I think it's important to start this by stating
3 that this property is a contributing element in the fabric
4 of the Georgetown Historic District.

5 And this concept design has been presented to the
6 staff, as well as the Georgetown Board, to be compliance with
7 the urban character. This, I should also say, has been
8 supported by the Old Georgetown Board and the staff at HPO.

9 This is a relatively small site, as we mentioned,
10 4,000, a little over 4,000 square feet compared to other
11 sites, including adjacent properties along the Wisconsin
12 Avenue commercial corridor. The concept for this site is to
13 be respectful of this fabric and utilize the existing space
14 available without adding to the existing building.

15 As the plans show, first floor, sorry, second
16 floor proposed -- existing above and proposed below on each
17 of these slides and the third floor. The plans show that
18 we're proposing the retail retained on the ground floor with
19 the vacated space on the second and third floor converted to
20 office use as well.

21 What you can see in these plans is that this
22 existing structure is, not only was it two lots, two
23 buildings, but as it was converted to a single building, it
24 has, it maintains a divider between the two spaces, this --
25 sorry, using the wrong mouse -- the existing structural

1 masonry bearing wall that divides the spaces and makes them
2 even smaller in narrow floor plates.

3 With regards to the standards for variance relief,
4 let me start by outlining the exceptional conditions. The
5 floor of each story in this building are small, particularly
6 as compared to --

7 BZA CHAIR HILL: Sir, Mr. Linam, Linam?

8 MR. LINAM: Yes?

9 BZA CHAIR HILL: I've got to tell you, I haven't
10 done this before but I'm going to do this because I really
11 need to concentrate, right?

12 MR. LINAM: Okay.

13 BZA CHAIR HILL: And, so rather than you start --
14 yeah, I'm going to stop this case, I'm going to take the next
15 case, we're going to take lunch and then we're going to come
16 back, okay?

17 Because I think you guys are going to have to --
18 I just want to have fully, I want to be like, you know,
19 really able to like, concentrate on this and I'm a little not
20 able to right now.

21 And, so I just want to make sure that 100% here
22 for you guys because you're going to have to make a pretty
23 serious argument, okay?

24 Sure.

25 MR. UTZ: So we would after he walks through these

1 plans, there is, there are some slides that actually dive
2 right into I think exactly what it is I think you're asking
3 about, the exceptional conditions that these are right there,
4 and kind of as clear format as we could make them.

5 BZA CHAIR HILL: Okay.

6 MR. UTZ: -- the exceptional conditions. And, the
7 procedure's fine, but we just want to obviously we would just
8 see to you all. But so we intended to kind of set up an
9 overall description of the concept, and then have the terms
10 laid out in more specific terms on these three slides.

11 These consolidate what is in the case materials
12 already, and then add a few more including references to some
13 of the plans that John was walking through.

14 BZA CHAIR HILL: Okay, Mr. Utz, I'm sorry. I am
15 going to do it.

16 MR. UTZ: Okay.

17 BZA CHAIR HILL: So, I'm going to stop you guys,
18 okay? And then because I really want to be able to
19 concentrate and I can't right now. And, so I'm going to stop
20 this hearing, we're going to take the next case and then
21 we're going to take lunch, and then we can come back and have
22 your case, okay?

23 MR. UTZ: Okay. Thanks.

24 BZA CHAIR HILL: So, Mr. Moy?

25 MR. MOY: Okay, Mr. Chairman, so I believe then

1 is that the Baptist Church case?

2 BZA CHAIR HILL: Yes.

3 MR. MOY: All right. So, for the record then,
4 we're going to pause on this application, return to it after
5 the Board has its lunch recess.

6 So, now before the Board is case application
7 number 20064, of Mt. Sinai Baptist Church, caption advertised
8 for special exception under the use provisions of Subtitle
9 U, Section 320.1(b). This would permit a new community
10 service center in an existing attached building, RF-1 zone,
11 at 1608 3rd Street NW, Square 520, Lot 93.

12 BZA CHAIR HILL: Okay, if you'd introduce
13 yourselves --

14 ZC CHAIR HOOD: I'm sorry --

15 BZA CHAIR HILL: Yes, sir?

16 ZC CHAIR HOOD: -- the way things are going right
17 now for me, let me just put a disclosure up. Mt. Sinai, I've
18 done some work with some of their leadership from a spiritual
19 standpoint, so I have no connections with anything that's
20 going on in this case and I don't think I need to recuse
21 myself.

22 BZA CHAIR HILL: Okay, great. All right, thanks
23 for putting that out, Chairman Hood.

24 All right, if you could please introduce
25 yourselves for the record.

1 MR. SAWYER: Maurice Sawyer, Chairman and Trustee
2 Board, Mt. Sinai Baptist Church.

3 MR. SULLIVAN: Martin Sullivan, with Sullivan &
4 Barros, on behalf of the applicant.

5 MS. WOODS: Sherry Woods. I'm the Director of
6 Unique Learning Center.

7 BZA CHAIR HILL: Okay, great. Mr. Sullivan,
8 you're going to be presenting to us?

9 MR. SULLIVAN: Yes.

10 BZA CHAIR HILL: Okay, I don't have a lot of
11 specific questions for you. If you want to go ahead and walk
12 us through what you're client is trying to do, and how you're
13 meeting the standard for us to grant the relief, and you can
14 begin whenever you like.

15 MR. SULLIVAN: Okay, thank you.

16 I'll go through the introduction and criteria and
17 then Ms. Woods can talk about the program, and Maurice can
18 talk about the church and its mission. But, I don't want to
19 overdo it, so feel free to stop him if you have enough
20 information.

21 BZA CHAIR HILL: Why don't you speak to the actual
22 application, Mr. Sullivan.

23 MR. SULLIVAN: Okay. So, Mt. Sinai Baptist
24 Church, they own a property located at 1608 3rd Street, which
25 is across the street from the church itself. And there's a

1 program currently operating in the church, the Unique
2 Learning Center, which Ms. Woods can tell you more about.

3 And they're proposing to move that program to a
4 property at 1608 3rd Street, and so we're asking special
5 exception relief for that under U320.1b, which permits a
6 community service center in the RF-1 zone provided that the
7 organization is created for the purpose of improving the
8 social or economic well-being of the residents of the
9 neighborhood in which the center is proposed to be located.
10 And, we think that the Unique Learning Center meets that
11 definition to a T, and otherwise meets the special exception
12 criteria.

13 The criteria involve of course, that it's not
14 likely to become objectionable to neighboring properties
15 because of noise or other objectionable conditions. We think
16 that due to the nature of the use, the ULC is not likely to
17 become objectionable to neighboring properties. The program
18 already operates across the street. That's primarily an
19 after school program, the per day average of about 30 to 40
20 students.

21 I do want to clarify, I learned some more
22 information today, there is hours listed in the Office of
23 Planning report, and I understand today there are some summer
24 hours for a six week period from the last week in June until
25 the first week in August. It's three days a week, Monday,

1 Tuesday, Wednesday, and 8:30 to 5:00.

2 And then for the rest of August it's empty. It's
3 vacant. So, that's a little bit more intensive I think, than
4 the after school period, but it's only for six weeks and it's
5 only three days a week. But I want to make clear if that's
6 a condition that that, it should be subject to that as well.

7 So, but during the school year, Mondays, Tuesdays
8 and Thursdays it's open until 6:30. On Wednesdays till 8:30,
9 on Fridays from 4:00, approximately 4:00 until 9:00.

10 Another requirement is the use shall be reasonably
11 necessary or convenient to the neighborhood in which it is
12 proposed to be located. This is very specifically applicable
13 to kids in this neighborhood. And also, the ULC is a
14 503(c)(3) nonprofit.

15 We do have the support of the ANC and the Office
16 of Planning as well, including the Bates Area Civic
17 Association. And, Sherry Woods is here and can talk about
18 the program in more detail, along with a representative of
19 Mt. Sinai.

20 BZA CHAIR HILL: Okay, and I appreciate you guys
21 coming down, I really do. I just, I don't at this particular
22 moment, well actually, so Mr. Sullivan, you mentioned the
23 hours there. And why were you bringing up those hours?
24 Because I don't see anything in the OP report concerning the
25 hours. Was there?

1 MR. SULLIVAN: I don't think they noticed those
2 conditions, but they did put at the top of the second page,
3 they noted --

4 BZA CHAIR HILL: Okay, all right.

5 MR. SULLIVAN: -- the hours and --

6 BZA CHAIR HILL: I got it. So we can talk about
7 that a little bit. Okay.

8 Ma'am, sorry, what was your last name again?

9 MS. WOODS: Woods.

10 BZA CHAIR HILL: Yeah, please, Ms. Woods --

11 MS. WOODS: Sherry Woods.

12 BZA CHAIR HILL: -- go ahead and tell us about
13 your program.

14 MS. WOODS: Sure. Very briefly, for 38 years
15 we've worked in this same community. Most of our kids are
16 living within the area of Dunbar High School. Our grade
17 school children walk to us after school. Our middle school
18 or high school kids often will Metro or come back into the
19 community, but 80% of the kids that we are serving live
20 within the Mt. Sinai within Dunbar High School area.

21 And, we've been very successful, in fact the
22 current coach of Dunbar's basketball team is one of our
23 original students from back in the '80s. We have other kids
24 that have now gone on to college; eight of them in particular
25 are currently enrolled in college, another one is heading off

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 to UMass on scholarship in the fall.

2 So, we've been very effective with a small group
3 of kids; very intentional. We don't have any intention of
4 growing the numbers that we're serving. We believe in an
5 intimate, intentional effect with our kids and their
6 families.

7 So, tutoring, computer lab, Bible study weekly,
8 those kinds of basic things. And again, because we have been
9 operating out of Mt. Sinai for the last eight years in terms
10 of location, it won't impact or change anything in terms of
11 how the community is affected if we simply move across the
12 street.

13 I'll keep it short.

14 BZA CHAIR HILL: Okay, thank you so much.

15 Mr. Sawyer, is there anything you'd like to add?

16 MR. SAWYER: Again, thank you again for
17 entertaining us.

18 Again, we want to make sure that it's clear that
19 our strategic plan is to make sure that we stay, have a
20 footprint in the community.

21 We were before you a couple of weeks ago in
22 reference to our educational building. We are moving the
23 literacy group into there. We are moving our Sunday school
24 back to the church so that would have displaced Unique
25 Learning Center, and so again, not to displace someone again,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we found another property that we had in our -- that we still
2 own that was still in the community so we can maintain all
3 of the stuff that we were doing in the community.

4 So, that's why we wanted to make sure that we were
5 able to do this and make sure we maintain all that we're
6 doing.

7 BZA CHAIR HILL: Okay, wonderful.

8 Does the Board have any questions for the
9 witnesses or the applicant?

10 Okay, going to turn the Office of Planning.

11 MR. KIRSCHENBAUM: Good afternoon, Chair. Hello,
12 members of the Board. Jonathan Kirschenbaum from the Office
13 of Planning.

14 We recommend approval of the special exception
15 request and our approval is not altered based on the new
16 information about the summer hours, so please let me know if
17 you have any questions.

18 BZA CHAIR HILL: Okay, great. No, that's helpful.
19 Thank you, Mr. Kirschenbaum. That's what I was trying to ask
20 about.

21 Does the Board have any further questions for the
22 Office of Planning?

23 Okay, does the applicant have any questions for
24 the Office of Planning?

25 MR. SAWYER: No, thank you.

1 BZA CHAIR HILL: Is there anyone here wishing to
2 speak in support?

3 Is there anyone here wishing to speak in
4 opposition?

5 I'm sorry, is there someone here wishing to speak
6 in support?

7 Is there anyone here wishing to speak in
8 opposition? Okay, that's all right, sure, no problem.

9 Did you get sworn in earlier, sir?

10 MR. DARBY: Yes.

11 BZA CHAIR HILL: Okay, you can come on forward.

12 MR. DARBY: I mainly have questions.

13 BZA CHAIR HILL: That's right, you need to speak
14 into the microphone as soon as I, as soon as you get a chance
15 to introduce yourself.

16 What's your name, sir?

17 MR. DARBY: My name is James Darby, D-A-R-B-Y.
18 I live at 1606 3rd Street, next door to the property.

19 BZA CHAIR HILL: Okay. So, Mr. Darby as a member
20 of the public, you'll get three minutes to give your
21 testimony, and you can begin whenever you like.

22 MR. DARBY: Okay, I have a lot of -- I have some
23 questions, and I have seen this program work and it seemed,
24 and I'm not objecting to the idea of the program. What I
25 have a problem with or have a question about is how much

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 noise.

2 They're saying that 30 or 40 kids is small, but
3 if I'm not sure whether the, whether anytime in this history
4 that they've been in a residential setting. I'm assuming
5 it's been all institutional settings like church school, or
6 whatever.

7 And, so I'm not quite sure whether the noise can
8 be controlled. These houses, to me, not soundproof for sure.
9 There's a lot of noise that comes through. And the church
10 has used the property for other uses other than, I mean
11 there's been residential, but they used it as a shelter for
12 women at one point. These were adults, and there weren't an
13 excessive number. And I'm using excessive because I'm
14 thinking that 30 or 40 kids to me sounds excessive.

15 And, I have some problem with opposing it because
16 I think the Learning Center idea is great. But since I live
17 next door to the property. And the fact that the hours sound
18 good, I just don't think that they can control that noise as
19 far as those kids unless you are going to soundproof the
20 walls. I just don't see it.

21 And I'm not sure what they can do beyond what
22 they're doing at this point. They've done some renovations
23 on the property, making it suitable for what they're going
24 to use it for. But I'm still leaning towards not going along
25 with it, or at least having an opposition to it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 There's some -- I think I was told that the
2 contract would be like two years. Is that right or wrong?

3 BZA CHAIR HILL: That's okay, Mr. Darby, just go
4 ahead and finish your testimony and then we'll figure out how
5 to get your questions answered.

6 MR. DARBY: Okay, well, I mean that's basically
7 my testimony at the moment.

8 BZA CHAIR HILL: Okay.

9 MR. DARBY: That I have a problem with the fact
10 that I think that they're not going to be able to control 30
11 or 40 kids. These are small houses and I'm thinking that the
12 structure doesn't provide for soundproofing.

13 BZA CHAIR HILL: Okay. Okay. Did you go to your
14 ANC meeting by any chance?

15 MR. DARBY: No.

16 BZA CHAIR HILL: No? Okay. All right. The
17 reason why I'm asking that is they did present at the ANC
18 meeting and I don't know how that particularly went, but your
19 ANC is in support of this particular application --

20 MR. DARBY: Well --

21 BZA CHAIR HILL: -- but you live -- I'm just
22 asking.

23 MR. DARBY: Yeah.

24 BZA CHAIR HILL: You live right next door,
25 correct?

1 MR. DARBY: Yeah, I was getting ready to say she
2 doesn't live --

3 BZA CHAIR HILL: Right.

4 MR. DARBY: -- next door to the property and Bay
5 Street doesn't live next door to the property.

6 BZA CHAIR HILL: Okay. So, Mr. Darby, if you can
7 turn off your microphone just for me because of the feedback.

8 MR. DARBY: Okay.

9 BZA CHAIR HILL: Mr. Sullivan, in terms of I guess
10 this is the first time you've seen this particular person,
11 or you guys have done outreach with the neighbors in this
12 regard?

13 MR. SAWYER: Yes, we've done outreach. We, myself
14 and Ms. Woods and Mr. Darby had a very lengthy conversation.

15 BZA CHAIR HILL: Okay.

16 MR. SAWYER: Even at the ANC when we presented,
17 we even let them know that we knew that Mr. Darby had some
18 concerns and we was expecting him at the meeting.

19 So, we've done outreach. We've also said to Mr.
20 Darby that if once, if this is approved and we move in, if
21 there are any problems we would be willing to work with you
22 about them.

23 We've said to him that the children are
24 controlled. We don't have them running around in the church,
25 and we won't have them running around in the building. We've

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 also said to him that there, although it's 30, 40, it's not
2 30 and 40 at a time. They're coming and going. They know
3 how to go into the building. They know what areas they're
4 going to.

5 It's very well maintained and we again, assured
6 him that if there were any problems, that we'd be willing to
7 work with him.

8 BZA CHAIR HILL: Okay. And Mr. Sawyer, I guess
9 then as to use my colleague Chairman Hood's, you know, the
10 good neighbor policy in terms of you guys do your best to try
11 to be good neighbors.

12 Okay, all right, does the Board have any questions
13 for the witness?

14 MEMBER JOHN: How many participants will be there
15 each day?

16 MS. WOODS: On an average, 30 to 35 of the kids
17 are there each day. We max at 40. Right now we only have
18 38 enrolled, and they're only two days a week, Monday and
19 Wednesdays where all the students are required to attend so
20 that we have our K through 12. It's just two days that all
21 of them are there.

22 And again, it's a staggered arrival time. Not
23 everybody arrives at the same time because school is let out
24 at different times and kids are transporting back into the
25 community. And on Mondays, everyone dismisses at the same

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 time, but on Wednesdays in the evenings, we don't even
2 operate. We wouldn't operate at 1608, we would be back at
3 the church because that's our tutoring and mentoring night,
4 and obviously, that house can't hold tutors and kids. And
5 so we'll continue to use Mt. Sinai on Wednesday nights for
6 our tutorial program, as we have for the last eight years.

7 BZA CHAIR HILL: Okay. All right, so let's see.

8 Mr. Darby, thank you very much for your testimony.

9 Let's see, then again, did -- the Board didn't
10 have any questions for Mr. Darby?

11 MR. DARBY: Can I --

12 BZA CHAIR HILL: Okay, all right. So, you're
13 going to try to -- give me one second, Mr. Darby.

14 And so, and then again, you are going to, I guess
15 continue discussions with Mr. Darby in terms of trying to
16 help him?

17 Mr. Darby, you said something else you'd like to
18 add?

19 MR. DARBY: I was just going to say again, to me
20 they have been in locations that are more like an
21 institutional setting. I don't think they've been in a
22 residential area unless I'm wrong about that.

23 BZA CHAIR HILL: It's okay, it's okay.

24 MR. DARBY: Unless I'm wrong, I don't think
25 they've been in a residential area and specifically, even

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 though the church owns properties on that street, that they
2 haven't been into one of those houses that seem to me the
3 sound travels --

4 BZA CHAIR HILL: Okay.

5 MR. DARBY: -- very easily through the properties.

6 BZA CHAIR HILL: Okay.

7 MR. DARBY: Okay?

8 BZA CHAIR HILL: So, Mr. Darby, I guess, I mean
9 I understand you're in opposition so you're not, you're not
10 interested in this happening there. You're not opposed to
11 the Learning Center, I understand. And so, I'm just, what
12 they seem to be -- I mean what I'm -- they're here to --
13 they've come forward in terms of presenting their application
14 to us based on a certain criteria within the zoning code that
15 we're going to determine one way or the other whether we as
16 a Board think they've met the standard.

17 But I do understand that you're opposed to the
18 project and I think that they're, at least what I -- I don't
19 know whether we're going to vote on this right now one way
20 or the other, but we'll see what happens. But, they did seem
21 that they want to continue to work with you if there's
22 anything in terms of if this project were to move forward,
23 in terms of the noise factor.

24 MR. DARBY: Okay. I mean, you know. I was asking
25 a question earlier that you were, I think Trustee Sawyer said

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that the contract for this property, their use of it is two
2 years, is that right, or am I wrong?

3 BZA CHAIR HILL: You can answer, Mr. Sawyer.

4 MR. SAWYER: Yes, initial contract at least that
5 we're doing is going to be two years, and with an option to
6 renew.

7 BZA CHAIR HILL: Okay.

8 MR. DARBY: And, so at the point that a renewal,
9 is that, that's just done between you all at that point, or
10 where we go through another one of these things where we have
11 to if somebody's opposing it at that point?

12 MR. SAWYER: I don't think so. Once we, if we get
13 the approval from here --

14 BZA CHAIR HILL: Right.

15 MR. SAWYER: -- the lease goes between us and the
16 renewal process is between the Unique Learning Center and Mt.
17 Sinai. But again, Mr. Darby, I do want to overemphasize that
18 we will be willing to work with you --

19 BZA CHAIR HILL: Let me just interrupt you guys.
20 You guys can talk amongst yourselves after this hearing is
21 over, okay? This is not, you know, please continue the
22 conversation.

23 All right, so Mr. Sullivan, do you have anything
24 else you'd like to add at the end?

25 MR. SULLIVAN: No, thank you.

1 BZA CHAIR HILL: Okay, all right. Is the Board
2 ready to deliberate?

3 MEMBER JOHN: Mr. Chairman, I just have one more
4 question.

5 BZA CHAIR HILL: Oh, okay.

6 MEMBER JOHN: So, we do have to find that the
7 service center will not likely to become objectionable to the
8 neighboring properties. And, so in the event that there is
9 a problem, is there a point of contact for Mr. Darby to call?
10 And, will, I don't know, Mr. Chairman, but could we require
11 that Mr. Darby be given notice of any renewal after -- the
12 OAG is looking at me with a pained expression.

13 I would just like to be able to give some sort of
14 opportunity for Mr. Darby to weigh in if things become so
15 objectionable.

16 I know you're speaking in good faith, well I think
17 you are. But just for Mr. Darby's benefit, what assurances
18 can you give him? Is there a point of contact? How will you
19 actually implement this cooperation good neighbor policy?

20 MR. SAWYER: Currently, Mr. Darby has my cellphone
21 number and I have Mr. Darby's cellphone number. We've spoken
22 on several occasions. We've had talk about the fence that's
23 in between the two properties. I see him as I come and go.
24 I try to speak to him. Again, Mr. Darby has my cellphone
25 number and I have his.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 We can put in a formal process if there's a
2 complaint that he needs to lodge, but again, I've said to him
3 on numerous occasions, Mr. Darby, you have my cellphone
4 number. You ever have a problem, you can call me.

5 MS. WOODS: And may I add that Mr. Darby and I
6 have also had a conversation and I did give him my direct
7 contact information as well.

8 VICE CHAIRPERSON HART: Are there any actual
9 construction happening with any of this?

10 MR. SAWYER: No. Only construction was just to
11 modify. We did some basement work to make sure the basement
12 was waterproof. We did made some painting and things like
13 that, but no popup, nothing like that, no. And we wanted to
14 make sure that it was up to code for kids. But no major
15 construction, no.

16 VICE CHAIRPERSON HART: Okay.

17 ZC CHAIR HOOD: Mr. Chairman, I believe Mr.
18 Darby's probably looking for like a term. But I think from
19 what I've heard in the -- from all the support, and I'm
20 confident from what I've heard, especially knowing the
21 reputation and what Mt. Sinai has done in the past, so it
22 goes back to Reverend Durham, and all those others, but I
23 just believe that they going to follow through what I always
24 talk about the good neighbor policy.

25 I don't believe we have -- so maybe you all can

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 memorialize something. Not within our proceedings, but among
2 yourselves so Mr. Darby will be able to have that he can rely
3 on.

4 Even if you're -- you'll probably be the Chairman
5 of the Trustee Board for a long time, but somebody, either
6 the pastor or the chairman of the Trustee Board or the
7 chairman of the Deacon Board, somebody he can go to in that
8 case, and continue to go to as things evolve and move on.

9 So, I think that gives, maybe give him some
10 assurances besides us putting a term limit on it. I think,
11 I feel confident in not doing that. But I just wanted to
12 make sure that good neighbor policy continues, and also give
13 him some type of recourse of somebody to come to.

14 So, I think that should be memorialized between
15 you two as the Chairman has probably mentioned.

16 BZA CHAIR HILL: Okay, anyone else?

17 MS. WHITE: My just final question I had was, and
18 you've been doing this for 36 years, right?

19 MS. WOODS: I have.

20 MS. WHITE: This, the Learning Center.

21 MS. WOODS: Yes.

22 MS. WHITE: So, within that time period you've had
23 a lot of experience with a lot of kids over the years, and
24 my question is whether or not there's been any difficulty or
25 complaints from neighbors regarding the programs that you've

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 been running.

2 And, I'm asking only because I've got to go
3 through this criteria.

4 MS. WOODS: Sure.

5 MEMBER JOHN: And one way for me to be able to
6 assess that is to kind of get a sense of whether or not there
7 have been problems in the past.

8 MS. WOODS: No, I understand.

9 We actually did for a decade, lease a property on
10 a residential street on New Jersey Avenue, Third and New
11 Jersey. We were in a partnership with 3rd Street Church of
12 God at that point, from early 80s to the late 90s, actually.
13 And so we did have a property that we leased for a decade on
14 a residential street with neighbors on both sides. And no,
15 we didn't.

16 I mean one thing I consider to be very, very
17 important is if we're going to be successful in the community
18 and the families with which we're serving, we have to also
19 build relationships with the people around us who maybe
20 aren't directly being served by the Learning Center. And so
21 that's been a real focus and a key issue for me as wherever
22 we're placed.

23 MR. DARBY: Okay, one question. Where's Third
24 Street Baptist? Which church is it again?

25 BZA CHAIR HILL: Mr. Darby? Okay, go ahead,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 answer the question real quick.

2 MS. WOODS: Third Street Church of God is on New
3 Jersey Avenue and Third Street.

4 BZA CHAIR HILL: Okay, Mr. Darby, I'm just letting
5 you know. You're a member of the public and you're here, and
6 you gave your three minutes of testimony.

7 MR. DARBY: Okay.

8 BZA CHAIR HILL: And so this isn't a place for
9 this type of discussion. I think you guys definitely should
10 continue to talk, it's just not right here.

11 MR. DARBY: Okay.

12 BZA CHAIR HILL: So, we're here for a different
13 -- I'm just saying like, it's just not, it's not what this
14 is here for.

15 MR. DARBY: I got you. Thank you.

16 BZA CHAIR HILL: Okay. So, let's see. All right,
17 so does the Board have any more questions for the witnesses?
18 All right, I'm going to close the record.

19 Okay, is the Board ready to deliberate? So, I
20 think that the applicant, based upon the analysis that the
21 Office of Planning has provided us, as well as the analysis
22 that the ANC has provided us, as well as the burden of the
23 proof that the applicant has proposed, they are meeting the
24 standards and the criteria for us to grant the application.

25 What continues to be, I guess, problematic in

1 terms of there is an adjacent property owner that has a
2 concern about noise, and I can understand that, and it seems
3 as though they are -- the applicant is going to do their
4 best, and I believe them, to try and work through any kind
5 of issues that they have with the neighboring property,
6 because they are in such close proximity, you know, and I
7 certainly hope that they continue their conversations.

8 However, based upon the standards that are before
9 us, and that the analysis that we've received from the Office
10 of Planning as well as the ANC, I will be voting in favor of
11 this application. Does anyone else have anything they'd like
12 to add?

13 Okay. All right, I'm going to make it a motion
14 to approve application number 20064, as captioned and read
15 by the secretary, and ask for a second.

16 MEMBER JOHN: Second.

17 BZA CHAIR HILL: Motion been made and seconded.
18 All those in favor say aye.

19 (Chorus of aye.)

20 BZA CHAIR HILL: All those opposed? The motion
21 passes, Mr. Moy.

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

1 Zoning Commissioner Anthony Hood.

2 BZA CHAIR HILL: Okay, thank you.

3 Thank you all very much. Thank you, Mr. Moy.

4 All right, we're going to take a lunch break and
5 probably we're going to be back here around 2:00, okay? So
6 just let everybody know.

7 (Whereupon, the above-entitled matter went off the
8 record at 12:54 p.m. and resumed at 2:01 p.m.)

9 BZA CHAIR HILL: All right, Mr. Moy, you can call
10 it whenever you like.

11 MR. MOY: Thank you, Mr. Chairman. The Board is
12 back in session after lunch recess and the time is at or
13 about 2:00 p.m., and I believe the Board is going to continue
14 the hearing from a couple hours ago to case application
15 number 20061 of MDP 1353 Wisconsin LLC.

16 And for the record again, caption advertised for
17 area variance from the floor area ratio requirements,
18 Subtitle G, section 402.2 to renovate existing commercial
19 retail space and to convert the existing residential units
20 into office space, MU-4 zone. This at 1353-1355 Wisconsin
21 Avenue NW, Square 1243, Lot 812.

22 BZA CHAIR HILL: Okay, thank you. Could you
23 please all come forward, or whatever you want to do?

24 Okay, once again, let's go ahead and introduce
25 ourselves for the record.

1 MR. MARTIN: Chris Martin, property owner.

2 MR. LINAM: John Linam, architect.

3 MR. UTZ: Jeff Utz, with Goulston & Storrs, land
4 use counsel.

5 MR. MARTIN: All right, Mr. Utz, thanks. And Mr.
6 Utz, I got to tell you like, you are far better off now
7 having us had lunch, I got to tell you, because I would liked
8 you to go sooner, but there was no way I was going to be able
9 to focus on you and get through that Baptist Church thing.

10 (Laughter.)

11 So, now you're back to -- why is that funny?

12 So, oh, okay, so if you can go ahead and start
13 whenever you like, and again, what we're focusing on is the
14 variance and how you're meeting the three prongs, which I
15 guess is what you're going to kind of start with.

16 And just to let you know, I like the project. I'm
17 trying to figure out how you're going to get there. Okay,
18 thanks.

19 MR. UTZ: Great, thank you so much. And let me
20 just to that end, go ahead and turn it right over to our
21 architect who's going to jump right in, as you mentioned to
22 the three prongs and how the application satisfies the
23 standards of the variance. John Linam.

24 MR. LINAM: Thank you, again. So, what I'll try
25 to do now is focus on the points that we have here instead

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of going back through some of the history.

2 But, what we have with this particular site is
3 small floor plates due to the fact that it is a small site,
4 and the fact that the site is within the historic zone and
5 was originally built as two, two structures, two lots that's
6 now been combined to one lot that is creating an
7 exceptionally long, skinny floor plate that is very
8 challenging to work with.

9 Also, because of the location in the historic
10 zone, we are very limited in terms of the access to light and
11 air through the windows. As you probably are aware with the
12 requirements from Historic, we would be restricted from
13 adding new masonry openings, particularly on the front facade
14 to try and gain more daylight to the plan.

15 Just to state again that the existing use for the
16 structure had been primarily commercial for the last decade.

17 So, then also show that what we have done is to
18 try and look at some alternatives, some alternative plans to
19 see what we could do to incorporate the residential use on
20 the third floor. And, I'm going to skip to the slides that
21 we provided to show that we've studied a couple of different
22 options here where we have the office use on the second
23 floor, and four residences on the third floor as Study A.
24 And Study B shows again, the office use on the second floor
25 with partial office use on the third floor, and two

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 residences.

2 So, I think these plans will illustrate the green
3 area is the core that is provided to serve the tan lease
4 spaces. And, I think as you will see, particularly with the
5 Study B, but also with Study A, that we are reducing compared
6 to the third floor plan that we have presented as the base
7 design, a reduction in the efficiency of the floor plans from
8 a 96 efficiency to 76, and as low as 67 efficiency rate. And
9 the 67% in the Study B.

10 Also understand that there is a notion that with
11 the addition of staircases, the two staircases to access the
12 residences and the offices separately, there's a notion that
13 that's not necessarily required per the building code for
14 means of egress.

15 But, in this particular location on this street,
16 with this amount of traffic -- foot traffic, the concern is
17 security and being able to separate those uses and control
18 the access separately from the office use to the residential
19 use.

20 Let me go back to the floor plans. Also, as you
21 will see on both the four unit and two unit residential
22 plans, I'll go back and forth between the two, the size of
23 these is such that you really are not able to provide any
24 natural daylight to the actual living space.

25 The reason for that is because you're required to

1 place the bedroom on the exterior wall for it to receive
2 light and air, but also per the building code, the bedroom
3 must have direct egress through the window for emergency
4 purposes.

5 So, what that's doing in these plans is it's
6 locking the interior living space off from any opportunity
7 for natural light.

8 So, the other thing that is occurring with the use
9 of residential on the third floor is it's limiting the amount
10 of space that can be dedicated to the office. And, as Chris
11 was explaining I think before we broke, and you might want
12 to add to this, that that is taking the second floor leasable
13 office space to a size that is just not marketable.

14 BZA CHAIR HILL: Can you say that again, or
15 explain that again? Because of the way you'd have to
16 configure it if you were to adhere to the residential, you're
17 saying the core would have to be such that it would make the
18 office space smaller?

19 MR. MARTIN: That's correct. So, in order to be
20 able to provide security and direct access to the
21 residential, the core grows considerably and that eats into
22 the usable space of the office, which becomes unduly
23 burdensome to the use of the office and thereby the demand
24 for the office.

25 VICE CHAIRPERSON HART: So, you're saying that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 you're doubling the size of the core?

2 MR. MARTIN: That's correct.

3 VICE CHAIRPERSON HILL: You'd have to have a
4 double core. You may not double the size, but it's, you're
5 redundant. You're having to have a redundant use or utility
6 that you're kind of moving people up and down the building.

7 MR. MARTIN: That's correct. That also does not
8 take into account the support services for residential for
9 the building, including trash area and bike storage and those
10 types of elements as well.

11 MR. LINAM: Let me make one last point that I sort
12 of touched on, but I don't think I elaborated on, and that
13 is something that was suggested earlier that of course, there
14 could be a different plan conceived if you considered
15 entirely gutting the building and taking out the demising
16 wall down the middle.

17 But this is a historic structure and Historic, the
18 HPO staff have increasingly looked at our plans and asked
19 that we not only preserve the exterior, the facade, but they
20 have increasingly become concerned about maintaining
21 structural elements that are a part of the base building, so
22 as to allow the building to continue to tell the story of how
23 it has changed over time.

24 So, I feel fairly certain that should we try to
25 propose eliminating entirely that demising wall, that would

1 be pushed back against by Historic staff.

2 VICE CHAIRPERSON HART: So, you're saying this
3 wall that's here, that shows up here?

4 MR. LINAM: Sorry, that's correct.

5 VICE CHAIRPERSON HART: And so currently, you
6 don't have -- how many hole punches, I guess, do you have?
7 How much connectivity do you have between the two that you're
8 proposing?

9 MR. LINAM: It's three to four openings, which has
10 again, been presented to the staff and they are supportive
11 of that, but I know that they would not be supportive of the
12 entire wall being demolished.

13 Not only is it part of the historic fabric, it's
14 a structural bearing wall. It's supporting the existing
15 floor structures.

16 VICE CHAIRPERSON HART: So, you'd then have to
17 carry the load another way, arch or whatever, so that you can
18 maintain that structural stability and integrity of the
19 building?

20 MR. LINAM: That's correct. You'd either have to
21 come up with some system, or you would have to completely
22 replace all of the floor joists to make a full span, which
23 would be very difficult, and again, I do not feel would be
24 supported by Historic staff.

25 VICE CHAIRPERSON HART: But are you adding HVAC

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in here? Do you have to have that?

2 MR. LINAM: Yes.

3 VICE CHAIRPERSON HART: I mean is it you're doing
4 that outside of the floor system, or is that independent?

5 MR. LINAM: It's independent. It's not necessary
6 to cut through the existing ducts. We may also do that in
7 a way that avoids ducts.

8 VICE CHAIRPERSON HART: Okay. I just didn't know
9 if you were having to create another, you know, create the
10 floors themselves to be able to kind of deal with all the
11 HVAC because they're modern.

12 MR. LINAM: Sure.

13 VICE CHAIRPERSON HART: So, you know, they didn't
14 account for those at that point in time.

15 MR. LINAM: Well, I would say that even if we were
16 to do that, Historic staff would require us to maintain the
17 existing structure to the extent feasible unless there is
18 damage or decay. That's increasingly been a requirement of
19 the staff from HPO.

20 VICE CHAIRPERSON HART: And you're not able to
21 make any, I know you've said that this is a limited space,
22 but you don't have, you don't think that there is an ability
23 to create a court or anything in the building itself, they're
24 just too small to be able to do that?

25 MR. LINAM: I believe --

1 VICE CHAIRPERSON HART: To bring in light, that's
2 what I'm asking about.

3 MR. LINAM: -- I believe that is correct, not only
4 from a building code or a practicality standpoint, but I
5 think Jeff, correct me if I'm wrong, that would also
6 potentially create a zoning condition in terms of a closed
7 court that would --

8 VICE CHAIRPERSON HART: No, I understand.

9 MR. LINAM: Sure.

10 VICE CHAIRPERSON HART: I'm just saying that the
11 way in which you kind of, you know, people have to deal with
12 many different types of conditions, and many ways they deal
13 with that is creating something that is, allows that if it's
14 a court or a skylight or something to be able to bring in
15 some light and you know, light I guess, into some spaces.
16 I just didn't know if that was something that you had thought
17 of.

18 MEMBER JOHN: I'd like to follow up on that
19 question because I'm interested in the skylight idea. Why
20 couldn't you put a skylight over the stairs on the third
21 floor? On both sides?

22 MR. LINAM: The skylight would serve the third
23 floor.

24 MEMBER JOHN: Yes, uh huh. Which is primarily
25 what we're concerned about.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. LINAM: Sure.

2 MEMBER JOHN: Losing the residential --

3 MR. LINAM: Understood.

4 MEMBER JOHN: -- units on the third floor.

5 MR. LINAM: Well, the concern about skylights on
6 the third floor is that primarily, the roof will be used for
7 mechanical equipment. So, it's going to limit the amount of
8 space that you have to work with for skylights. Also, you'd
9 then be placing the skylights directly, or within view of
10 mechanical equipment and the noise that they produce.

11 So it just would not be an ideal situation for a
12 living space.

13 MEMBER JOHN: Can you go back to the slide that
14 shows the existing third floor and the proposed third floor
15 residential use? Or the existing.

16 MR. LINAM: I don't have a, I'm sorry, I don't
17 have a slide that combines those, but this particular slide
18 shows on the top half the existing third floor condition, and
19 then the next slide shows the proposal of four residential
20 units, an entirely residential floor for the third floor at
21 the bottom portion of the slide.

22 MEMBER JOHN: And, could you do two units instead
23 of four? What would be the square footage of each one?

24 MR. MARTIN: Each unit would be approximately
25 1,100 - 1,000 square feet. We did consider that. John if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 you could go to the last slide, second to last slide.

2 Due to the size of the unit, we would be looking
3 to be able to achieve two bedrooms, and we find ourselves
4 back in the exact same position where the bedrooms would have
5 to be in the exterior of that configuration, and the living
6 space would have to be in the interior.

7 This is a layout of the Georgetown Theater
8 adjacent to us, which has 30 feet in width, as compared to
9 the 34 feet that we have on the site, and what that allows
10 us to do is a single unit. But we have entire south walls
11 with windows whereas for this particular site, we only have
12 Wisconsin Avenue and the east side of the building.

13 So, effectively, we would have the living space
14 in the middle and bedrooms on either side if we were to try
15 to orchestrate the 1,000 square foot and two bedrooms here.

16 VICE CHAIRPERSON HART: So windows are along here?

17 MR. MARTIN: That's correct.

18 MEMBER JOHN: So, it's hard for me to understand
19 what's going on without having the images side by side.

20 So, there are two existing buildings, and so on
21 the outer walls were there no windows that could be
22 accommodated for bedroom space?

23 MR. MARTIN: That's correct. So, there is a
24 building -- so on the outer walls to the south is the
25 Georgetown Theater.

1 MEMBER JOHN: Right.

2 MR. MARTIN: So there's no opportunity for light
3 on that wall. And then to the north, the Solomon family is
4 in the process of building a new three story structure that
5 will completely encapsulate that north wall. So there is not
6 an opportunity to be able to have natural light on the north
7 or south walls.

8 MEMBER JOHN: Or east or west? Well, there's
9 west, am I right?

10 MR. MARTIN: That's correct. East and west there
11 is natural light. But we would effectively end up with a
12 dumbbell. So we'd have bedroom -- if it were two units,
13 bedroom, residential, sorry, living, bedroom because of the
14 natural light requirement for the bedrooms.

15 MEMBER JOHN: And what size apartment could you
16 get, what size bedroom could you get with a one bedroom den?

17 I'm not telling you how to use the property, I'm
18 just trying to understand why with this much space there
19 can't be a usable residential unit or two that meets the
20 code. I'm still not, I'm still not there.

21 MR. MARTIN: Sure, and I'm actually not saying
22 that there isn't a solution. The solutions that we've looked
23 at, we haven't been satisfied with. The cost benefit of
24 building those units, the math doesn't work for me.

25 So, and I say that respectfully because of the two

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 bedroom units that I have, the bedroom and dens that I have,
2 the one bedrooms and the studios that I have within eye sight
3 of this property. I have a unique perspective on the rents
4 that we can achieve for those and the cost to be able to
5 deliver those for what the customer is looking for, and
6 unfortunately, there's undue burden on the economic costs of
7 trying to be able to only have two units in this building.

8 Based off of this floor plate.

9 MEMBER JOHN: So, the regulations don't allow us
10 to grant the variance because it's something you would like
11 to do. It has to be something greater than that. And I
12 don't get the economic issue that's, you know, I'm just not
13 there yet. Maybe we need, I would need more information.

14 The fact that it's in a historic area, you say is
15 it a contributing structure to the historic district?

16 MR. MARTIN: Yes, it is.

17 MEMBER JOHN: Okay. And, as you know, that alone
18 doesn't get you over the hurdle. And, I don't know about the
19 notion that the interior cannot be modified. That's
20 something new to me. Maybe my other Board members are aware
21 of that potential limitation.

22 So, I'm not there yet. I'm trying to understand
23 what the hardship is.

24 MR. MARTIN: Just briefly to speak to the
25 expansion of the historic mandate, or how they're

1 interpreting their mandate, because there are other projects
2 that I've worked on that I've experienced this as well. They
3 have started to look at the interior elements and
4 necessitate. Floor structure remains even if it's not
5 structurally contributing anymore. Walls remain. Staircases
6 remain. It's fairly fascinating how each property starts a
7 negotiation on that in terms of what is preserved and what
8 isn't. But it's not exclusively on the exterior. So, that
9 was the only thing I wanted to address. But I'll turn it
10 over to Jeff.

11 MR. UTZ: So, on the practical difficulty concept,
12 we understand that, you know, that I would say it's unlikely
13 that any of the factors that are shown right now in the
14 presentation would individually justify a variance. Our
15 point is that it's the confluence of all of these things at
16 one time that make it in this particular instance, unduly
17 burdensome to achieve strict compliance for this locational
18 concept.

19 You know, it is true that there is an economic
20 hardship just on the construction of the residential. You
21 know, it is very expensive and the returns associated with
22 it would be strained, let's say. But there is another
23 economic association with the same concept that it also
24 significantly depresses demand for the office component.

25 We have reports from a broker who operates in this

1 exact space in Georgetown and actually occupies some of it
2 themselves, saying that there, the typical office user for
3 this type of space is about 3,000 to 5,000 square feet,
4 that's what they're looking for. This is, if we just use the
5 second floor, would be 2,300 square feet, so they would just
6 pass it by.

7 It would without that third floor kind of annex
8 so to speak to the second floor, it becomes something that's
9 severely constrained as well. So, it kind of, this concept
10 actually kind of economically straps both levels at that
11 point.

12 And then when you look at the rest of the points,
13 you know, it also in order to build out the residential on
14 the third floor, it would also come with all these additional
15 kind of burdens and obstacles and kind of friction points of
16 you know, multiple access points, which yes, it's not
17 required by the code, but it is required as an expectation
18 for the residents or the tenants.

19 And, multiple operational elements like security,
20 you know, doors, vestibules that actually lock away and kind
21 of separate the users. Systems like John mentioned, whether
22 it's airflow or something else. It's just the additive
23 nature of all these different practical difficulties presents
24 a situation that just is it's too much of a burden to justify
25 mandating residential on the top floor. Even if it's just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 piecemeal. The other --

2 MEMBER WHITE: So, the question I have is what was
3 the hurdle with OP trying to overcome, you know, getting them
4 to buy into your argument? Because I hear your argument
5 about the confluence of all the factors together created this
6 argument what you're arguing, you know, kind of an
7 exceptional situation where they're creating all these
8 practical difficulties, but what was the roadblock there to
9 try to get them to buy into your argument?

10 MR. UTZ: Right, so I think it helps to show the
11 color diagrams that we submitted today. Those are new. So
12 we also passed out the 11 x 17 color pages, those are the
13 same that John flipped to. Those are the kind of, those are
14 the best cuts at the alternatives.

15 One is the complete residential top floor third
16 floor, and the other is the maximum commercial FAR on site
17 with the remnant being residential on the third floor.

18 So, I would say we didn't have those to illustrate
19 at the time. We just sent them last night, actually, to OP
20 and then provided them today. So, hopefully those help
21 illustrate these points that we're talking about. So, I
22 think that's really kind of important.

23 And, I think a lot of the things that the Office of
24 Planning was talking about would be handled also by the next,
25 the third prong, you know, the no substantial detriment to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the public good.

2 Many of those items are the items that we have
3 talked about already so I don't want to belabor them if
4 you're kind of tired of hearing us drone on, but they're
5 listed on this sheet that's showing now; the slide that's
6 show now.

7 You know, I think one of the key elements to call
8 out is the mixed use nature of the MU-4 zone is mentioned in
9 the Office of Planning report is kind of something that's
10 encouraged. And in order to get there, I'm sure the Office
11 of Planning will correct me if I'm going in the wrong
12 direction on this, but residential is a component obviously
13 of a mixed use zone district.

14 So, we wanted to point out that we actually did
15 study, and we didn't include this in our prior materials, did
16 study the immediate surroundings and in fact, MVP owns some
17 immediately adjacent and nearby parcels where when they could
18 put in residential due to the widths of the structures in
19 this case, and the other cases not having that wall that
20 bifurcates what used to be two separate record lots, where
21 there is an opportunity to have residential, they did.

22 So, I think that's kind of helpful to show that,
23 you know, where there's an ability to kind of strive for this
24 mixed use nature of the zoning, that's been done. But in
25 this case, it actually furthers the mixed use zoning to have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 a robust office component.

2 You know, it would be the worst possible outcome
3 if it's divided up into three uses and none of them are quite
4 right, and they're all inefficient and they just don't
5 deliver for the neighborhood. But if you can kind of pack
6 more of a punch for two of the uses instead of three, I think
7 there's significant value there to help with this mixed use
8 zone concept.

9 And, then the other thing is just at the time, we
10 didn't have the ANC letter. The ANC letter came in kind of
11 late. You know, the engagement was there and then actually,
12 one of the things I wanted to draw your attention to that
13 I've neglected to mention before is the Citizens Association
14 of Georgetown filed last night. So, I don't know if that
15 made radar quite yet.

16 So, the point being that I don't know if OP had
17 the benefit of seeing all of them in the record because we
18 didn't at the time either.

19 MEMBER WHITE: Thank you.

20 MR. UTZ: Sure. So, that answers, I think the
21 three prong test. I won't belabor the points on the slide
22 that's in front of you right now. We did have some responses
23 to the Office of Planning report, many of which we also
24 talked about.

25 So, you know, I think to not draw our part out,

1 I think the new element of this to mention is this is a De
2 Minimis request. You know, the third prong specifically is
3 tied to the concept of substantial detriment, and substantial
4 means something has to have a true kind of dramatic impact
5 on a site.

6 We think this is De Minimis. You know, it is,
7 it's .37, and it's the location of where that .37 FAR of
8 nonresidential is located. If it was just located on the
9 second floor or the first floor, or even in a mezzanine, it
10 wouldn't be, we wouldn't need this relief. So, it really is
11 highly tailored response to needing relief.

12 The other bullet point I want to draw attention
13 to that we haven't talked about yet is there is this
14 discussion that we didn't study the second floor residential
15 and kind of prove out why that didn't work. That's not
16 related to this relief request. You know, there is kind of
17 case law out there that says that you kind of don't have to
18 prove all the things that you can't do to get to what you can
19 do.

20 Instead, you know, we are using the FAR, the
21 nonresidential FAR that's allowed on the first floor and the
22 second floor, and then trying to do the best for the project
23 as the next step, the third level. Using what's already a
24 matter of right and then trying to enhance it by getting this
25 locational variance.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So, you know, it is true that in the materials we
2 didn't completely detail what residential would look like on
3 the second floor, but we can say with a certainty that we
4 looked at it on the third floor, and it would be even worse
5 for the second floor because there would be, it would be even
6 more constrained, or it would be more in the middle of the
7 site, in the middle of the building, that would be further
8 away from the window line. And there might even be more core
9 eating up the second floor vs. the top floor where you don't
10 have to have the stairs going up to the floor above.

11 Otherwise, I think we've talked about most of
12 these items on this sheet. The other one I wanted to draw
13 your attention to is the second to last point. Just, you
14 know, one of the kind of benefits of the variance concept is
15 that it lets resources, you know, real estate resources find
16 a way to more kind of productive use. And the way that they
17 term it is not let them lie idle. It's actually termed as
18 lying idle, and here we'd saying lying fallow.

19 It helps a resource find a way to a more
20 productive use, and we think that's what we're doing here.
21 We think that as I was saying before, a building that has two
22 components: retail on the first floor, office on second and
23 third, is a more cohesive use mix that can pack a punch and
24 you know, find those tenants, find the office tenants, and
25 actually have a more robust contribution to the surrounding

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 ecosystem than it could with three separate use categories.

2 So, I think that's our affirmative presentation.

3 We are happy to answer any more questions and continue this
4 discussion obviously.

5 MEMBER JOHN: So, can you walk me through A11C?
6 I believe it's the second to the last slide. And in that
7 one, which shows the office space, so you've cut into that
8 wall, right? That office 3A? Which you said was a
9 structural wall that you could not alter because of HPRB?
10 Are you proposing to cut into that wall for the office use?

11 MR. LINAM: Sorry, I didn't mean to indicate we
12 could not alter the wall. Each one of the plans do show
13 openings to provide some connection. What I meant to say is
14 that we would not be allowed to demolish the wall entirely.

15 So, there is still -- the wall still would provide
16 some constraints on the width of the space that's usable.

17 MEMBER JOHN: Okay, thank you.

18 BZA CHAIR HILL: Okay, does anyone have anything
19 else for the Applicant at this point?

20 All right, I'm going to turn to the Office of
21 Planning.

22 MS. ELLIOTT: Thank you, Mr. Chairman. Good
23 afternoon, I'm Brandice Elliott, representing the Office of
24 Planning.

25 Office of Planning is continuing to recommend

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 denial of the variance relief that's been requested. I would
2 like to maybe highlight a few things in OP's report, maybe
3 elaborate on some of the things that the applicant provided
4 in their testimony.

5 So, the first element of the variance test is that
6 there needs to be an exceptional situation resulting in a
7 practical difficulty. And the narrative that was provided
8 to OP, we feel like it was based predominantly on
9 marketability of the building itself, which we don't
10 generally see as a practical difficulty for a variance.

11 In the presentation, the applicant did elaborate
12 a little bit more first of all, by saying that there are
13 small floor plates, which make it difficult to design the
14 space. And the zoning regulations actually already account
15 for that.

16 In the 1958 regs, the maximum commercial FAR in
17 this zone was 1.5. And as ZR-16 is being discussed, the
18 commission decided to expand that because the problem being
19 that, you know, with a 1.5 FAR, you can basically have one
20 and a half floors of a commercial use, and then a half floor
21 of a residential use. And so by expanding that, the
22 allowance to 2.0 FAR, that allows for the first two floors
23 to be used as a commercial use and you know, any other
24 additional floors to be a residential use.

25 That was supposed to address these small

1 structures and, you know, making sure that there was enough
2 space to have these noncommercial, I'm sorry, the commercial
3 uses and for it to function properly.

4 Another issue that was brought up was the limited
5 access, and the fact that two stairs are necessary for the
6 functionality of the building and to offer security and
7 direct access to residential. And you know, while we
8 understand that that may be, it may be desired, it might be
9 a -- it might help with marketing those residential units,
10 it's not required by the building code, and only one stair
11 is required, and then you know, the core would be much
12 smaller if that were implemented into the design.

13 There is the issue of limited light and air to the
14 third floor for the residential units. And we did review the
15 drawings that the applicant provided yesterday showing those
16 residential units, and you know, it's a possibility that a
17 two bedroom 500 square foot building, or 200, excuse me, 500
18 square foot unit might not be the best design. And maybe
19 there are some other options that would achieve more
20 functional units and still get light and air to the -- to
21 those units.

22 I haven't discussed any of the specifics that were
23 mentioned regarding skylights and mechanical equipment on the
24 roof. Maybe there's something to that. I don't have enough
25 information for OP to decide that that is justification that

1 you know, for the variance that's been requested.

2 And, there was another point that was brought up
3 regarding Historic Preservation, and the need to preserve
4 some of the interior walls. And, I don't have enough
5 information to really expand on that. I would need to
6 consult with Historic Preservation and see what it is they
7 would require of this project specifically. If there's a
8 percentage of the walls that would need to, you know, remain
9 in the structure.

10 But in general, you know, OP is going to stick to
11 its original recommendation to deny the project.

12 I am happy to answer any questions you have.

13 BZA CHAIR HILL: Okay, does the Board have any
14 questions for the Office of Planning?

15 VICE CHAIRPERSON HART: Just I guess, trying to
16 understand. I appreciate you stepping through this and I
17 understand that you are, some of this is rather new
18 information so, you know, trying to kind of digest that can
19 get a little, it's just you know trying to figure that out,
20 it can get a little bit hard.

21 But I guess the question I was trying to get to,
22 how do you -- do you think that additional information that
23 you get could change your opinion? I mean are you thinking
24 that it's, that this is more difficult to get to that point?
25 To get to a changing of your recommendation now?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. ELLIOTT: I think that this is a particularly
2 tricky variance to justify simply because there are already
3 residential units on the third floor as well. I mean it's
4 been done previously.

5 The desirability of those units could be called
6 into question, but the other point is the building, the
7 entire interior is being rehabbed for this. There was fire
8 damage on the third floor, it's already been you know,
9 cleared out. We don't see a reason in this particular
10 instance why residential couldn't continue to be on that, on
11 the third floor.

12 Of course, if the applicant has more information
13 they want to present, we're happy to look at that and see if
14 we could change our minds, but at this point, I don't see
15 that the justification is there.

16 VICE CHAIRPERSON HART: I appreciate that. I
17 think that it's, I think I am, I think I'm interested in
18 seeing if there is a, if there is more dialogue that can
19 happen between the applicant and OP to be able to possibly
20 to change the recommendation.

21 I think that it's helpful to kind of get there,
22 but I'm not exactly sure that we are there yet and that that
23 further dialogue may be helpful for the Board as well,
24 because we of course, give your report great weight. And so,
25 right now being as a denying the application, or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 recommendation for us to deny the application is making it
2 just hard to move forward with that, so, that's it.

3 MEMBER WHITE: I guess mine is more of a comment.
4 I mean I can see arguments on both sides in terms of how you
5 could possibly get to meeting the three prong test. But one
6 question I have is that they talked about the whole
7 confluence of factors that there are just a lot of factors
8 involved that could possibly lead to meeting the first prong,
9 and maybe it's not appropriate to ask you that now, but do
10 you see that as a possible way of being able to approve it?

11 MS. ELLIOTT: Well, it --

12 MEMBER WHITE: Or recommend approval?

13 MS. ELLIOTT: Excuse me, sorry.

14 I mean it's certainly something that has worked
15 in other cases. We can sit down and talk about it further
16 and see if it's something that we can apply to this
17 particular case, but on the spot, I would -- I don't have a
18 response in the affirmative one way or the other.

19 MEMBER WHITE: Than you.

20 BZA CHAIR HILL: Okay, right, so I'm kind of just
21 going a little bit over what Vice-Chair Hart just mentioned
22 and so like, there's more information that you might be able
23 to kind of like get from with the HPRB stuff and historic
24 walls kind of maybe sort of.

25 The economics of it that have been involved, like

1 they kind of talked through I guess, the economics a little
2 bit more, but maybe I mean, and we'll see where we get to
3 with this, Mr. Utz, but like, you know, I think the Board
4 might like, you know, I guess some type of numbers that you
5 might be able to put together in terms of your argument.

6 For the confluence of factors, I guess, you know,
7 even if you wanted to try to put something together that kind
8 of lists all those factors that are more easy for the Board
9 to kind of take a look at in one page, or one area.

10 I do see, and I guess kind of my question to the
11 Office of Planning, when, I mean I do think that this, at
12 least the argument that they're trying to get to for this
13 like, this I mean, they use the word dumbbell, you know,
14 design or what have you, but that it does seem as though
15 like, their interior space, you know, they don't have much
16 light there. And I don't know if, and I do think it is, you
17 know, a narrow property.

18 And, so I guess that would be something I guess
19 in terms of the light and air to the interior of the
20 residential, Mr. Utz, that I guess, you know, you would also
21 mention that.

22 What's the Office of Planning's thoughts on that
23 it's kind of a de minimis FAR request?

24 MS. ELLIOTT: We didn't view that. We did not
25 view the relief in that light for this case simply because

1 of the loss, the potential loss of residential units. We
2 feel like that's a pretty significant request.

3 BZA CHAIR HILL: Okay. And then the argument
4 that's been made that, well, I guess I didn't realize there
5 was fire damage. So, like, Mr. Martin, when was the last
6 time these things were like, when people were living there?

7 MR. MARTIN: It's been over a decade.

8 BZA CHAIR HILL: Okay. So, I guess the Office of
9 Planning, and I guess where, I guess you are giving Mr. Utz
10 another opportunity to talk with the Office of Planning again
11 and see, you know, if there is something given that the new
12 plans that you're putting together and see in terms of the
13 economics that you might be able to speak to them, and again,
14 the light and air to the interior units.

15 I guess that is my question, I guess, to the
16 Office. You didn't answer it, I suppose I don't really know
17 what the question is. I mean do you have any thoughts about
18 the light and air for those, the interior of the units?

19 MS. ELLIOTT: Well, we think that the orientation
20 of the units actually significantly impacts the light and air
21 to each unit, and so there may be some other opportunities
22 to, you know, for instance reduce the number of units,
23 provide more desirable sizes that would have more window
24 access.

25 You know, we haven't discussed options like that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 with the applicant although it was indicated today that it
2 wasn't economically feasible. So, that's something that
3 would be pending more discussions.

4 BZA CHAIR HILL: And then the discussion about the
5 wall?

6 MS. ELLIOTT: The demolition of the interior
7 walls, I think we need to have some conversations with
8 Historic Preservation staff to see how much actually needs
9 to be retained given that this is a contributing structure.
10 So, that would be another continued conversation.

11 BZA CHAIR HILL: Okay. Yeah, because that's also
12 kind of a new thing that's been brought up to us here now,
13 and you know, that sounds very, I hope that doesn't start to
14 happen. So, but yeah, they're saying I don't, yeah, okay.

15 So, let's see. Anybody else?

16 VICE CHAIRPERSON HART: Yeah, just one question.

17 BZA CHAIR HILL: Sure.

18 VICE CHAIRPERSON HART: That's Ms. Elliott talked
19 about the, well actually, both Mr. Linam?

20 MR. LINAM: Uh huh.

21 VICE CHAIRPERSON HART: And Ms. Elliott had talked
22 about the HVAC, or at least what the impacts of that may be
23 on providing skylights or whatever. It seems like as though
24 there is some wherever you put those, then that causes there
25 to be less of an ability to have a skylight that that might

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 bring at least light into the third floor unit, and into
2 interior part of the third floor units.

3 I think right now I just don't know where any of
4 that, and I understand that this may not be actually
5 designed, but at least there is an idea that well, you have
6 an envelope to be able to put it in because you have to deal
7 with setbacks and all that other stuff. If we could at least
8 have an understanding of where that might be, you know, so
9 that it's within zoning, within you know, it's not requiring
10 any additional, it's kind of the matter of like, what this,
11 where the HVAC might be that would negate the ability to have
12 skylights.

13 Because it seems like that may be, you know, the
14 interior, if you're trying to provide any light to a living
15 space that is not a bedroom, the only place to put the living
16 spaces it seems as though it is on the interior. Right now,
17 there is no place to be able to add windows on either side,
18 so the roof is the only location to do that, but you said
19 that there is an issue with, you know, having the HVAC on the
20 roof, and I'm not exactly sure where that might be and how
21 that might impact it.

22 But, it may be helpful to at least have an outline
23 of where that might be and, you know, an area that this is
24 where this might go. This is where these, you know,
25 skylights might go. You can see that this was clearly, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 know, that this would be impactful and it's just not
2 something that's feasible, so it's helpful for us to see
3 that.

4 Part of what we're trying to understand is when
5 we get this information, it's then able -- we're then able
6 to kind of say oh, okay, I can see clearly that this is
7 something that can't be done because of this reason. But
8 right now, not having the information makes it a little bit,
9 well, maybe it could be done.

10 And, if it could be done, then it's hard to get
11 past the three prongs of the variance test. I understand
12 that it's more work to do, but I think it's helpful for us
13 to have as full a record as we can so that we're
14 understanding how to deal with this. And I understand that
15 OP is also saying this is not a -- that this is a significant
16 impact, so that aspect of it may be, you know, an issue.

17 So, we're trying to get all of this information
18 so that we can make a decision based on that on the record,
19 which would include all of this.

20 MEMBER JOHN: So, where I am now is that I'm still
21 having difficulty understanding why there can't be
22 residential units on that third floor. And the more I look
23 at this floor plan, this is a basic D.C. row house unless
24 I've missed something, with windows on the front, windows on
25 the back and architect's design residential units in these

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 structures all the time.

2 And, so maybe you could in your discussion with
3 OP, help me understand why in this case, it won't work. And
4 that's where I am right now.

5 I'm not an architect, I just see these designs all
6 the time. Typically, the stairs are on the right or the left
7 and you go all the way up. I just don't understand why it
8 won't work now. Kitchen in the middle, bedrooms on the end,
9 living room on the other side.

10 I don't understand what you're trying to say.

11 BZA CHAIR HILL: Okay, all right, let's see.
12 We'll get back to a summary in a second but just Mr. Utz,
13 what we're trying to get to.

14 Is there anybody here wishing to speak in support?
15 Is there anyone here wishing to speak in opposition?

16 Okay. So Mr. Utz, I guess there's a lot of things
17 that we kind of asked about in terms of, and I'm going to
18 have to re-list them again, but again, like the confluence
19 of factors just kind of listing all the confluence of
20 factors, and how you are going to try to work with OP and see
21 if there is more of a discussion as to how you're meeting the
22 variance test.

23 I mean I think that that wall thing is kind of
24 something that I hadn't heard of before, and I don't know,
25 I guess it will be interesting to see what Office of Planning

1 thinks of that, and I'll be actually interested to see what
2 Office of Planning thinks of that because I did know that
3 HPRB is now asking that, you know, interior, well, I
4 shouldn't say that.

5 Anyway, it's not something that I'm familiar with.
6 And, so you know, that's something that you can kind of talk
7 to. I guess you know, and it is understandable all of the
8 community support that you've received and that you know,
9 you've done all of your outreach in terms of the community
10 and gotten big community support.

11 I mean, you know, a lot of us do know that area
12 and are familiar with that block, and that block has been
13 pretty dead for a long time. And so, you know, I can
14 understand why the community would like to somehow activate
15 it in some fashion.

16 But again, unfortunately for us, we kind of are
17 stuck with the standard that we're kind of looking through
18 whether or not we think it's a good project. But if you can
19 help get the Board to a place that they can understand it,
20 and particularly if we have to go over the Office of
21 Planning, because then we have to kind of like articulate
22 what, how we're differing from the Office of Planning, and
23 that is difficult.

24 And so, I would, and what I'm trying to tell you,
25 Mr. Martin, is you know, you'll see where you get, I suppose

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 also is now you'll have, at least you have chance to talk
2 to Office of Planning a little bit more, and I guess we'll
3 do a continued hearing?

4 Okay, we'll do a continued hearing and we'll try
5 to get you in before lunch next time.

6 And so, Mr. Moy, I don't know when all this can
7 maybe happen or if the Office of Planning or the applicant
8 has an idea as to when you guys can kind of get together.
9 I mean you have August now. September really is not good for
10 us anymore. I guess what's the month after September?

11 MS. JOHN: October.

12 BZA CHAIR HILL: October. Thank you. So, the
13 first hearing in October is what?

14 MR. MOY: Mr. Chairman, so that would be October
15 2.

16 BZA CHAIR HILL: Okay.

17 MR. MOY: After that it's October 9.

18 BZA CHAIR HILL: Okay. You guys already, I mean
19 we're off in August, and so September we're just like already
20 jammed.

21 I mean unless you got some finance thing going on
22 and how September's really going to help you one way or the
23 other, I think you'd have more time, even having a chance to
24 kind of like figure out what you want to try to do in terms
25 of arguing with the Office of Planning and then getting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 together with the Office of Planning. So, I think probably
2 the first week of October is the best for you guys, but do
3 you have any thoughts one way or the other?

4 MR. MARTIN: I mean time is of the essence, but
5 respectfully, I understand that the more time we have to
6 discuss with them, the more likely we are to come to
7 resolution. So, I'm supportive of October 2.

8 BZA CHAIR HILL: Okay.

9 MR. MARTIN: So, thank you for the opportunity.

10 BZA CHAIR HILL: Sure. No, I mean, you know, if
11 you're yeah, so, if you're back here again in the same way,
12 then it's going to be a difficult argument for at least some
13 of us. I don't know where we all are, but I know where some
14 of us are. So, Mr. Utz, any questions?

15 MR. UTZ: Nothing else.

16 BZA CHAIR HILL: Okay.

17 MR. UTZ: We appreciate the time.

18 BZA CHAIR HILL: When was it again, Mr. Moy? I'm
19 sorry.

20 MR. MOY: October 2 for a continued hearing --

21 BZA CHAIR HILL: Okay, so then --

22 MR. MOY: --- and then my ask is whether or not
23 you want to put a deadline on the applicant filing additional
24 information or not.

25 BZA CHAIR HILL: I mean --

1 MR. MOY: If I do, I would give it two weeks prior
2 to October 2.

3 BZA CHAIR HILL: Okay, does that work for your
4 guys?

5 MR. UTZ: Sure.

6 BZA CHAIR HILL: Okay.

7 MR. UTZ: That works.

8 BZA CHAIR HILL: So, September 18. Right, and
9 then a supplemental from the Office of Planning. Okay, all
10 right, great. Okay, you guys have a nice August, September.

11 MR. UTZ: Thank you, you too.

12 MR. MARTIN: Thank you, very much.

13 MR. UTZ: Thanks, bye.

14 BZA CHAIR HILL: Mr. Moy, whenever you'd like.

15 MR. MOY: Thank you, Mr. Chairman.

16 So the next application before the Board is case
17 application number 20067 of the National Children's Center,
18 Inc., caption advertised for a special exception under the
19 use provision Subtitle U, Section 320.1(b), 1-3, to permit
20 a new community service center in an existing building RF-1
21 zone at 3400 Martin Luther King, Jr. Avenue SE, Square 5978,
22 Lot 5.

23 BZA CHAIR HILL: Okay, if you could please come
24 forward. Good afternoon. If you could please introduce
25 yourselves for the record.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. BROWN: Good afternoon.

2 My name is Patricia Brown. I'm the Chief
3 Executive Officer for the National Children's Center, and
4 with me is Terrence King, the Chief Operating Officer.

5 BZA CHAIR HILL: Okay, great. Who's going to be
6 representing to us today?

7 MS. BROWN: I will.

8 BZA CHAIR HILL: Okay. Well you all seem to be
9 enjoying yourselves back there just a little bit. You know,
10 I hope it was very entertaining.

11 Okay, so if you want to go ahead, Ms. Brown, and
12 kind of walk us through your presentation and what you're
13 trying to achieve, and why you think we should grant this
14 application. I'm going to put 15 minutes on the clock Mr.
15 Moy, just so I know where we are, and you can begin whenever
16 you like.

17 MS. BROWN: Okay, well the National Children's
18 Center is a 60 year old organization in the District of
19 Columbia that supports children and adults with intellectual
20 and developmental disabilities.

21 In Ward 8, we have a flagship program which is an
22 early learning and early intervention center on Martin Luther
23 King Jr. Avenue. It's a 75,000 square foot building that
24 sits on close to four acres of land.

25 Historically, we have actually done all of the

1 things that we're trying to do today. It has always been
2 early learning and early intervention. There have always
3 been some type of community program that's been housed in the
4 building. But when the building was first constructed they
5 deemed it as a private school and, so we are requesting a
6 change in the name on the certificate of occupancy to be an
7 early learning and community service center.

8 The reason for that is with 75,000 square feet,
9 we actually use about 30,000 square feet today for our early
10 learning and early intervention center. The rest of the
11 building has pretty much not been leveraged. So we have over
12 the years come to realize that it is important that we not
13 only focus on the needs of our children, but we all focus the
14 needs on the families and the communities that we support or
15 the work that we do for the children will be for naught.

16 To that end, we are working with the mayor's LIFT
17 program do an expansion for infant and toddler seats in the
18 building. So, that would take our first floor usage from
19 approximately 30,000 square feet to the entire first floor.
20 About 10,000, 11,000 square feet would be a new infant and
21 toddler program.

22 So, we have 184 children today. With the
23 additional space, we can add an additional 68 children. We
24 have a waiting list of over 200 infants and toddlers in Ward
25 8.

1 We have worked very thoughtfully to find the right
2 partner to fill the additional space in the building, because
3 we want it to be a nonprofit that's mission aligned that
4 would allow us to give wrap around services to the community
5 that we do not do today.

6 So, to that end, we have launched a partnership
7 with HSC Pediatric, in particular, HSCSN, which is health
8 services for children with special needs, and 30% of our
9 population is children with special needs.

10 So, that is the insurance arm of HSC Pediatric,
11 and they propose to move their community resource center into
12 the space so that would support our children with special
13 needs. It would be one stop shop for the families, and it
14 would also be an opportunity to present additional services
15 to the community.

16 So, it is our desire to go from being a private
17 school to an early learning and intervention center and
18 community, I call it a community resource center, but a
19 community service center.

20 Nothing would change in the exterior of the
21 building in terms of traffic, noise, all of those things.
22 We have the entire block. We have the support of the ANC.
23 We have the support of the Office of Planning, Department of
24 Transportation has reviewed the application and is supportive
25 as well. So, we just want to become even more of a beacon

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 of support and service to our community.

2 Two years ago, we built an urban farm and fruit
3 orchard because there's one grocery store in Ward 8. So, we
4 built 65 raised garden beds and 14 fruit trees and assorted
5 berries. So, today as a matter of fact, we participate in
6 a program called Produce Plus, where we give produce away to
7 members of the community every Wednesday. We do cooking
8 classes in our commercial kitchen for the community and then
9 we have farm stands on Thursdays.

10 So, our vision is to just become even more of a
11 resource in the community than we are today, and also it
12 helps us become financially sustainable because we're using
13 75,000 square feet of a 75,000 square foot building where
14 we're only using 30 today. So, we just want to maximize our
15 capacity and we engage the community all the time.

16 We have garden parties where we invite them to
17 come and help work the garden, and we give the produce away.
18 We have recipes that we make from the produce so people can
19 taste and try, and just come out and hang out and party with
20 us. So, it really is a community place. So, we just need
21 to change the name.

22 BZA CHAIR HILL: We should have started with you
23 guys first.

24 (Laughter.)

25 BZA CHAIR HILL: We should have done you first.

1 We should have started you first. Would have been a day that
2 started off well.

3 Mr. King, do you have anything you'd like to add?

4 MR. KING: No, she pretty much summed up
5 everything well. It's just more of us just seeking to change
6 the name as she stated, so.

7 BZA CHAIR HILL: Okay. Does the Board have any
8 questions for the applicant? Okay. Going to turn to the
9 Office of Planning.

10 MR. JESICK: Thank you, Mr. Chairman and Members
11 of the Board. My name is Matt Jesick. The Office of
12 Planning is happy to stand on the record in support of the
13 application. Thank you.

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

17 MS. BROWN: No questions. But we would love to
18 have you come out and visit us, and spend time with us in the
19 garden, and see the babies, and experience what we do every
20 day.

21 CHAIRPERSON HILL: Oh, God. I mean, it just
22 sounds wonderful. I want to go right now. Let's see. Is
23 anybody here wishing to speak in support?

24 Is there anyone here who wishes to speak in
25 opposition?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Ms. Brown, is there anything you'd like to add at
2 the end?

3 MS. BROWN: No. That's it.

4 CHAIRPERSON HILL: Okay. Great. All right.
5 We're going to close the record. Is the Board ready to
6 deliberate? Okay. Well, I think that the applicant has made
7 their case in terms of how they're meeting the standard for
8 us to go ahead and grant this application.

9 I also see that the analysis that the Office of
10 Planning has provided is thorough. And I would agree with
11 it, as well as the report that we now have from the ANC, and
12 their support, as well as the support of DDOT. So I'm going
13 to be voting in favor. Is there anything else anyone would
14 like to add?

15 MEMBER WHITE: I would just add that I agree that
16 they've met the special exception criteria under Subtitle U
17 320.1(b). It's a wonderful project. I am going to come out
18 there and see you guys with the farm.

19 But our job is to make sure that the criteria was
20 met. And I think it was clearly met. That this is something
21 that's definitely needed and not objectionable. So I would
22 be in support, Mr. Chair.

23 CHAIRPERSON HILL: All right. I'll go ahead and
24 make a motion to approve Application number 20067 as
25 captioned and read by the secretary, and ask for a second.

1 MEMBER HOOD: Second.

2 CHAIRPERSON HILL: Motion made and seconded. All
3 those in favor say aye.

4 (Chorus of aye.)

5 CHAIRPERSON HILL: All those opposed.

6 The motion passes. Mr. Moy.

7 MR. MOY: Staff would record the vote as five to
8 zero to zero. This on the motion of Chairman Hill to approve
9 the application for the relief requested. Seconding the
10 motion is Zoning Commissioner Anthony Hood. Also in support
11 Ms. John, Ms. White, and Vice-Chair Hart.

12 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.
13 Thank you all very much. And good luck to you.

14 MS. BROWN: Thank you.

15 PARTICIPANT: Thank you.

16 CHAIRPERSON HILL: We're here every Wednesday if
17 you want to come back and just kind of watch.

18 MR. MOY: Thank you, Mr. Chairman. So the next
19 case application before the Board for hearing is number
20 20070, of Peter, is it Roushdy, R-O-U-S-H-D-Y, and Kelly
21 Franklin.

22 Caption, advertised for a special exception under
23 Subtitle D, Section 5201 from the lot occupancy requirements,
24 Subtitle D, Section 304.1 to construct a rear deck addition
25 to an addition semi-detached principal dwelling unit, R-3

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 zone. This is at 3764 Benton Street, N.W., Square 1301, Lot
2 672.

3 CHAIRPERSON HILL: Okay, great. Thank you. If
4 you could please introduce yourself for the record?

5 MS. SHEPARD: Elizabeth Shephard with Case Design,
6 representing the Roushdy and Franklin family.

7 CHAIRPERSON HILL: Okay. Ms. Shephard, have you
8 been here before?

9 MS. SHEPARD: Yes.

10 CHAIRPERSON HILL: Yes. Okay, right.

11 MS. SHEPARD: A couple of weeks ago.

12 CHAIRPERSON HILL: Oh, is that, okay. Are you the
13 colleague of, okay, right. There you go. All right. You
14 can go ahead and -- well, oh man, it's the heat. It's
15 killing.

16 Okay. Ms. Shephard, if you go ahead and kind of
17 walk us through your application, and what your client is
18 trying to achieve, and how you think you're meeting the
19 criteria for us to grant that application. And I'm going to
20 put 15 minutes on the clock, Mr. Moy. And you can begin
21 whenever you like.

22 MS. SHEPARD: So this is the house at 3764, sorry,
23 numbers, Benton Street. It's on the corner of Benton and
24 38th Place. It is a row house by every definition except
25 what the new definition for a semi-detached house was adopted

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in late February.

2 And we got caught up in that. I went for a zoning
3 review in January, and everything was fine. And when I filed
4 in early March I had missed the deadline for that change of,
5 from, because it has a side yard it is now considered a semi-
6 detached, rather than a row dwelling. So the lot occupancy
7 was changed.

8 Here's just some photos. This is their house with
9 the rear addition. They have a fence around the yard. You
10 can see their neighbors have a deck. In fact, all of the
11 block has decks about the same height and size.

12 And then another photo showing that there's a
13 masonry wall separating their adjacent neighbor and their
14 deck. And they have a screen wall as well. So there's
15 little impact to the neighbors with the proposed deck.

16 Let's see. That's where I want to be. This is
17 the basement floor plan, just showing that we're not doing
18 any of the, any changes to the main house. There's still
19 going to be an entrance at the basement.

20 L shaped stairs going up to the deck from the
21 fenced yard to a first floor deck off the back of the house.
22 It's 11 foot eight away from the house. It's 14 foot ten
23 wide in the useful area. And then there's the L shaped
24 stair.

25 The deck is at first floor, and no structure

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 except the railing going above the deck. And it's only a
2 three foot tall railing, as you'd expect. And I think that
3 covers it.

4 We've been to the ANC, and they had no objection.
5 We have approval for the neighbors on the adjacent neighbor
6 obviously. The neighbor across the alley has given us
7 approval. And the neighbor across 38th Street has given us
8 approval.

9 We don't see that this affects the light and air
10 of any of the neighbors. We don't see that this affects how
11 they use their neighborhood. And we don't see any public
12 harm in this.

13 CHAIRPERSON HILL: Okay, Ms. Shephard. There was
14 a, and maybe I'll ask, well, I'll wait for, well, maybe I'll
15 ask, I'll explain. But it looks like the Office of Planning
16 has 48.9 percent, and you had 52 percent on the application.
17 There was a discrepancy. I don't know. We can kind of talk
18 that through in a minute.

19 Does the Board have any questions for the
20 applicant? Okay. I'm going to go ahead and turn to the
21 Office of Planning.

22 MR. KIRSCHENBAUM: Good afternoon, Chair. Hello,
23 Members of the Board. Jonathan Kischenbaum, on behalf of my
24 colleague Anne Fothergill, for the Office of Planning. We
25 recommend approval of the special exception. And regarding

1 your question about the low occupancy, if you could give me
2 one --

3 CHAIRPERSON HILL: Sure, yes. Go ahead and take
4 --

5 MR. KIRSCHENBAUM: -- second --

6 CHAIRPERSON HILL: -- that. Sure.

7 MR. KIRSCHENBAUM: -- for me to review the
8 material.

9 CHAIRPERSON HILL: You're not Ms. Fothergill. So
10 --

11 MR. KIRSCHENBAUM: One second. I believe the 48.9
12 percent that's proposed is based on the DCRA referral. I
13 don't know if anything changed from the plans.

14 CHAIRPERSON HILL: Okay. So it's, you're saying
15 nothing's changed. Just, you were shaking your head. So the
16 48.9 is what you are here for? Okay. All right. Could you
17 just say yes in the microphone, if you don't mind?

18 MS. SHEPARD: Yes.

19 CHAIRPERSON HILL: Thank you. Okay. Does anybody
20 have any questions for the Office of Planning? Does the
21 applicant have any questions for the Office of Planning?

22 MS. SHEPARD: No. Thank you.

23 CHAIRPERSON HILL: Is there anyone here who wishes
24 to speak in support?

25 Is there anyone here wishing to speak in

1 opposition?

2 Ms. Shephard, is there anything you'd like to add
3 at the end?

4 MS. SHEPARD: No. Here to answer questions.

5 CHAIRPERSON HILL: Okay. All right. I'm going
6 to close the record. Is the Board ready to deliberate?
7 Okay. I can start. I didn't have any issues with the
8 application. I thought it was relatively straightforward.

9 And other than just clearing up that one
10 concerning the lot occupancy I think that the Office of
11 Planning and their analysis is accurate. Or at least I agree
12 with it, as well as the analysis that the ANC 3-B has
13 provided. And also the application and the argument with the
14 applicant's burden of proof.

15 So I will be voting in favor of this application.
16 Is there anything anyone else would like to add? Going to
17 go ahead and make a motion to approve Application 20070 as
18 captioned and read by the Secretary, and ask for a second.

19 VICE CHAIRPERSON HART: Second.

20 CHAIRPERSON HILL: Motion made and seconded. All
21 those in favor say aye.

22 (Chorus of aye.)

23 CHAIRPERSON HILL: All those opposed?

24 The motion passes. Mr. Moy.

25 MR. MOY: Staff would record the vote as five to

1 zero to zero. This on the motion of Chairman Hill to approve
2 the application for the relief requested. Seconding the
3 motion is Vice Chair Hart. Also in support, Ms. John, Ms.
4 White, and Zoning Commissioner Anthony Hood.

5 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.
6 Thank you very much.

7 MS. SHEPARD: Thank you. And I shall see you next
8 week.

9 CHAIRPERSON HILL: Okay. All right.

10 CHAIRPERSON HILL: All right, Mr. Moy. You can
11 call the next whenever you like.

12 MR. MOY: All right. Thank you, Mr. Chairman.
13 That would be Case Application number 19988 of Rupsha 2011,
14 LLC, as amended, for area variance from the side yard
15 requirements, Subtitle D, Section 206.2. To construct a new
16 detached principle dwelling unit, R-2 zone. This is at 4417
17 Foote Street, N.E., Square 5131, Lot 40.

18 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
19 Moy. Good afternoon. If you could please introduce yourself
20 for the record?

21 MR. DAVIS: Adam Davis, representing Rupsha 2011,
22 LLC.

23 CHAIRPERSON HILL: Okay. All right, Mr. Davis.
24 Well, welcome back. Let's see. So, we did get the whole
25 affidavit of posting and maintenance issues cleared up,

1 correct?

2 MR. DAVIS: Yes.

3 CHAIRPERSON HILL: Okay. All right. So, if you
4 want to go ahead and walk us through your presentation,
5 including, you know, what you're trying to do, as well as how
6 you're meeting the standard for us to grant your application?
7 And I'm going to put 15 minutes on the clock. Mr. Moy, if
8 you wouldn't mind? So, I know where we are. And, Mr. Davis,
9 you can begin whenever you like.

10 MR. DAVIS: Okay. Good afternoon, Board. Yes,
11 we own the lot at 4417 Foote Street, N.E. And we would like
12 a side yard variance to build a two-story detached single
13 family home.

14 Currently the site basically is on Foote Street.
15 And it's on the corner of Foote Street and a public alley.
16 And so, to the right of our site it's a single family home
17 with a large side lot. And to the left of the site is a
18 public alley. And to the rear is a dysfunctional public
19 alley.

20 As I, this is an R-2 zone. So, most of the
21 dwellings in this area are pretty much single, sorry,
22 semidetached single family homes. However, there are a
23 couple of single family detached dwellings in this area.

24 The top image shows directly across the street.
25 And the image on the bottom shows the property straight to

1 the left of our site, a single family home with a large site
2 lot.

3 And so, our proposed, our lot number 40 is 25 feet
4 long, 98 feet, excuse me, 25 feet wide, 98 feet long. And
5 we're proposing three foot side yards on either side. It
6 meets all the other tests. And even with the side yards,
7 excuse me. With the two side yards it won't be, it wouldn't
8 negatively impact the, or detrimentally impact any of the
9 adjacent properties, we feel.

10 The single family home that we're proposing is a
11 two-story, three and a half, oh, excuse me, three bedroom,
12 two and a half bathroom single family detached home. First
13 floor typical living room, dining room, kitchen, breakfast
14 nook, with a half bath. And second floor master bedroom,
15 master bath, and two bedrooms with a full bathroom, as well
16 as a washer and dryer closet.

17 And so, we're just seeking a side yard relief of
18 five feet for both of the side yards. This is an existing
19 record lot of 25 feet width. And so, there's a practical
20 difficulty in building a home that would, you know, that
21 would be able to have two eight foot side yards.

22 The two three foot side yards would not have any
23 substantial detriment to the public good. It would not
24 impede on any other adjacent properties. Like I said, the
25 property on the left has a pretty sizable side yard, as well

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 as there's an alley on the right side.

2 So, we wouldn't be impacting the light, or air,
3 or privacy of any other adjacent properties. And there's
4 plenty of open space around it. So, it wouldn't be any
5 substantial harm to the zoning regulations. So, that's my
6 presentation. And I'll be happy to answer any questions.

7 CHAIRPERSON HILL: Okay, great. Well, Mr. Davis,
8 this is the best one you've done so far, I got to tell you.
9 So, you know, we're moving, we're trending in the right
10 direction.

11 Like, the side, the slide, deck, and everything,
12 this is great. And I'm being serious. So, does the Board
13 have any questions for Mr. Davis?

14 VICE CHAIRPERSON HART: Yes. Just the, in the OP
15 report they actually note that you could have done a by-right
16 option. If you have a 17 foot wide house, eight foot side
17 yard on one side, put the building on the property line on
18 the west.

19 You could actually do this as a by-right option.
20 And I just don't know why, I mean, you're seeking a variance.
21 But it seems as though there's another option to do. There
22 is an alley on the west.

23 So, there's not really going to be another
24 building there. So, I'm just confused as to why that
25 wouldn't be preferable to having to ask for a variance for,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you know, the two side yards.

2 MR. DAVIS: Yes. Yes, Vice-Chair. We looked at
3 that. And if you have the wall on the property line then you
4 cannot have any windows on it. So, we would prefer to have
5 windows on either side of the house.

6 VICE CHAIRPERSON HART: Well, you can, I theory
7 you can't have them. You, they are at risk windows if they
8 are on the west side. There is a, I'm not even sure how wide
9 the property is to the west of your property. But it is, if
10 it's ten feet I'd be surprised.

11 And therefore, I'm not really sure what the
12 construction that they would be able to do on that property.
13 So, either you could have somebody buy that property, and
14 then you'd have your own property. And then, you could build
15 windows wherever you wanted to.

16 It just didn't seem like there's a, there seems
17 like there is an option to be able to construct on, as a by-
18 right option. And I just, and I would be, I think that that
19 option is preferential to going for the variance for the two
20 side yards. So, that's my opinion.

21 CHAIRPERSON HILL: Okay. Does anybody have any
22 questions for the applicant? Okay. I'm going to turn to the
23 Office of Planning.

24 MS. ELLIOTT: Thank you, Mr. Chair. Brandice
25 Elliott, representing the Office of Planning. Office of

1 Planning is recommending approval of the requested variance
2 relief.

3 We note that for a detached structure the lot
4 width requirement is 40 feet. And the existing lot is 25
5 feet wide. So, it's 38 percent smaller than what's required
6 by the regulations.

7 We did address the fact that the applicant could
8 do a by-right semidetached building on that lot, as Board
9 Member Hart has mentioned. That would result in a slightly
10 reduced width of 17 feet for the dwelling.

11 But I think that we're, we continue to be
12 supportive of the detached structure, because the amount of
13 relief really isn't, due to the pattern of development here
14 it doesn't seem to make much difference. And it's about the
15 same amount of relief.

16 So, to the east you have a detached structure
17 that's removed by about 50 feet from the property line. And
18 then, to the west there's that slim piece that was also
19 mentioned. I'm not sure what the width is.

20 But, you know, certainly the combination of the
21 16 foot wide public alley and that lot provides enough
22 separation between the proposed dwelling and the other houses
23 to the west. So, we're comfortable with the relief, and
24 continue to recommend approval.

25 VICE CHAIRPERSON HART: And so, and this is a,

1 this is I think the second time that I've had this
2 conversation about a, not necessarily about this particular
3 project, but with this particular issue, which is, if there's
4 a by-right option that is already allowed within zoning, then
5 shouldn't OP be looking for that, as opposed to being
6 supportive of a variance for a project? And anyhow, I'll let
7 you respond to that.

8 MS. ELLIOTT: Yes. OP supports by-right options.
9 I think as the applicant indicated here, the relief that's
10 been requested allows for them to build a detached structure.
11 It's pretty clear, based on the current pattern of
12 development that this dwelling would not attach to anything
13 in the near future. But it does sort of limit their options
14 in the actual design of the structure. So, you know, not
15 having windows on one side.

16 And while I understand they could build them at
17 risk, there's still a lot of issues, you know, dealing with,
18 you know, the easements that are necessary to build at risk
19 windows. And, yes. So, that's, I'll leave it at that. But
20 I'm happy to answer any other questions.

21 VICE CHAIRPERSON HART: Thank you.

22 CHAIRPERSON HILL: Okay. Does anybody else have
23 any questions for the Office of Planning? Does the applicant
24 have any questions for the Office of Planning?

25 MR. DAVIS: No, thank you.

1 CHAIRPERSON HILL: Is there anyone here wishing
2 to speak in support? Is there anyone here who wishes to
3 speak in opposition? Mr. Davis, is there anything you'd like
4 to add at the end?

5 MR. DAVIS: No, thank you.

6 CHAIRPERSON HILL: Okay. All right. I'm going
7 to go ahead and close the record. Is the Board ready to
8 deliberate? Okay. I'm actually, you know, in agreement with
9 the analysis that was provided by the Office of Planning.

10 I do understand what Vice-Chair Hart is bringing
11 up. And I think it is interesting for discussion. And I'll
12 be interested to see what his comments are. However, I would
13 again agree with the Office of Planning, and their analysis.

14 However, I, you know, I'm suddenly missing
15 something. I've got to. Okay. I'm going to technically
16 reopen the record again. Mr. Davis, can you speak to the
17 ANC? Or did you speak to the ANC?

18 MR. DAVIS: I did. Why they did not, I yes, I
19 testified before the SMD and the ANC. And why they did not,
20 why they didn't provide a ANC report, like they did for one
21 of our projects, I mean, like they did not for one of our
22 previous projects, I don't know.

23 CHAIRPERSON HILL: So, you presented in front of
24 the SMD?

25 MR. DAVIS: Yes.

1 CHAIRPERSON HILL: And then you presented at the
2 ANC?

3 MR. DAVIS: Yes.

4 CHAIRPERSON HILL: A full ANC meeting?

5 MR. DAVIS: Yes.

6 CHAIRPERSON HILL: Did they take a vote?

7 MR. DAVIS: No, they did not.

8 CHAIRPERSON HILL: Okay. Do you know why they
9 didn't take a vote?

10 MR. DAVIS: I don't know. But we had a case, 43rd
11 Place, and they didn't take a vote on that. I mean, they
12 sent an email. But they didn't provide a -- So --

13 CHAIRPERSON HILL: Okay. So, all right.

14 VICE CHAIRPERSON HART: So, what was their, what
15 did they say about your project? I mean, if they didn't take
16 a vote they had to say something. They didn't just say,
17 thank you, and that was it. Or did they?

18 MR. DAVIS: I mean, I presented it. And I, okay,
19 at the SMD meeting the residents brought up the concerns
20 about would this house negatively affect our, you know, tax
21 bracket or, you know, the taxes. And I assured them that,
22 you know, the house will be sold at market rates. So, it
23 wouldn't have any effect on their taxes. I answered all the
24 questions at the ANC. I don't know if they were going to
25 move the vote to their Executive Meeting. I'm not sure.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON HILL: So, you went to the SMD. You
2 went to the SMD and presented at the SMD.

3 MR. DAVIS: Yes.

4 CHAIRPERSON HILL: Then my question is, did you
5 present at the full ANC meeting?

6 MR. DAVIS: Yes, I did, at the library, yes.

7 CHAIRPERSON HILL: So, you did. And then, what
8 did they say after you presented?

9 MR. DAVIS: What did they say? Yes. I asked them
10 for a letter of support. And they just said that they needed
11 more time to look at it. And --

12 CHAIRPERSON HILL: I'm just trying to understand
13 what -- So, you finished presenting. And then, they didn't
14 vote. They didn't do anything. They just said, thank you
15 very much. And you walked away.

16 MR. DAVIS: Well, I was hoping for a letter of
17 support. I asked for one. And they said they needed more
18 time to look into it, or -- I went there asking for a letter
19 of support.

20 CHAIRPERSON HILL: I'm okay. I'm kind of stuck
21 here for a second. I've just got to take a minute here. So,
22 I don't know what to do now. The reason why I don't know
23 what to do now is because I'm in agreement. I do think that
24 the Office of Planning's analysis is accurate. Well, I'll
25 ask the Board. Does the Board have any issues about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 anything? Or just moving forward for deliberation?

2 VICE CHAIRPERSON HART: I think you know what my
3 issues are. But, I mean, I don't have an issue necessarily
4 with this. But I have the issue with, you know, the matter
5 of right versus what's being proposed. So --

6 CHAIRPERSON HILL: Okay. So, let me put it this
7 way to the Board. Does this Board have any issues right now
8 concerning the ANC, with us moving forward in deliberations?

9 MEMBER WHITE: I don't.

10 CHAIRPERSON HILL: Okay.

11 MEMBER HOOD: I actually do. Any time, I was
12 listening to his response, which gives me pause and cause,
13 to be slow up and think, okay, what really happened at the
14 ANC? And I think he either forgot, or he's unsure. Or maybe
15 he goes to too many ANC meetings. I'm not sure what the
16 issue is. But normally I like to see something from the ANC.

17 And I know that we've advertised. He's presented.
18 He asked for a letter for what he's, I'm representing what
19 he just mentioned. And then he just said that they said they
20 needed more time. And if we vote on this, then we've shut
21 them out of this process. And I'm going by your testimony.
22 So, that gives me a cause.

23 CHAIRPERSON HILL: Okay. Well, I'm now leaning
24 over with Chairman Hart then. Ms. John, do you have any
25 comments on the ANC input?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MEMBER JOHN: Well, did the ANC know you were,
2 there was a hearing today?

3 MR. DAVIS: Yes, they did. And a couple of weeks
4 ago we presented on 43rd Place. And that morning their ANC
5 Chair sent an email. But it didn't show the vote. And the
6 Board, the BZA Board said, like, what can we do with that?

7 So, I've emailed them, asking if I can come to
8 their July Executive Meeting. I'm not sure if they had one
9 or not, to get a letter of support. So, I've done what I
10 could do on my end to get a letter of support from them.

11 MEMBER JOHN: Did you get a response from any of
12 those emails?

13 MR. DAVIS: I did not.

14 VICE CHAIRPERSON HART: Which case was that again?

15 MR. DAVIS: 43rd Place, 917 43rd Place. That was
16 a couple of, like, what was it, like a month ago, when the
17 ANC Chair, she sent an email that morning. But they did not
18 have a vote. They just said, you know, we don't support her,
19 or something.

20 MEMBER JOHN: So, let's talk about this case. For
21 this case, after you met with them did you send an email
22 asking for a letter of support?

23 MR. DAVIS: Yes, I did.

24 MEMBER JOHN: Do you have a copy of that email?
25 Because he's given it, Mr. Chair, he's giving some

1 clarification. Do you have a copy of the email that you
2 sent, reminding them that the hearing was today?

3 MR. DAVIS: Oh, not on me. I mean, do you want
4 me to, if I can, do you want me to upload one to the record?

5 MEMBER JOHN: This case. Your last communication
6 with the ANC, after you met with them --

7 MR. DAVIS: Yes.

8 MEMBER JOHN: -- asking for a letter of support.

9 MR. DAVIS: Yes, I did. I asked, you know, if I
10 can come to their July Executive Meeting to get a letter of
11 support. Do you want me to, I can upload one to the record.

12 MEMBER JOHN: Right. So, I'm still, I'm a little
13 confused. So, you went to the full ANC, and you presented.

14 MR. DAVIS: Yes.

15 MEMBER JOHN: Then you sent another email asking
16 if you could attend the July meeting?

17 MR. DAVIS: Executive Meeting, yes.

18 MEMBER JOHN: Yes, a second meeting, to get their
19 support.

20 MR. DAVIS: Yes.

21 MEMBER JOHN: And you did not get a --

22 MR. DAVIS: Get a response.

23 MEMBER JOHN: -- response?

24 MR. DAVIS: No.

25 MEMBER JOHN: Okay. So, that's his testimony on

1 this.

2 MEMBER HOOD: So, Mr. Chairman, I do know a lot
3 of times some of the, and I'm not making allowances, but
4 sometimes ANC emails don't work, phone numbers, all that kind
5 of stuff. We run into all that.

6 But I would feel comfortable, for me, is, and I
7 can always send a proxy in. That we would ask staff to reach
8 out to the ANC. They may not have a response. Before we do
9 a final vote and shut them all the way out. That would be
10 my two cents to add to this.

11 CHAIRPERSON HILL: Okay. All right. So, let's
12 see. So, Mr. David, I guess, you know, I do want to hear
13 something, or get something from the ANC. Or at least you
14 can provide some kind of an email chain that shows your
15 outreach.

16 And again, Mr. Davis, you know, you've been here
17 a bunch of times. I know last week was a little bit, you
18 were provided a little bit more clarity as to how you can
19 kind of like move forward in this process.

20 I think that the slide deck that you brought
21 forward was helpful. And also, kind of outlining your
22 argument. And I would continue doing that. I guess my, you
23 know, I'll use the word pause, if you will, is that, you
24 know, I'm asking you what happened at the ANC meeting.

25 And at the end you just can't remember what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 happened after you -- So, that just confuses me. I mean,
2 like, you're right, even if you've been to a lot of ANC
3 meetings.

4 But at the very least it sounded as though they
5 didn't take a vote. So, if they didn't take a vote you don't
6 know if they're in support or denial. They didn't take a
7 vote, correct?

8 MR. DAVIS: They did not.

9 CHAIRPERSON HILL: Okay. So, why don't you just
10 -- I'm going to ask Mr. Moy to reach out to the ANC, okay.
11 Why don't you go ahead and submit to the record. So, I'm
12 going to close the hearing, except for this information.

13 Anything from the ANC, or anything you'd like to
14 submit to show that you've been doing your best to try to get
15 something from the ANC, show us, you know, put the agenda
16 that you presented on, at the ANC. Submit that agenda, okay.

17 And so, then also anything you can get from them,
18 okay. And then we'll go ahead and put this on for a
19 decision, and leave the record open for those items. So,
20 that would, when do you think, how long would that take?

21 MR. MOY: We have two more hearings the month of
22 July. So, I was going to suggest either next week or July
23 31st.

24 CHAIRPERSON HILL: Right. Do you think you can
25 get in touch with -- All right. Okay. So, that's fine. So,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 actually, and you're lucky. We'll get you before the, well,
2 let's do it on the 31st, because it's just a decision. So,
3 try, by the, well, I guess you'll try to get it a week before
4 that, right? So, a week before the 31st try to get something
5 in to us that bolsters your argument that you've done
6 everything you can to get from, get something from the ANC.
7 And also, I'd like to see, you know, the agenda that you
8 testified at this hearing. Okay?

9 MR. DAVIS: Okay.

10 CHAIRPERSON HILL: Okay. All right. So, other
11 than that we'll close the hearing. We'll deliberate on the
12 31st. And, Mr. Davis, we'll see you next week. I just
13 assumed you're going to be here next week, Mr. Davis.

14 MR. DAVIS: No, I will not.

15 CHAIRPERSON HILL: All right. Okay. All right.
16 So, we have, we're going to have a little bit of a longer
17 case I think, the next case. So, we're going to take a quick
18 break before our last case, okay. So, and everybody can come
19 on up and get settled. And, Mr. Davis, thank you very much.
20 And everybody can come on up and get settled then if you
21 like. And then we'll do our last hearing case. Thank you.

22 (Whereupon, the above-entitled matter went off the
23 record at 3:31 p.m. and resumed at 3:44 p.m.)

24 CHAIRPERSON HILL: Okay. A couple of things. So
25 first, Mr. Moy, why don't you go ahead and call it.

1 MR. MOY: Thank you, Mr. Chairman. So, the next,
2 and I believe the last case application before the Board
3 today is number 20027 of Kara, K-A-R-A, Benson, as amended
4 for special exceptions under Subtitle E, Sections 5203.1
5 through 5203.2, from the alley lot high limit requirements,
6 Subtitle E, Section 5102 and under Subtitle E, Section 5201
7 from the alley centerline setback requirements of Subtitle
8 E, Section 5106.1, and from the non-conforming structure
9 requirement, Subtitle C, Section 202.2, to construct a two-
10 story addition to an existing semidetached principle dwelling
11 unit, RF-3 zone, at 520 Groff, G-R-O-F-F, Court, N.E., Square
12 779, Lot 0179. And Mr. Chair, as you're aware there are two
13 preliminary matters.

14 CHAIRPERSON HILL: Okay, great. Thank you. Has
15 everyone been sworn in? Or is there anybody that needs to
16 get sworn in? Okay. If you're going to get sworn in, or if
17 you're planning on testifying, if you could please stand and
18 take the oath administered by the Secretary? You can stand
19 up right where you are. Exactly. And then, yes.

20 (WITNESSES SWORN)

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

22 CHAIRPERSON HILL: Okay. If you could please
23 introduce yourselves for the record, from my right to left?

24 MR. CABRERA: Michael Cabrera, Donahue and
25 Stearns, for the applicant.

1 MS. FOWLER: I'm Jennifer Fowler, with Fowler
2 Architects.

3 MS. BROWN: Carolyn Brown, Donahue and Stearns,
4 for the applicant.

5 MS. BENSON: I'm Kara Benson. I am the applicant.

6 CHAIRPERSON HILL: Okay. Ms. Brown, are you going
7 to testify for us? Are you going to do your presentation?

8 MS. BROWN: Yes, sir.

9 CHAIRPERSON HILL: Okay. So, before we get to
10 that point I guess there's a couple of preliminary matters.
11 Is the party status, I can't recall if everybody withdrew
12 party status or not. Is anyone here requesting party status?
13 Okay. So, I guess then if, I don't know, I mean, Ms. Brown,
14 you probably know. Did everybody withdraw?

15 MS. BROWN: Yes, sir. Ms. Ferster was
16 representing nine individuals. Some were in this same
17 address, so it maybe looked like only seven people, but there
18 were nine names. And all withdrew.

19 CHAIRPERSON HILL: Okay. All right. So, as the
20 Board now knows, no one's here for party status. So, I'm
21 just going to have that issue taken care of. I do see that
22 the Commissioner from the ANC is here. Commissioner, why
23 don't you just come on forward. If you could just also
24 introduce yourself for the record?

25 MR. ECKENWEILLER: Mark Eckenweiller, Commissioner

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 6C 04, for ANC 6C.

2 CHAIRPERSON HILL: All right, Commissioner,
3 welcome. Let's see. Okay. So, Ms. Brown, there's now, or
4 it's not that preliminary matter I guess. There's, excuse
5 me. I guess there is a 21 day filing deadline waived in
6 Exhibit 49. Can you explain that request?

7 MS. BROWN: Yes, sir. At the time we filed our
8 prehearing statement we had set forth our arguments about how
9 we meet both the variance and special exception tests for the
10 specific release requested.

11 Subsequent to that deadline we were requested to
12 file a legal memorandum for the Board's use in looking at the
13 issue. We obviously didn't get that request until after the
14 21 days. So, that's why we need the relief.

15 CHAIRPERSON HILL: Okay. All right. I don't have
16 any issue with that, because that makes sense. So, unless
17 the Board has any issues we're going with that filing
18 deadline, because we requested the information.

19 And so then, that brings us to the first thing we
20 kind of talked about, which is again, are you here for the
21 special exception, or are you here for a variance?

22 MS. BROWN: We are here, we have placed that issue
23 in your lap to decide. And we believe we meet the tests for
24 both variance and special exception relief. We think it's
25 clearly a special exception that should apply in this case.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 But because of, just as background, when we filed
2 our prehearing statement we were not aware of whether or not
3 the Office of Planning would support us as variance relief.
4 And because of the opposition, as an attorney I recommended
5 that we cover all our bases, and request all relief possible.

6 Now that the opposition is no longer in existence,
7 they have withdrawn, we believe that the special exception
8 relief is subsumed in the variance request. So, if we meet
9 the higher burden of proof, then you don't need to reach the
10 special exception.

11 CHAIRPERSON HILL: Okay. But you're here, you're
12 able to argue both?

13 MS. BROWN: Absolutely.

14 CHAIRPERSON HILL: Okay. And the ANC,
15 Commissioner Eckenweiller, I thought from your report you
16 were in support, and you were in support of the variance.
17 Is that correct?

18 MR. ECKENWEILLER: That's correct, Mr. Chair.

19 CHAIRPERSON HILL: Okay. All right. So, I mean,
20 this probably made me laugh, that everybody was support of
21 your variance relief. But you made me have to work really
22 hard to kind of understand the special exception.

23 So, I guess we can see how the Board, what the
24 Board thinks of this. I mean, I did go through the argument.
25 Then we had discussions with the Office of the Attorney

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 General, in terms of the special exception versus the
2 variance.

3 I think that rather than go through the argument,
4 and trying to understand, and take the time to walk through
5 the special exception, since I think it would be more
6 efficient to hear the variance argument at this point, I
7 would just opt for hearing the variance argument.

8 But if the Board wants to go ahead and go through
9 the exercise of trying to figure out whether or not this is
10 a special exception or a variance, I would welcome someone
11 else to begin that discussion. But otherwise, my vote would
12 be to hear it as a variance. Does the Board have any other
13 thoughts?

14 MEMBER JOHN: I agree with you, Mr. Chairman. I
15 believe this is a variance, not a special exception. So, I
16 would be in support of that option.

17 CHAIRPERSON HILL: Okay. So then, Ms. Brown,
18 we're going to go ahead and have you argue this as a
19 variance. So, if you could go ahead and tell us what it is
20 your client's trying to achieve, how they're meeting the
21 requirements for the three prongs of the variance test. And
22 I'm going to put 15 minutes on the clock, just so I know
23 where we are. And you can begin whenever you like.

24 MS. BROWN: Great. Thank you very much. Just as
25 a broad overview, we're very happy to have resolved all the

1 issues with the neighbors. Now we have no opposition to this
2 case.

3 And that's primarily because of the construction
4 management agreement, and through the great work of Mr.
5 Eckenweiller and the ANC, that really was instrumental in
6 dissipating all that opposition. So, we're happy to have the
7 ANC's support.

8 We have the HPRB approval of the proposed plans.
9 And we have OP's support for the requested variance relief.
10 The only issue that we may have with the Office of Planning
11 report is the one foot setback from the north alley. And we
12 will be addressing that in our presentation. So with that
13 I'm going to turn it over to Ms. Kara Benson, to make some
14 introductory remarks.

15 MS. BENSON: Thanks, Carolyn. So, I just want to
16 kind of introduce myself, and introduce this project. I have
17 lived in this house on Groff Court for about going on seven
18 years this fall.

19 It's one of five in sort of a tiny set of historic
20 row houses, we think about 100 years old. They're very
21 small. It's about 672 square feet inside. And so, the idea
22 here is, when I purchased the house I purchased the lot with
23 it. They were kind of a bundled deal.

24 It's zoned residential, exactly the same as the
25 house itself. And so, what I'm hoping to do is essentially,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 it would extensively double the size of my house into what
2 would become then kind of a moderate sized family home.

3 Right now it's fine for me as a single person. But
4 I love the neighborhood. I love Groff Court. And I kind of
5 never want to move. And I don't know if that's a compelling
6 legal argument.

7 But the idea here is to make this into a home that
8 hopefully I can grow into as a family house. And I think it
9 adds that to the neighborhood as well, which is I think
10 fitting with both the historic nature of the neighborhood,
11 and then the residential character.

12 As Carolyn pointed out, I did have some neighbors
13 in opposition initially. They had some concerns primarily
14 about the construction, and the impact that that would have
15 on their access to their homes, and their parking pads and
16 garages.

17 I'm really excited that we were able to find a
18 solution to that. Again, as someone who lives in the home,
19 and wants to live there not just to be able to build this,
20 but also because I would like to be on good terms with my
21 neighbors, and want that to be a community.

22 I'm really, really excited that were able to find
23 that solution. And they withdrew, they were comfortable
24 withdrawing their opposition. I do have support from the
25 neighbor that's directly adjacent to my house, my only

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 adjoining neighbor, and folks across the street.

2 And I suppose that's most of it. I think to the
3 question of building to the lot lines, the one thing I would
4 say, and I'm very aware of OP's sort of presentation, and why
5 a setback might be helpful in terms of sight lines.

6 The nature of this alley, and Jennifer, my
7 architect, will go into a little bit more of what the site
8 is, and walk you through some slides. And I think Mark may
9 speak to that as well.

10 We talked about this extensively at the ANC, both
11 the Planning Subcommittee, or Committee meeting, and then
12 also at the full ANC, that the alley won't actually be wider
13 if we don't, if I build to the lot line. It doesn't actually
14 narrow the alley. Because it is already that width, both at
15 the, at both ingress and egress points.

16 And then, my garden wall and the raised concrete
17 sort of, I hesitate to call it a parking pad, because it's
18 just an empty lot. But it doesn't actually change the width
19 of the alley. So, no one will be able to drive over whatever
20 setback we think we would provide them.

21 And again, I'm sort of preliminarily setting the
22 stage. Because you'll get far more detail with the plans.
23 But I guess the point that I would make is, the owner, and
24 the person living in the house is, a one foot setback may not
25 sound like a lot.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 But when you're talking about a very small house,
2 that, those rooms were already only going to be about 11 feet
3 wide. And so, a one foot setback is almost ten percent. It
4 would make those ten feet wide.

5 And again, if that's what makes sense, and is in
6 comportment with the law, and everything else, you know, I'll
7 make that work. But I just wanted to kind of put it in
8 perspective in terms of the size of the house and those
9 rooms.

10 And that one foot may not feel like a lot, or
11 sound like a lot in the scheme of most large houses. But
12 being a very small sort of Capitol Hill row house, it would
13 have a pretty big impact on the usability of the space
14 inside. And at that I will, I'll leave it unless someone has
15 questions. And then I'm happy to jump in and provide my
16 thoughts as we go along.

17 CHAIRPERSON HILL: Okay. What we're, well, Ms.
18 Brown, we're just going to keep moving along. And people
19 will either jump in with questions, or we can take questions
20 at the end.

21 MS. FOWLER: Okay. Hi, everybody. I've expanded
22 my team since the last time I was here. As Ms. Benson
23 already touched on, this is an intact row of six original
24 houses, or five houses that are existing now. And there were
25 six original houses. There's evidence of -- I'm sorry?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 PARTICIPANT: There were nine.

2 MS. FOWLER: There were nine original. I'm sorry.
3 Currently there are five. And there's evidence of kind of
4 the brick where the building has been cut at the corners.
5 You can see. And there's also evidence on the base maps
6 going back to 1909, that there was a structure there that was
7 a replica of what exists now. So, it's an identical house
8 that matches the other existing houses.

9 So, it is a unique row of purpose built row
10 dwellings that is kind of unusual on the Hill, with this type
11 of alley configuration. And we find that this is a really
12 unique opportunity to be able to complete that row, and kind
13 of bring it back to what it was originally intended to be.
14 So, that's our goal with the project.

15 So, I'll walk you through kind of the, some images
16 of the alley. This is an alley that sits between 3rd and 4th
17 Street, and F and G. Sorry, E and F, in northeast D.C. And
18 it has five, two kind of east/west alleys, and three
19 north/south kind of branches as well.

20 I don't think I need to go here. Okay. This is
21 a good shot where you can see kind of the existing dwellings.
22 You have, they all have the same cornice line, the same type
23 of brick headers, and door and window configurations. None
24 of them have really been modified. So, we're hoping to kind
25 of continue that same pattern moving down the Hill.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 And then, this is just a view looking from the
2 south up to, towards F Street. So, you can see on the left
3 where there used to be additional houses in the same
4 configuration, that have been removed. There's some larger
5 alley dwellings that have been built in that square in the
6 later decades.

7 And you can see, this is a 20 foot wide alley,
8 where all the trash is sitting. And then again, this is a
9 picture of the alley, one of the east/west alley on the north
10 end. So, you can see we have a ten foot pinch point here,
11 that is the same, going to be the same configuration we have
12 adjacent to Ms. Benson's property.

13 And again, here is another view of the ten foot
14 alley, where you have a number of fences, garage doors, most
15 of them which are built up to the property line. Some are
16 set back slightly. The house you see on the left is built
17 all the way up to the line, as well as the fence and the
18 garden wall.

19 And this is kind of looking at the back of Ms.
20 Benson's property. So, she has an existing garden wall,
21 brick wall that was actually built by the developers who did
22 the alley dwellings across the way, the newish ones. But
23 that's also built up to the line.

24 The greenery we see here is actually a setback
25 along one of the other, the alternate alleys. But you can

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 see along her, at least, almost half of her property you
2 already have an established wall that's kind of defining that
3 alley width. This is looking at the proposed drawings. So,
4 you can see the existing house on the left.

5 And then we have the extension, which will be per
6 HP's guidelines. We've matched some of the materials. But
7 we'll have slightly different detailing on the cornice. The
8 idea was to kind of replicate the massing, and the scale, and
9 the rhythm of the house, but have enough variation in the
10 details that it reads as an addition built at a later date.

11 And I'm just going to go through -- Okay. I'll
12 go through the plans a little bit later. So, this is the
13 existing site plan. So, you can see her house, from the
14 property line to the outside of the party wall is only 12
15 foot nine inches. And the remaining lot is just under 12
16 feet.

17 And then the section that does not have a
18 landscape wall next to it is 28 feet. And that is the same
19 depth as the house. And this demonstrates the garden wall
20 that I was showing you in the picture.

21 This slide shows the proposed site plan. So, you
22 can see the extent of the hatched in area is the addition.
23 We have a bay on the back. But the, I've dotted in the
24 required setback, which is the 12 feet from the center line
25 of the alley.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 So, you can kind of see where that falls within
2 that addition, which kind of goes, comes in later when we're
3 talking about the hardship of trying to comply with the
4 regulations.

5 VICE CHAIRPERSON HART: Ms. Fowler?

6 MS. FOWLER: Yes.

7 VICE CHAIRPERSON HART: Is there a setback there
8 too? Is there one here too?

9 MS. FOWLER: Yes.

10 VICE CHAIRPERSON HART: At the front of --

11 MS. FOWLER: Yes. There's a, 12 feet from the
12 center line of the 20 foot alley. So, it's a two foot
13 setback.

14 VICE CHAIRPERSON HART: Ah, okay. Thank you.

15 MS. FOWLER: Yes.

16 VICE CHAIRPERSON HART: You can continue.

17 MS. FOWLER: Yes. So, I think that we have about
18 a seven foot setback on the long alley, and two feet on the
19 front. So then, these are just the existing layouts. You
20 can see it is a very small house.

21 She has a kitchen, basically a kitchen and living
22 room on the first floor. And then, going up to the second
23 floor you have two bedrooms, with a bathroom in the middle,
24 and a very tight stair.

25 And then, what we're proposing is to, you know,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 add some living space on the first floor, a mud room,
2 laundry, and a powder room, with a bay on the back. And
3 then, on the second floor, it's a small master bedroom suite.

4 VICE CHAIRPERSON HART: Can you go back to the
5 first floor? I just had a question.

6 MS. FOWLER: Yes.

7 VICE CHAIRPERSON HART: What's happening to this
8 door? I understand that it gets, there's one plan that says
9 that, actually this one says that it's going to be sealed.
10 But on the elevation it's still there. And so, I'm confused
11 as to what that, what's going on.

12 MS. FOWLER: Yes. It's going to be --

13 VICE CHAIRPERSON HART: And I know that it's not
14 pertaining to the zoning. I just --

15 MS. FOWLER: Okay.

16 VICE CHAIRPERSON HART: It's more of a curiosity.
17 Because I saw it on the elevation. And I was like, okay, I
18 don't get this.

19 MS. FOWLER: No problem.

20 VICE CHAIRPERSON HART: I know there's a reason.
21 There's probably HP reasons.

22 MS. FOWLER: Yes. That's exactly right.

23 VICE CHAIRPERSON HART: But I just needed to
24 understand.

25 MS. FOWLER: Yes. It will be a window from the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 inside. But we'll have to kind of cover up the bottom of it,
2 at least, just -- But from the outside ideally it will look
3 like a door. And that was, you know, that's a historic, they
4 don't, they want to keep the rhythm of the door locations.

5 And you see that often on Capitol Hill, where
6 people have two units that get converted into single family.
7 And they're not allowed to remove the second door. And they
8 just put potted plants in front of them. So yes, that will
9 just have to be --

10 VICE CHAIRPERSON HART: Thank you.

11 MS. FOWLER: -- an architectural trick there to --

12 VICE CHAIRPERSON HART: Yes. It just looked like
13 --

14 MS. FOWLER: Yes.

15 VICE CHAIRPERSON HART: -- huh, oh. And they said
16 that you should actually keep the transom, but not the actual
17 door. So then I was like, well, maybe they're kind of
18 getting rid of the door. But anyhow, we don't need to
19 continue with that.

20 MS. FOWLER: Okay.

21 VICE CHAIRPERSON HART: I just was, it was more
22 of a curiosity.

23 MS. FOWLER: No problem. So, then you have the
24 roof plan. Again, so this is back to the short elevation
25 extension. And then, this is the side view along the near

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 alley.

2 One thing to note is, we had originally, we had
3 larger windows on this facade when we first filed. And part
4 of the feedback we received from neighbors along F Street was
5 concerns about privacy. So, the top three, the windows on
6 the top floor have all been raised up, so that they're kind
7 of above eye level, to help mitigate the privacy concerns.

8 We also did the same thing on the back, one side
9 of the bay. So, this is the rear elevation here. And then,
10 on this elevation facing 518 Groff we actually converted full
11 windows to high windows, because there was concerns raised
12 about privacy.

13 VICE CHAIRPERSON HART: And you're not, are you
14 also having the -- Can you go back a couple of slides to the
15 --

16 MS. FOWLER: Yes.

17 VICE CHAIRPERSON HART: -- elevation of the, what
18 is that?

19 MS. FOWLER: This slide?

20 VICE CHAIRPERSON HART: Yes. Actually, this one.
21 The reinforced corner? You're not doing that anymore? Or,
22 it doesn't show up in here, but it did show up in one of the
23 drawings. But I couldn't --

24 MS. FOWLER: Yes. We kind of looked at that as
25 an idea. And Historic said they did not want to see that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 So --

2 VICE CHAIRPERSON HART: Not as like quoining, or
3 something, you know, like the --

4 MS. FOWLER: Yes.

5 VICE CHAIRPERSON HART: -- you know, disguise it
6 or something? I don't know. Anyway --

7 MS. FOWLER: Yes.

8 VICE CHAIRPERSON HART: That's fine. I just was,
9 there were a lot of details here. And I appreciate it. So,
10 I was just --

11 MS. FOWLER: Sure.

12 VICE CHAIRPERSON HART: -- trying to figure out
13 if they were kind of continuing. You can continue.

14 MS. FOWLER: Yes. Yes. We were concerned about,
15 I know some of the neighbors were concerned about, what if
16 I hit the corner of your building? And obviously that's one
17 of Ms. Benson's concerns as well. So, we're looking at ways
18 to kind of curb it, to mitigate. But there's quite a ways
19 to reinforce it that won't be visible.

20 And so again, this is the north/south facing
21 facade. And then just a general kind of building section.
22 So, you can see the overall heights. We're just over 23 feet
23 to the roof, which is matching the house that's existing.

24 So, if there's any questions about the plans, I'm
25 happy to answer. I can also just kind of go into the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 variance relief.

2 This view is a section of kind of, a short section
3 cut through the existing house and the addition. This is
4 demonstrating the challenge we have with kind of meeting the
5 height restriction, the 20 foot restriction for alley lots.

6 The existing house is almost 24 feet high. There
7 is some attic space and parapet walls. But the ceiling
8 height is pretty low. It's seven foot ten on the second
9 floor.

10 Because of where we have to measure the height
11 from, which is at the, I'll show you on the front elevation.
12 So, basically we have to take the measurement of the height
13 from the midpoint of that property line.

14 This is kind of the resulting height, based on
15 that measuring point. So, you can see the roof has to step
16 down significantly from the existing. So, this is the
17 diagram showing if we were to meet the regulations.

18 And if we lined up the floor on the second floor,
19 we would have less than, I think, is that 6'3"? I don't have
20 my reading glasses on, six foot three. It's going to be
21 under seven foot ceiling up there. So, not even to current
22 code height if we were to line up the floor on the second
23 floor.

24 VICE CHAIRPERSON HART: And that's because you are
25 limited by the, what the roof structure has to be? And

1 because of that overall height you kind of just --

2 MS. FOWLER: Right.

3 VICE CHAIRPERSON HART: You're counting down,
4 you're measuring down from that?

5 MS. FOWLER: Correct, yes. So, the height, the
6 20 foot height is to the top of the roof structure at the
7 highest point. And then, when you factor in the slope of the
8 roof, and the requirement for R-49 insulation, leveling out
9 the ceiling, it does kind of bring down that ceiling height
10 to a point where it's below code.

11 And the challenge with that too is if, you know,
12 we kind of looked at stepping down the floor to, you know,
13 to kind of drop that floor down. But if, kind of looking
14 back at the floor level, the second floor level, it's just,
15 you know, you have those tight stairs coming up, and you have
16 a foyer area.

17 And then, to kind of go back down again, it just
18 was very awkward, and didn't really work for long. And
19 Office of Planning I think agreed with us that that was not
20 a very viable solution. So again, we're just, we're trying
21 to just match the height of the existing house that is
22 already non-conforming for that height.

23 And then, going on to, let's see, setback
24 requirements. I already kind of touched on this a little
25 bit. But the house is very narrow, as Ms. Benson has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 explained.

2 The addition, if we were only able to build five
3 feet out would be very difficult to work with, without
4 completely demolishing the bearing wall. Because it would
5 be about five feet. And then, when you factor in the width,
6 you know, of the brick wall, it would be much less than that.

7 The, it would require major rework of the interior
8 spaces. Right now we have, basically the kitchen is getting
9 renovated. But it's staying in the same position. We're
10 keeping the stair in the same position. And then, on the
11 second floor we have, you know, the stair coming up, and the
12 two bedrooms and the bathroom.

13 So, really minimal work is happening in the
14 existing house. We're hoping to just kind of open up a
15 couple of doorways to the addition. If we had to cut back
16 to a five foot addition it would mean completely reworking
17 that plan, and opening up the brick wall.

18 And I think the only other point is that, you
19 know, the setbacks, as we talked about previously, are
20 required on all three sides. So, in general, complying with
21 the regulations is going to severely kind of hamper the
22 development, you know, potential of this property.

23 We, as we already mentioned, we did get Historic
24 Preservation approval for this, for the full build, lot line,
25 you know, to the lot line. And they've indicated their

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 preference for a full width addition. And that's kind of how
2 we proceeded, with their approvals.

3 So, we were hoping to be able to move forward with
4 the full width addition if possible. And we also have, we're
5 happy to kind of explain that more, and talk about Historic's
6 feedback, if you have questions. Thank you.

7 BZA CHAIR HILL: Okay.

8 MS. BROWN: That concludes our presentation. We
9 set forth in our statement the exceptional, extraordinary
10 conditions of the substandard lots, this rare collection of
11 small scale houses on Capitol Hill. We've gone through the
12 practical difficulties, and our statement fully explains how
13 there's no harm to the public good, or the zone plan, or
14 zoning regulations. So we're happy to answer questions.

15 BZA CHAIR HILL: Okay. Just real quick, Ms.
16 Fowler, can you back to your thing on the second floor there?
17 Yeah, the floor plan. No, keep going, keep going, stop.
18 Thank you. That's a shower in the corner right there next
19 to the toilet?

20 MS. BENSON: Yes.

21 BZA CHAIR HILL: That's a small shower.

22 MS. BENSON: I was really hoping to have a soaking
23 tub. I'm sorry, that's one of my little luxuries, which may
24 go out the window --

25 BZA CHAIR HILL: No, that's fine, but it just

1 seems a small --

2 MS. BENSON: -- when we actually see the space,
3 if I can fully admit.

4 BZA CHAIR HILL: It's a small shower. And then
5 you also have a wood-burning stove in the master bedroom.

6 MS. BENSON: In the living room.

7 BZA CHAIR HILL: Oh, in the living room.

8 MS. BENSON: The master bedroom, that's where you
9 see it, is --

10 BZA CHAIR HILL: Oh, I see.

11 MS. BENSON: -- the flue.

12 BZA CHAIR HILL: Okay, got you.

13 MS. BENSON: It's the sort of --

14 BZA CHAIR HILL: All right. I thought it was in
15 the master bedroom. So it got confusing.

16 MS. BENSON: It's really that I got spoiled having
17 a wood-burning fireplace in the living room. That's in the
18 bottom left of the screen there. And I absolutely love it.
19 I'm from New York City, so I never had one. And the idea of
20 it, that's going to become a dining room. And so to have a
21 wood-burning stove in the --

22 BZA CHAIR HILL: Sure. No, it looks great. We'll
23 see what happens. You might lose your foot, but --

24 MS. BENSON: Don't do that to me.

25 BZA CHAIR HILL: So Commissioner -- I'm sorry, go

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 ahead?

2 VICE CHAIRPERSON HART: Yeah, I just had a
3 question. Could you actually talk about that? The OP was
4 talking about the foot thing, the, you know --

5 MS. BENSON: Sure, yeah.

6 VICE CHAIRPERSON HART: Because I was trying to
7 understand that from --

8 MS. BENSON: Sorry if I jumped the gun on that
9 one.

10 MS. BROWN: So when you pull it back one foot, it
11 really doesn't add to maneuverability in the alley at all.
12 But it does a lot of damage to this addition, how much space
13 you get into it in there.

14 And I believe Mr. Eckenweiler's going to go into
15 that in a little bit more detail. And as Ms. Fowler
16 explained, you're not increasing the width of the alley, and
17 it's not being narrowed. It's staying exactly the same. So
18 there's really no benefit to doing that.

19 I know that there is a DPW report saying that, you
20 know, it helps with maneuverability. But all it does is open
21 up a tiny space that will probably have a knee wall with
22 plantings or bollards. So actually it doesn't gain anything
23 for DPW going through the alley.

24 VICE CHAIRPERSON HART: It's still --

25 MS. BROWN: It's ten feet/ten feet.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 VICE CHAIRPERSON HART: -- her property.

2 MS. BROWN: Yes.

3 VICE CHAIRPERSON HART: It's still her property.

4 MS. BROWN: Correct.

5 VICE CHAIRPERSON HART: And she can do with it as
6 she would like. And she could put grass there or whatever,
7 and wouldn't like people driving on her grass.

8 MS. BROWN: Correct.

9 VICE CHAIRPERSON HART: I'm just saying that it's
10 just -- I understood that, I just wanted to make sure I --
11 I thought I understood it, I wanted to hear that to --

12 MS. BROWN: Yes.

13 VICE CHAIRPERSON HART: And I appreciate that.

14 MS. BENSON: And if I can, I don't know if Mark
15 will have an opportunity later, I'm sure, but this was
16 something we actually talked quite a bit about. Not the one
17 foot setback specifically, but we talked about building to
18 the lot line in the ANC discussions quite a bit and that I
19 could, by right, build a fence or a wall to the property line
20 currently.

21 I'm not necessarily planning to do that, but just
22 in terms of how the regulations are written that was
23 something that I think Mark, you may have even pointed out
24 during the meeting, which was very helpful.

25 BZA CHAIR HILL: Okay. Well, now that we're on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 this subject, and I'll -- okay? Put your microphone on.

2 MEMBER JOHN: Is there a slide that shows the one-
3 foot setback that OP's requesting or where it would be? Can
4 you point that out on that slide?

5 (Simultaneous speaking.)

6 MS. BROWN: I don't know that we have a slide
7 showing that, because a plan hasn't been developed to show
8 it. Ms. Fowler did email with the HPO staff who said that,
9 you know, that's not an easy ask, potentially.

10 And the quote from the email was I hesitate to say
11 that it wouldn't matter, because the basis of our approval
12 had a lot to do with replicating the building that was once
13 there and would have been identical to the rest of the row.
14 So it's never a good place when the Applicant is being
15 bounced between, BZA, and HPRB and back forth. We have this
16 plan approved.

17 MS. BENSON: Just for your context here, it's on
18 that top part of that, yeah.

19 MEMBER JOHN: That's all I'm asking.

20 MS. BENSON: Yeah, it would set that back, yeah,
21 that back one foot on that wall where the windows are.

22 BZA CHAIR HILL: All right. Oh, yeah. And then
23 just, Ms. Fowler, you started to speak of this, but since
24 we're on the subject of the one foot thing, you then think
25 that it would change the design to the point where that wall

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 would even have to be then interior, the interior wall you
2 might do something with it?

3 MS. FOWLER: I think if we had to comply with the
4 matter of right setback, it would definitely involve her
5 moving the wall. I think with the one-foot setback, not as
6 much. Because we would have to rethink the layouts and the
7 --

8 BZA CHAIR HILL: Got it.

9 MS. FOWLER: -- with the program, for sure.

10 BZA CHAIR HILL: Okay. All right, so
11 Commissioner, you're here for the ANC. And I guess this is
12 different, because you're here in support. And so I don't
13 have -- you're not going to be asking, I mean, in other words
14 what I'm saying is you're here as a party. So you can ask
15 questions of the Applicant if you have any questions. Or is
16 there a presentation that you wanted to give?

17 MR. ECKENWEILER: Mr. Chairman, I don't want to
18 presume to tell you how the hearing, but doesn't OP usually
19 go first. And I'll tell you honestly, because I'd like to
20 respond. I'd like to have OP go first.

21 BZA CHAIR HILL: Okay, that's fine.

22 MR. ECKENWEILER: Because I'm interested in
23 hearing what they have to say.

24 BZA CHAIR HILL: Yeah, that's fine. And the way
25 that we normally -- so yes, no. They do their presentation,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 then you do your presentation. Then OP does their
2 presentation. Then you guys can ask questions of OP.

3 And so, I mean, you don't have to give a long
4 presentation, and then you can have a lot of questions with
5 the Office of Planning if that's what you're trying to get
6 to.

7 MR. ECKENWEILER: I'm happy to go ahead and
8 proceed. Jennifer, I can get the -- well, can you just hand
9 me the laptop?

10 BZA CHAIR HILL: And while you're getting ready,
11 I'll just clarify again. Nobody had any questions for the
12 Applicant? Okay. No, you have to push the button.

13 MS. BENSON: But I've spent years learning about
14 regulations for zoning, and historic, and DC. And now I
15 don't have any questions.

16 BZA CHAIR HILL: Yeah, that's okay. It's better
17 you don't have any questions.

18 MR. ECKENWEILER: So to begin, Mr. Chairman, Mark
19 Eckenweiler. Not only am I on ANC 6E, I'm here as the
20 authorized witness, I live on this square. I'm actually, if
21 you look at the bottom of what's on display, I reside in and
22 own Lot 53 there, that fronts on E Street. So I am
23 intimately familiar with this alley complex. I've owned and
24 lived in that property for more than 20 years.

25 As we laid out in ANC's letter, we think that this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 meets all the tests for variance relief. The Applicant has
2 already walked you through some of the exception conditions
3 here.

4 One thing to think about is not only do you have
5 this sort of narrow width, this series of row houses, the
6 fact that it's in the Historic District, and HPRV has some
7 pretty exacting standards about what they would allow, I
8 mean, this is frankly kind of a creative solution.

9 Normally, building off to the side of a front
10 facade is frowned upon. But this is a very, very unusual
11 circumstance where it's an infill, basically a refill of what
12 was a companion historic row house.

13 And so I'd like to focus my presentation here
14 really on the facts on the ground. Because that's the delta
15 between the Applicant and OP. So just to orient you here,
16 this is Square 779. As Ms. Fowler described, there are a
17 number of different segments to this alley complex.

18 So the Applicant's property is what you see there
19 immediately under the legend Segment 1. It's Lot 179 which
20 is the combined lots that used to be the two historic row
21 houses exactly.

22 Segment 1, that's the East/West alley that runs
23 behind the houses fronting on F Street, is ten feet wide,
24 it's a record alley, ten feet wide in its entirety. The same
25 is true for the parallel Segment 2, also running between

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Third and Fourth. That runs directly behind my house. Ten
2 feet wide is a record alley.

3 Segment 4, which runs in front of the subject
4 property, is a 20-foot wide record alley. And this is really
5 important. Segment 3, over to the western part of the
6 square, is only a 15-foot record alley. And let me explain
7 why that matters. Because a lot of the objections here have
8 been about, you know, the ability to pass through the alley
9 and, you know, make turn maneuvers and so on.

10 So just to recap what Ms. Fowler said, at each and
11 every one of the entry points to this alley complex, so here
12 that's A and E, labeled here, those are the entry points from
13 Third Street. And conversely, entry points D and H off of
14 Fourth Street it's not just a ten-foot wide record alley,
15 there are buildings on either side of that, face on line
16 buildings. So you cannot get anything wider than ten feet
17 even into this alley complex to begin with.

18 In addition, as the Applicant's pointed out, at
19 the garden wall immediately north of this property, so that's
20 Point C here on this diagram, there is this additional ten-
21 foot choke point.

22 And then the last thing to think about, and this
23 goes directly to what OP has said about the supposed
24 difficulty in executing turn maneuvers, if we think about
25 Segment 3, so that's the segment in this diagram that runs

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 between Points B and F, Bravo and Foxtrot, that's only a 15-
2 foot wide alley. It's not a 20-foot wide alley like the one
3 that is adjacent to the subject property.

4 And yet people are able, both in private vehicles
5 and in DPW trash trucks, to execute turns going from Point
6 E to Point F, and on down to Point B, and likewise coming in
7 off of Third at Point A, turning at B south into that alley
8 segment. You've only got 15 feet of width there. You don't
9 have the 20 feet that you have in front of the subject
10 property.

11 So if people are able to do that today with a 15-
12 foot wide alley, in the same square off of the same ten-foot
13 wide alley, it is inconceivable to me how anyone can, with
14 a straight face, contend that it's not going to be possible
15 to make a turn from a ten-foot wide alley into a 20-foot wide
16 alley. It beggars disbelief.

17 And again, not only do I live here, I actually
18 watch -- my second-story looks out over that alley segment,
19 the 15-foot wide alley segment. And I see the trash trucks
20 go through there.

21 So there was reference to this in the DDOT report,
22 you know, there was some sort of hand waving about how
23 difficult this might be for the trash trucks. They're doing
24 to today. The trash trucks enter this alley complex. They
25 execute turns going forward and going back in Segment 3 which

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 is 15 feet wide.

2 So I think you should not lend much credence to
3 these claims that it turns from ten feet into a 20-foot wide
4 alley is going to substantially impact the ability of people
5 to maneuver their vehicles around this alley complex.

6 And the only points I'll make, just to reiterate,
7 you know, the ANC did ask for a couple of accommodations
8 here. One was the adjustment of those north elevation second
9 story windows to respect the privacy of the residents of F
10 Street. The Applicant has already made those changes.

11 We also made our support conditional on execution
12 of a construction management agreement. That has now been
13 executed. And its terms basically map to the concerns that
14 we had about things like, you know, storage of construction
15 materials and, you know, vehicles being stopped in the alley
16 and blocking the alley for long periods of time.

17 So with that, I'll conclude my presentation. ANC
18 6E is in support of this application. I'd be happy to answer
19 questions.

20 BZA CHAIR HILL: Okay, great. Thank you. Does
21 anybody have any questions for the Commissioner?

22 Okay. Yeah, I mean, I was looking it up on Google
23 Maps. It is -- I think I've been back there for some reason.
24 I can't remember. But it's a very interesting area back
25 there.

1 I'm going to turn to the Office of Planning.

2 MR. KIRSCHENBAUM: Good afternoon again, Chair
3 Hill and members of the Board, Jonathan Kirschenbaum from the
4 Office of Planning.

5 We recommend approval of the following variances
6 on height, non-conforming structures, and also alley center
7 line setback from the 20-foot alley which is the eastern
8 alley. And we also recommend approval of alley center line
9 setback from the ten-foot northern alley with one condition
10 that it be setback from the northern property line.

11 Our main concern is that, with the potential of
12 the building being built on that property line, that there
13 would be projections from that northern wall, such as
14 architectural details or window sills, that may project into
15 the alley thereby narrowing it further than it already is.

16 I think we had another concern about, you know,
17 the integrity of the property owner's brand new addition
18 that, you know, in a couple of years if cars are scraping
19 against it, that the property owner may want to put bollards
20 sort of along the property line or really within the alley
21 which would further restrict it. So the condition really
22 comes from a place of just really ensuring the integrity of
23 the, you know, of the addition to the property owner.

24 And, you know, of course we did have to solicit
25 District Agency comments for this case. And we could not

1 just totally ignore the comment from the Department of Public
2 Works. No matter how, you know, trash operations work today,
3 we did have to consider that as part of our analysis.

4 Please let me know if you have any further
5 questions. Thank you.

6 BZA CHAIR HILL: Okay, great. Does the Board have
7 any questions for the Office of Planning?

8 VICE CHAIRPERSON HART: Just the question, I mean,
9 you've heard the testimony today from the ANC, from the
10 Applicant. And, I mean, I just had a question on just the
11 one foot. Why not two feet? It just seems like -- I
12 understand what you're saying in terms of the possible
13 projections. But it doesn't look like there are any
14 projections that are really on the building, on the facade,
15 on the elevations. They're not showing any.

16 And I didn't know if you would still be -- if OP
17 would still be in support if there wasn't the one-foot. I
18 mean, would you be against that particular part of the regs
19 if you didn't -- or, I guess, not the regs, the relief that
20 they're requesting. Would you be against that part of the
21 relief that they're requesting if they didn't provide the one
22 foot? Because we don't have any drawings that show that
23 right now.

24 MR. KIRSCHENBAUM: So we didn't ask for more,
25 because it's pretty clear that a further setback really would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 restrict any sort of functional space within the house.

2 And like I said again, you know, yes, the plans
3 right now don't show any projections into the alley. But
4 this is, you know, when things are actually constructed not
5 everything's an exact science. And we were concerned that,
6 again, this very tight alley may be narrowed.

7 I think that if we can get assurance from the
8 property owner that no bollards will be put into the public
9 alley, and from the architect that there will be absolutely
10 no window sills or any architectural embellishments that will
11 project into the alley, I think we'd be comfortable and
12 satisfied with that.

13 VICE CHAIRPERSON HART: I mean, the whole bollard
14 issue is if somebody, I mean, you may get something from this
15 particular owner but a future owner may ask for that. I
16 don't know how -- maybe I should ask Mr. Eckenweiler if there
17 are any other bollards that are in the alleys as it is.

18 Because I don't know the existing conditions for the
19 alley to see if there's something that has already been
20 requested for, you know, for it right now. And I understand
21 the question and maybe that is a question for Mr.
22 Eckenweiler, if there are any bollards existing that you're
23 aware of in any of the alleys?

24 MR. ECKENWEILER: The only bollard that I can
25 think of here, let me just run my eyeballs over this. So one

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 neighbor who owns and resides at Lot 171 there, so you see
2 where G and H are, the house fronting on Fourth Street, yes,
3 they're right where the letter G is. So at the southwest
4 corner of that lot that owner has installed a set of three
5 really, really big steel, concrete filled bollards. And to
6 be honest, I'm not sure whether those are on his lot or in
7 the public alley.

8 VICE CHAIRPERSON HART: Thank you.

9 MR. ECKENWEILER: I can't recall there being any
10 other bollards here though.

11 BZA CHAIR HILL: Okay, Ms. Brown, you've heard
12 what the Office of Planning has said in terms of the
13 assurances for the bollards and the projections. Is the
14 Applicant willing to agree to those assurances?

15 MS. BROWN: No only are we willing, we're not
16 allowed to do that under the building code. It's not the
17 Applicant's property, so there could be no projections into
18 the alley.

19 BZA CHAIR HILL: Okay. So just as far as giving
20 the assurances, again, you are --

21 MS. BROWN: Yes.

22 BZA CHAIR HILL: -- giving me the Board these
23 assurances that you're not going to build bollards or
24 projections out into that alley, correct?

25 MS. BROWN: That is correct.

1 BZA CHAIR HILL: Okay. So is the Office of
2 Planning satisfied?

3 MR. KIRSCHENBAUM: We're satisfied. And we know
4 that it's not allowed by building code, but life happens.

5 VICE CHAIRPERSON HART: Right, okay.

6 (Simultaneous speaking.)

7 BZA CHAIR HILL: So satisfied is good with me.
8 All right. Does the Applicant have any questions for the
9 Office of Planning?

10 MS. BROWN: No, sir.

11 BZA CHAIR HILL: Does the ANC have any questions
12 for the Office of Planning?

13 MR. ECKENWEILER: No.

14 BZA CHAIR HILL: Okay. Is there anyone here
15 wishing to speak in support? Is there anyone here wishing to
16 speak in opposition? Is there anything anyone would like to
17 add at the end? All right, I'm going to close the hearing.
18 Is the Board ready to deliberate?

19 Okay, I can start. I think, actually, since we
20 got past the initial everything with it, it seems pretty
21 straight forward in that I think that they're meeting the
22 variance. I think that I can agree with the analysis of the
23 Office of Planning.

24 I'm also satisfied that the Applicant is going
25 to honor what it has said to the Office of Planning in terms

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of bollards and projections into public space. And I think
2 that they're meeting the standards in the criteria for us to
3 move forward.

4 In addition to all that, it's always helpful to
5 hear the Commissioner, have the Commissioner here from the
6 affected ANCs. And this particular Commissioner, I know, is
7 very active and so knows what's going on in the area there.
8 And so it's very helpful to have him here as well.

9 So I would be voting in support of this
10 application. Is there anything anyone else would like to
11 add?

12 VICE CHAIRPERSON HART: Only that I think that I'd
13 be in support of the application as well. I agree with the
14 Office of Planning insofar as I would support it. However,
15 that one foot thing I do not -- I don't know. The need to
16 have the one foot additional space, I don't that they need.
17 I think that building to the lot is fine. I'm not exactly
18 sure I -- well, I understand it, but I just don't agree with
19 it.

20 But regardless, everything else I'm in support of.
21 And I also think that this is a variance that needed to be --
22 that the Applicant needed to address, and they did address
23 that. I do appreciate that.

24 I understand that it was a somewhat confusing
25 language in all of this to figure out what was allowed for,

1 alley lots versus principal lots, or ones on streets, and all
2 of that. That seemed like it was a lot of -- it seemed like
3 that needs to be cleaned up.

4 There's a lot of uncertainty as to what would be
5 allowed here. And I think the way in which I kind of fell
6 down on it was that -- or came down on it was that I thought
7 that it would be a variance. Well, I just thought it would
8 be a variance. And that was it. So I would be voting in
9 favor.

10 MEMBER WHITE: I'm also in support, Mr. Chair, of
11 the variance relief. I think they clearly met the criteria
12 for the variance alley, center line setback, height, non-
13 conforming structure relief.

14 OP and ANC provide a very good case, very
15 impressed with the architectural drawings that were done for
16 your beautiful home. So as well as the support from the
17 Historic Preservation group, I would be in support of the
18 relief.

19 MEMBER HOOD: So, Mr. Chairman, I would be remiss
20 if I wouldn't also mention the hard work to get us to where
21 we are here today with the Applicant and the ANC as well.

22 BZA CHAIR HILL: Yes. No, I agree. It took a lot
23 for everybody to come to the table. And it's good that the
24 Applicant has taken all the time to do what they could do to
25 satisfy the concerns of their neighbors, and also all the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 good work that the ANC was able to do in that negotiation.

2 So I'm going to go ahead a make a motion to
3 approve Application Number 20027 as captioned as read by the
4 secretary, as well as just clarifying that the Applicant is
5 going to be building to the lot line, and that OP was
6 satisfied in terms of not requiring the one-foot setback, and
7 ask for a second.

8 MEMBER WHITE: Second.

9 BZA CHAIR HILL: Motion made and seconded. All
10 those in favor say aye?

11 (Chorus of aye.)

12 BZA CHAIR HILL: All those opposed? Motion passes,
13 Mr. Moy.

14 MR. MOY: Staff would record the vote as five to
15 zero to zero. This is on the motion of Chairman Hill to
16 approve or grant the application for the requested.
17 Seconding the motion is Ms. White, also in support, Ms. John,
18 Vice Chair Hart, and Zoning Commissioner Anthony Hood.

19 BZA CHAIR HILL: Okay, thank you, Mr. Moy. And
20 thank you all very much.

21 MS. BROWN: Thank you.

22 BZA CHAIR HILL: Congratulations. Adjourned.

23 (Whereupon, the above-entitled matter went off the
24 record at 4:34 p.m.)

25

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: DCBZA

Date: 07-17-19

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.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com