

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 25, 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 9:58 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, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

- ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary
- JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- JACOB RITTING, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOT
MATTHEW JESICK
CRYSTAL MYERS
KAREN THOMAS
ELISA VITALE

The transcript constitutes the minutes from the
Public Hearing held on September 25, 2019.

C-O-N-T-E-N-T-S

Case Number: 20102	4
Case Name: Application of Kelly Guhr	
Case Number: 20101	14
Case Name: Application of Susan & Brendan Hennessey	
Case Number: 20100	25
Case Name: Application of Jacquelyn Guy and Jordan Silberman	
Case Number: 20097	40
Case Name: Application of Jason and Ashley Meyer	
Case Number: 20077	55
Case Name: Application of Richard J. Hamilton III	
Case Number: 20112	103
Case Name: Appeal of ANC 1A	

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

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9:58 a.m.

VICE CHAIRPERSON HART: So, the first case under the hearing agenda is 20102.

(Pause.)

VICE CHAIRPERSON HART: Thank you. Welcome.

SECRETARY MOY: Thank you, Mr. Vice Chair.

So, okay, so case application no. 20102 of Kelly Guhr, Guhr, G-U-H-R, thank you with the assistance, as amended for a special exceptions under subtitle E, section 5201 from lot occupancy requirements, subtitle E, section 304.1, alley centerline setback requirements, subtitle E, section 5004.1.

This would permit a one-story existing accessory structure at the rear of an existing attached principal dwelling unit, RF-1 zone.

This is at 1429 D Street S.E., Square 1062, Lot 105.

VICE CHAIRPERSON HART: Thank you. Welcome. If you could please introduce yourself.

MS. FOWLER: Good morning. I'm Jennifer Fowler, I'm the architect representing the homeowners.

VICE CHAIRPERSON HART: Good morning, Ms. Fowler.

And, if you could just give us a brief statement. I'll put 10 minutes on the board, I'm not sure -- on the

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1 clock, I'm not sure if you need that much --

2 MS. FOWLER: Okay.

3 VICE CHAIRPERSON HART: -- but.

4 MS. FOWLER: That should be plenty. Thank you.

5 VICE CHAIRPERSON HART: And, you can begin as you
6 like.

7 MS. FOWLER: Okay.

8 So, this is actually as Mr. Moy said, it's an
9 existing garage. The homeowners reached out to me a few
10 months ago. They had been working with a builder who kind
11 of led them to believe that they were getting permits or
12 whatever needed to happen, to build a garage. So, they moved
13 forward building this garage, it's a one-story garage at the
14 rear of the property.

15 And, unfortunately got a stop work order and so
16 reached out to me in order to get permits to actually get
17 kind of legally build this structure.

18 Once we looked into it, realized that there were
19 some issues with zoning and thus, we're here kind of asking
20 for relief for this structure that's, that's already
21 constructed.

22 We found that we needed relief for lot occupancy,
23 as well as for the rear alley setback. Lot occupancy we're
24 right at about 70 percent with this garage, this existing
25 garage. And, with the centerline we're looking for a two

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1 foot reduction in the center, in the setback. So, the
2 requirement is 12 feet and we're at 10 feet.

3 The garage is 13 feet at the tallest and it slopes
4 down to just under 10 feet at the yard side. And, it pretty
5 much mimics exactly the garage that sits adjacent to it at
6 1431 D. It follows the same roof line and the same massing.

7 It is in place of what used to, there used to be
8 a, a roll up door or garage door there so we haven't really
9 made any change to the, kind of the use of the alley relative
10 to, to how it was before.

11 And again, I think it fits, fits in with the
12 neighborhood. There's other garages on the block and again,
13 it's just being a one-story the impact is minimal to the
14 adjacent properties.

15 It has been very well received. We have numerous
16 letters of support from neighbors, particularly the, the two
17 adjacent neighbors but also additional neighbors on, on D
18 Street. And, it also has been well received with ANC and the
19 Office of Planning.

20 So, with that, I'll leave it to questions.

21 VICE CHAIRPERSON HART: And, it looks like you
22 are, you were saying that you were kind of identical in kind
23 of size to the garage that's to the east, I guess?

24 MS. FOWLER: It's to the -- yes, correct. It's,
25 the garage to the east has a, a walkway on, on the opposite

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1 side --

2 VICE CHAIRPERSON HART: Yes.

3 MS. FOWLER: -- so it's not quite as wide, but
4 like, the roof line matches.

5 VICE CHAIRPERSON HART: And, it looks like the
6 floor, the, this, the floor, the footprint actually has the
7 same, similar --

8 MS. FOWLER: The same, same depth.

9 VICE CHAIRPERSON HART: The same depth.

10 MS. FOWLER: Mm-hmm. Correct.

11 VICE CHAIRPERSON HART: Yes. So, do they have the
12 same issue?

13 MS. FOWLER: I'm not sure. I don't --

14 (Simultaneous speaking.)

15 VICE CHAIRPERSON HART: Interesting. It just no,
16 it's just interesting that --

17 MS. FOWLER: -- as involved with that one.

18 VICE CHAIRPERSON HART: -- it's yes, that they're,
19 that they're having an issue with this one.

20 MS. FOWLER: The garage next door looks like it's
21 been around for a number of years.

22 VICE CHAIRPERSON HART: Ah.

23 MS. FOWLER: So, it wasn't constructed in any
24 recent history as far as I can tell.

25 VICE CHAIRPERSON HART: Understood.

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1 Are there any questions for the applicant?

2 MEMBER JOHN: Just one.

3 So, the -- there seems to be old brick on the
4 front of the garage. Is that where the roll up door was?
5 Was it a brick front or?

6 MS. FOWLER: You know, I don't have any good
7 photographs of what was there before, unfortunately. I know
8 that they had some kind of secure parking gate or roll up
9 door. But the brick that you see there is, it's new, but I
10 think what you're seeing is that they were in the middle of
11 construction and they got the stop work order.

12 So, you have brick that hasn't been completely
13 mortared in --

14 MEMBER JOHN: Okay.

15 MS. FOWLER: -- at this point, so, and you can see
16 the construction debris and.

17 MEMBER JOHN: Okay, I see it now.

18 MS. FOWLER: Yes, uh huh.

19 MEMBER JOHN: Thank you.

20 VICE CHAIRPERSON HART: Are there any other
21 questions from the, from the Board?

22 (No audible response.)

23 VICE CHAIRPERSON HART: No?

24 MEMBER WHITE: Just reiterate the, the ANC
25 feedback that you've gotten. Were there any issues and did

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1 you address all those issues?

2 MS. FOWLER: Yes, no, no issues. The homeowner
3 came and kind of explained the situation and, and they were
4 sympathetic and she, you know, they didn't have any concerns.
5 I believe it was unanimous support.

6 MEMBER WHITE: Uh-huh.

7 MS. FOWLER: If I recall correctly.

8 MEMBER WHITE: Thank you.

9 MS. FOWLER: Yes.

10 VICE CHAIRPERSON HART: And, I'm trying to make
11 sure that we don't have a, this, you did both the affidavit
12 opposing and maintenance, and they're entered into the
13 record?

14 MS. FOWLER: Correct.

15 VICE CHAIRPERSON HART: Okay. I thought there was
16 an issue with it, but evidently that must not be. There
17 isn't an issue with it, so.

18 Okay. So, let's turn to the, to the Office of
19 Planning.

20 Good morning.

21 MR. JESICK: Good morning Mr. Chairman and members
22 of the Board. My name is Matt Jesick.

23 The Office of Planning is happy to rest on the
24 record in support of this application and I can take any
25 questions.

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1 Thank you.

2 VICE CHAIRPERSON HART: Does the Board have any
3 questions for, for the Office of Planning?

4 (No audible response.)

5 VICE CHAIRPERSON HART: Does the applicant have
6 any questions for the Office of Planning?

7 MS. FOWLER: No, thank you.

8 VICE CHAIRPERSON HART: Okay. And, I'll ask to
9 see if the ANC is here.

10 (No audible response.)

11 VICE CHAIRPERSON HART: I didn't think so, they
12 usually come up.

13 Is there anyone here wishing to speak in support
14 of the application?

15 (No audible response.)

16 VICE CHAIRPERSON HART: Anyone here wishing to
17 speak in opposition to the application?

18 (No audible response.)

19 VICE CHAIRPERSON HART: Okay, seeing none.

20 So, are there any final questions for the, for the
21 applicant?

22 (No audible response.)

23 VICE CHAIRPERSON HART: Okay. Do you have any
24 final conclusion that you'd like to make?

25 MS. FOWLER: No, thank you.

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1 VICE CHAIRPERSON HART: Okay. So, I will close
2 the record.

3 Is the Board ready to deliberate?

4 MEMBER JOHN: Yes.

5 VICE CHAIRPERSON HART: Excellent. So, I can
6 start.

7 I felt, I thought this was a fairly
8 straightforward project. This is a new building that has
9 been constructed on the property, and I understand that the
10 applicant, the property owner, is trying to fix a, a
11 permitting issue so they can finish the construction for the,
12 for the project.

13 And, I'll say normally I'm kind of hesitant about
14 projects like this only because it's, oh my gosh, you've
15 already started construction and you're kind of you're coming
16 back for this approval. But, I do believe that the applicant
17 has provided sufficient information for me to be able to
18 support it.

19 It seems as though this was somewhat caught in the
20 process. It wasn't like this was already constructed and
21 then they were trying to get some, the permits at the end of
22 this.

23 So, I'll also note as we've heard the OP report
24 is also supportive of the application. The relief that the
25 applicant is requesting I felt was fairly, it wasn't a large

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1 relief that was being requested. It was fairly minor relief,
2 and it is a one-story building that is being proposed. It's
3 really in keeping with the, the alley kind of look.

4 There's a very similar type of construction that's
5 already happened on that alley. And, I just felt that the
6 applicant has met their, their burden for me to be able to
7 support the application.

8 I didn't know if my fellow Board members had any
9 comments they'd like to make.

10 MEMBER WHITE: Yes, Mr. Vice Chair, I would just
11 say that I think this is a relatively clean case. I mean,
12 I think that, that they've met the special exception relief
13 criteria for lot occupancy, as well as the alley centerline
14 setback requirements.

15 They've got OP, ANC support, but also looking
16 strictly at the standards under the provisions, I think that
17 the criteria have been met in terms of light and air,
18 privacy, there's a similar roof line. The height is 13 feet.

19 So, I don't see that there are any negative
20 impacts as it, as it relates to this particular accessory
21 structure. So, I, I would be in support of this.

22 MEMBER JOHN: Mr. Vice Chair --

23 VICE CHAIRPERSON HART: Yes, Ms. John?

24 MEMBER JOHN: -- I'll support the application as
25 well. Based on the discussion and OP's report and the

1 applicant's burden of proof and testimony today, the, even
2 though the garage was constructed before proper permitting
3 and approval of the relief requested, it is the type of
4 request that had it come to the Board before, the Board could
5 have granted the relief.

6 So, in this case, I, I am able to support the
7 application.

8 VICE CHAIRPERSON HART: Chairman Hood?

9 ZC CHAIR HOOD: If I must say something, I would
10 definitely agree with my colleagues, and also definitely
11 agree with Board Member John.

12 VICE CHAIRPERSON HART: So, with that I will make
13 a motion to approve application no. 20102 of Kelly Guhr, as
14 read and captioned by the Secretary.

15 Do I have a second?

16 MEMBER WHITE: Second.

17 VICE CHAIRPERSON HART: Hearing a second, all
18 those in favor say aye.

19 (Chorus of ayes.)

20 VICE CHAIRPERSON HART: Any opposed?

21 (No audible response.)

22 VICE CHAIRPERSON HART: Motion carries, Mr. Moy.

23 SECRETARY MOY: Staff would record the vote as 4-
24 0-1. This is on the motion of Vice Chair Hart to approve the
25 application for the relief requested. Seconding the motion,

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1 Ms. White. Also in support Ms. John and Zoning Commissioner
2 Chair Hood. No other members on this application.

3 Motion carries, sir.

4 VICE CHAIRPERSON HART: Thank you very much.

5 Thank you very much.

6 So, I kind of figured. If you could call the next
7 case, Mr. Moy. On the agenda.

8 SECRETARY MOY: Okay. If we could have parties
9 to the table to case application no. 20101 of Susan and
10 Brendan Hennessey, captioned and advertised for special
11 exceptions under subtitle E, section 5201 from the lot
12 occupancy requirement, subtitle E, section 304.1 for the rear
13 yard requirement, subtitle E, section 306.1 and nonconforming
14 structure requirements, subtitle C, section 202.2 to
15 construct a two-story rear addition.

16 This is to an existing attached principal dwelling
17 unit, RF-1 zone. This is at 11, or rather 114 15th Street
18 N.E., Square 1056, Lot 85.

19 And, Mr. Vice Chair, yesterday the ANC 6A
20 submitted their, submitted their report and it's the last
21 exhibit in the record under exhibit no. 39.

22 VICE CHAIRPERSON HART: Thank you for that, that
23 update, Mr. Moy.

24 Welcome, I think we're going to be talking a lot
25 today, Ms. Fowler.

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1 If you could introduce yourself for the case,
2 please.

3 MS. FOWLER: Hi, good morning. Jennifer Fowler
4 with Fowler Architects. I'm here representing the
5 homeowners.

6 VICE CHAIRPERSON HART: And, if you could just to
7 help us with the case, just describe how you are meeting the,
8 the relief requested, and if we have any questions, we'll let
9 you know.

10 MS. FOWLER: Okay, thank you.

11 VICE CHAIRPERSON HART: Thank you.

12 MS. FOWLER: This project has not been constructed
13 yet. This is a new proposal.

14 This is a request for a rear addition, a very
15 modest rear addition, but we're, we're adding it to an
16 existing house that is nonconforming.

17 So, the proposal is to increase the lot occupancy
18 from just it's over 60 currently, up to 70 percent with this
19 very small addition.

20 We're also asking for relief for the rear yard
21 setback. Not the 10 foot one, but the one from the alley
22 line, the actual rear yard, as well as to a 2.2 for expanding
23 and nonconforming structure.

24 This is a four feet, three inch approximately
25 addition off the rear. The house to the south at 112 15th

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1 Street already extends several feet past this proposed
2 addition, and it also has a, a third floor kind of penthouse
3 roof deck as well. So, that structure's already taller than,
4 than 114.

5 And, the fact that they are sitting to the north
6 of that property means there will be no impact to that
7 neighbor to the south. That neighbor also does not have any
8 windows facing the property at 114.

9 On the other side, 116, we will be extending
10 beyond the rear wall, but again, it's only going to be a
11 little over four feet past that rear wall.

12 116 has also been expanded with a third floor
13 addition, so it has a much greater mass than what we're
14 proposing with, with 114.

15 So, we do, there will be some minor impact to the
16 sun in the more afternoon hours to that, that structure.
17 But, however, that neighbor has signed a letter of support
18 and is comfortable with the proposal here.

19 So, again, there's no windows facing that, that
20 property to the north. All the windows will be facing the
21 rear of the property. We are putting a deck off of the back
22 but it's not, it's going to be below the four foot line so
23 it's not counting towards the coverage.

24 And, we're also going to plan to add a parking
25 spot in the back. It'll be a, like a parallel spot. So,

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1 hopefully we'll alleviate any parking concerns that people
2 have about that part of the neighborhood.

3 So, with that I'll just leave it to questions.
4 Thank you.

5 VICE CHAIRPERSON HART: Does the Board have any
6 questions for the applicant?

7 ZC CHAIR HOOD: I'm just curious, Ms. Fowler.
8 This is not necessarily germane but did 116, was that a BZA
9 case as well?

10 MS. FOWLER: I don't know. You know, they, our
11 property is right around 60 percent so they might have been
12 able to do it --

13 ZC CHAIR HOOD: Doesn't matter.

14 MS. FOWLER: The reason why we, we did look at
15 doing a third floor but I don't know if you noticed from the
16 front of the property that somebody had excavated the entire
17 front yard, so their front yard is actually at the level of
18 the sidewalk, which means that that first level is, it's a
19 basement rather than a cellar. So, we could, could not add
20 another floor.

21 ZC CHAIR HOOD: A cellar, okay. Okay. All right.

22 MS. FOWLER: And, also we had some issues with the
23 soil, the footing capacity.

24 ZC CHAIR HOOD: Okay, all right. Thank you.

25 MS. FOWLER: Uh-huh.

1 VICE CHAIRPERSON HART: Yes, I, I have to say I
2 was somewhat, I was trying to figure out, looking, I was
3 looking at the elevation, the front elevation that you drew
4 and I realized that, I didn't realize that the house that was
5 south of you was, was also taller.

6 Because the photographs don't actually necessarily
7 show that, that view of it, but you kind of get glimpses and
8 then when I saw the elevation, I was like oh, wow, this is
9 actually --

10 MS. FOWLER: Yes.

11 VICE CHAIRPERSON HART: -- you know, different
12 than I, than I had originally thought it was.

13 MS. FOWLER: Yes, both houses have expanded up --

14 VICE CHAIRPERSON HART: Yes.

15 MS. FOWLER: -- and I'm not sure what the zoning
16 status was of them, but I know that we, were going to have
17 to underpin to be able to add up.

18 And, its particularly hard when you already have
19 a neighbor that has a third floor because you have to factor
20 in the additional loads from that house as well.

21 VICE CHAIRPERSON HART: Oh, yes.

22 MS. FOWLER: So, that's why we did go with this
23 very small, which means a lot more reconfiguration of the
24 interior to get what they're looking for out of their
25 project.

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1 VICE CHAIRPERSON HART: Thank you.

2 Any questions?

3 MEMBER WHITE: Yes, just that -- I was just
4 curious. You said that there were some sun impacts but the
5 adjacent neighbor was comfortable with it.

6 Do you know what the issue was? I mean they just
7 didn't think it was that significant and they supported it
8 or?

9 MS. FOWLER: You know, I wasn't a part of that
10 conversation. The homeowners reached out and met with their
11 neighbors so I'm not sure if they raised any concerns or, or
12 not.

13 Again, the building at 112 is already extending
14 beyond so I think that it's just going to be a very minimal
15 increase. But, they, they didn't raise any concerns.

16 MEMBER WHITE: Okay, thank you.

17 VICE CHAIRPERSON HART: Any other questions for
18 the applicant?

19 (No audible response.)

20 VICE CHAIRPERSON HART: Hearing none. Can we go
21 to the Office of Planning?

22 Good morning.

23 MS. THOMAS: Yes, good morning Mr. Chair, members
24 of the Board.

25 I'm Karen Thomas for the Office of Planning. The

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1 Office of Planning would rest on the record of their report.
2 This application satisfies the criteria of 5201.

3 Thank you.

4 VICE CHAIRPERSON HART: Does the Board have any
5 questions for the, for the Office of Planning?

6 (No audible response.)

7 VICE CHAIRPERSON HART: Does the applicant have
8 any questions for the Office of Planning?

9 MS. FOWLER: No, thank you.

10 VICE CHAIRPERSON HART: Okay.

11 And, I'll ask as I did earlier. The ANC? Anyone
12 here from the ANC?

13 (No audible response.)

14 VICE CHAIRPERSON HART: Is the, are, is there
15 anyone here wishing to speak in support of the application?

16 Please come forward. Good morning.

17 MR. PINCHOTTI: Good morning.

18 VICE CHAIRPERSON HART: If you would just press
19 the button once and if you could just state your name and
20 your address.

21 MR. PINCHOTTI: Sure. Mr. David Pinchotti, 113
22 15th Street N.E.

23 VICE CHAIRPERSON HART: Could you spell your last
24 name?

25 MR. PINCHOTTI: P-I-N-C-H-O-T-T-I.

1 VICE CHAIRPERSON HART: Thank you very much.

2 Welcome. You have, as you are a member of the
3 public, you have three minutes to, to give your testimony.
4 And, Mr. Moy, you can and Mr. Pinchotti, you can begin when
5 you like.

6 MR. PINCHOTTI: Sure.

7 As I said, I'm at 113 15th Street N.E., and I'm
8 here to talk about 114 15th Street N.E.

9 I'm here to wholeheartedly support this project.
10 Lots of our neighbors on this block have all created
11 additions pushing back, pushing up, digging down. And, this
12 project is consistent with everything that's been done and
13 it's not going to affect anybody and everybody supports it,
14 so I just wanted to speak for the whole neighborhood and say
15 we like it. We don't have any problems and it's okay.

16 VICE CHAIRPERSON HART: Well, I, I appreciate for
17 spending your time coming down. I know sometimes you're not
18 sure how long this is going to take.

19 MR. PINCHOTTI: Sure.

20 VICE CHAIRPERSON HART: Sometimes we don't know
21 how long it's going to take.

22 So, are there any questions for the, for Mr.
23 Pinchotti?

24 MEMBER WHITE: No, I think he provides some
25 additional substance in terms of what the feeling of the

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1 neighborhood is, in terms of whether or not this would have
2 any negative impacts or, whether or not there were any
3 issues.

4 And, I'm searching for them but I don't see
5 anything that would cause me to question the application.

6 VICE CHAIRPERSON HART: Any other questions?

7 (No audible response.)

8 VICE CHAIRPERSON HART: Thank you very much, Mr.
9 Pinchotti.

10 MR. PINCHOTTI: Thank you.

11 VICE CHAIRPERSON HART: Appreciate it.

12 Is there anyone here wishing to speak in
13 opposition?

14 (No audible response.)

15 VICE CHAIRPERSON HART: Seeing none.

16 Does the Board have any questions for the, any
17 further questions for the applicant?

18 (No audible response.)

19 VICE CHAIRPERSON HART: Does the applicant have
20 a, a final statement they'd like to make?

21 MS. FOWLER: No, thank you.

22 VICE CHAIRPERSON HART: Okay.

23 So, I will close the record. Is the Board ready
24 to deliberate? I can start.

25 I, after reviewing the record and the, including

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1 the Office of Planning report, which recommends approval of
2 this application, the ANC report which we received last night
3 in exhibit 39, that also is support, recommending support of
4 this application as well.

5 I'll note that the Capitol Hill Restoration
6 Society Zoning Commission submitted a letter in support of
7 this application as well.

8 And, we've heard also from Mr. Pinchotti, who is
9 a next door neighbor, as well as several other letters in
10 support of this application.

11 And, I would, I believe that the applicant has met
12 their burden of proof for us to be able to, or for me to be
13 able to support the application.

14 And, I would like to hear other, my other Board
15 Members their, their thoughts on this.

16 ZC CHAIR HOOD: I would agree with you, Mr.
17 Chairman. Only correction I would make in your statement is
18 the zoning subcommittee, subcommittee.

19 VICE CHAIRPERSON HART: Yes, thank you.

20 MEMBER JOHN: Mr. Vice Chair, I agree with your
21 analysis and I think this is a very straightforward
22 application. It's a modest addition at the rear of the
23 structure and it's a smaller mass than the neighbor to the
24 east, I believe.

25 And, so I have, you know, no hesitation in

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1 supporting this application.

2 MEMBER WHITE: I'm in support as well as I
3 mentioned before, especially with the testimony that we've
4 received and the information and report from the Office of
5 Planning.

6 And, I think the ANC's letter, even though we got
7 it this morning, I think is very helpful in terms of
8 supporting the fact that as they say, the design has taken
9 measures to ensure that the addition is not visible from the
10 street and it will not disrupt the privacy, air and light of
11 neighbors.

12 So, I think those are the kinds of things that we
13 find to be very helpful and we are always looking for
14 community feedback. But I think having ANC feedback is very
15 helpful as well.

16 So, I will be in support of the application.

17 VICE CHAIRPERSON HART: And, so hearing that I'd
18 like to make a motion to approve application no. 20101 of
19 Susan and Brendan Hennessey as read and captioned by the
20 Secretary.

21 Do I have a second?

22 MEMBER WHITE: Second.

23 VICE CHAIRPERSON HART: Hearing a second, all
24 those in favor say aye.

25 (Chorus of ayes.)

1 VICE CHAIRPERSON HART: Any opposed?

2 (No audible response.)

3 VICE CHAIRPERSON HART: Motion carries, Mr. Moy.

4 SECRETARY MOY: Staff would record the vote as 4-
5 0-1. This is on the motion of Vice Chair Hart to approve the
6 application for the relief requested. Seconding the motion,
7 Ms. White. Also in support, Ms. John and Zoning
8 Commissioner, Chair Hood. No other members present nor
9 voting.

10 I believe the motion carries, sir.

11 VICE CHAIRPERSON HART: Excellent.

12 Thank you very much. And, you're still here.

13 (Laughter.)

14 (Off-microphone comment.)

15 VICE CHAIRPERSON HART: I understood that. I was
16 reading through the, through the cases and I kept on seeing
17 your name, so.

18 Mr. Moy, if you could call the next case.

19 SECRETARY MOY: Yes, Thank you. That would no.
20 20100 of Jacquelyn Guy, G-U-Y, and Jordan Silberman,
21 captioned and advertised for special exceptions under
22 subtitle E, section 5201, lot occupancy requirement, subtitle
23 E, section 304.1, rear yard requirements, subtitle E, section
24 306.1, and the nonconforming structure requirement subtitle
25 C, section 202.2.

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1 This would construct a one-story rear addition to
2 an existing attached principal dwelling unit, RF-1 zone.

3 This is at 1356 North Carolina Avenue N.E., Square
4 1034, Lot 0102. And, the Board note that the ANC 6A
5 submitted their report yesterday.

6 VICE CHAIRPERSON HART: Thank you, Mr. Moy.

7 Okay. If you could introduce yourself for a third
8 time.

9 (Laughter.)

10 MS. FOWLER: Hi. Jennifer Fowler, I'm with Fowler
11 Architects. I'm the architect representing the homeowners.
12 Thank you.

13 VICE CHAIRPERSON HART: Welcome.

14 If you could just step us through the, through
15 your presentation in terms of what the relief you're
16 requesting and how you're meeting that.

17 Sorry, I'm like having to look to see what --
18 we get notes from the Office of Zoning, as well as the Office
19 of Attorney General and I'm just making sure that I'm not
20 missing anything.

21 At one point, I thought we, we needed the
22 affidavit of posting and maintenance but I understand that
23 we've gotten that now, so, that's not a, no longer a concern.

24 So, if you could step through your presentation
25 that would be great. Thank you.

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1 MS. FOWLER: Okay, great.

2 This project is 1356 North Carolina Avenue. This
3 is, this property is in the Historic District of Capitol
4 Hill. The homeowners originally contacted me looking to do
5 a third floor expansion but we -- different than my previous
6 case, we actually realized because of the visibility there's
7 a pocket park across the street, it was almost impossible to
8 get the FAR, you know, the visibility to be reduced enough
9 for historic support.

10 So, we kind of turned our attention to building
11 at the back and, you know, having to kind of look at zoning
12 requests.

13 Currently, the house has a, there was an extension
14 that was added at some point that's a one-story that goes
15 back just over six feet to the rear from the original
16 footprint. And, it actually fills in the dogleg. And, a
17 number of the houses on the block have this kind of similar
18 situation.

19 And, so the current footprint is just over 70%.
20 The proposal is to expand above the, that footprint with a
21 second floor addition, essentially filling in the dogleg
22 completely and then over the rear expansion.

23 We are going to keep this second floor at a 70
24 percent. We're not requesting a variance. We're hoping to
25 keep it special exception.

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1 So, the, the addition sits kind of to the, sorry,
2 that's the, the west, northwest side of the building. And,
3 we're going to be essentially keeping the height. We're
4 going, we're going to bump the roof up just slightly at the
5 main block of the addition because the slope of the roof
6 means the ceiling heights would be very low at the back if
7 we extended it back. So, we've kind of changed the direction
8 of the roof slope.

9 And, then the section that's in the dogleg will
10 be at the same height as the existing roof.

11 We've talked to, we've got support letters from
12 both neighbors who had no concerns about the project. Again,
13 1358 has already expanded into their dogleg. They've
14 completely built property line to property line. I think
15 their dogleg originally was in, on the opposite side of this
16 property. But you can see they've built across.

17 So, we're only going to be building up to same
18 kind of point as them. We'll be flush on that side. And,
19 then on the other side the neighbors still have their dogleg
20 adjacent, but they've expressed support for the project even
21 though there will be some impact.

22 They are sitting to the north of 1354 so we won't
23 have any additional shadows cast onto that, that adjacent
24 property. There will be some impact to kind of I suppose,
25 the air. You know, we are going to be kind of filling in the

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1 dogleg adjacent to their property. But again, they were
2 comfortable with this proposal.

3 So, that, that is my presentation. Let me know
4 if you have any questions.

5 MEMBER WHITE: One question unless the ANC
6 addresses it. They indicate that their support was
7 conditional on the development addressing potential drainage
8 issues.

9 Do you have any thought on that?

10 MS. FOWLER: I think they yes, they were just
11 concerned about, you know, when -- anytime you add an
12 addition, of how the impact to the neighbors will be with the
13 water drainage off of the roof.

14 And, so we assured them we would, you know, we
15 would have a new gutter line at the back and that we would
16 divert the water, you know, into the yard as is required by
17 the city so that we, you know, we're 10 feet away from the
18 adjacent property.

19 MEMBER WHITE: Thank you.

20 MS. FOWLER: Uh-huh.

21 VICE CHAIRPERSON HART: And, Ms. Fowler, you
22 stated early in your presentation that you didn't want to go
23 do a third floor on this because of the pocket park across
24 the street?

25 MS. FOWLER: Right. So, the historic regulations

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1 require that any third floor not be visible from the front,
2 the street frontage. And, generally they look up and down
3 the street as far back as you can get in a public space.

4 And, because of the, the orientation of the roads
5 and the fact that there's an open park across the street, and
6 the houses are very low, they're short, it's nearly
7 impossible to build anything that's not visible.

8 So, that's how we kind of eliminated the, any kind
9 of matter of right options that would have involved a third
10 floor.

11 VICE CHAIRPERSON HART: And, you don't have, and
12 along the street I'm assuming that they are kind of, there
13 aren't a lot of bump ups or --

14 MS. FOWLER: No. They're --

15 VICE CHAIRPERSON HART: -- expansions to the, you
16 know, height expansions to the --

17 MS. FOWLER: Correct. This is, this area is in
18 the, in an historic district so they, it has really limited
19 the number of pop-ups from the street.

20 VICE CHAIRPERSON HART: Are there any other
21 questions for the, for the applicant? And, actually I did
22 have one. Could you talk about the, you said that you, the
23 roof was sloped and so the, the roof was sloped towards the
24 back. And, I know that that's a situation that happens quite
25 a bit in the District, but you are also, you're saying that

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1 the roof in the back in raised?

2 MS. FOWLER: So --

3 VICE CHAIRPERSON HART: Or just higher than it
4 would have normally been?

5 MS. FOWLER: Yes, so what we did is we raised, we
6 built the main block of the addition up and it's only a, this
7 is 25 and a half feet, obviously well below the height
8 limitations.

9 And, we kind of built a straight parapet along the
10 back and then the slope goes to the side so we'll have a
11 gutter that comes along into the, on the side of the
12 property.

13 The idea is just to get a little bit of attic
14 space there because what we found is these back rooms, you
15 know, when you try to run your air conditioning ducts back
16 there in the ceiling, you know, the roof gets very low
17 because of the pitch required. People end up having to pinch
18 their ducts or you have to drop the ceiling so much.

19 So, the idea's just to get a little bit of wiggle
20 room for running mechanicals to the back. But again, we,
21 we're only talking about going up, you know, maybe an extra
22 foot, foot and a half. Something like that above the, the
23 existing roof line.

24 VICE CHAIRPERSON HART: Yes, and I was looking at
25 existing -- exhibit 32, I guess it's page A4.

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1 MS. FOWLER: Yes.

2 VICE CHAIRPERSON HART: That's what you were,
3 you're referring to as kind of the existing which is showing
4 what the, what's there now and then --

5 MS. FOWLER: Correct.

6 VICE CHAIRPERSON HART: -- what you all are
7 proposing?

8 MS. FOWLER: Correct. Yes, and so that what we're
9 doing is we're taking, there's a brick chunk of facade at the
10 rear. We're going to extend the brick up and we're just
11 bringing it up just slightly higher. And, then there's a
12 kind of a siding in-fill on the first floor that we're going
13 to extend up.

14 And, part of the reason to do the two roof lines
15 is to kind of differentiate between those two materials as
16 well. Because they weren't really wanting to resurface the
17 front of the, the rear addition.

18 So, just to kind of give you a little bit of
19 hierarchy so, it wasn't just a block with kind of two
20 different materials side by side. So, part of it was an
21 aesthetic decision as well.

22 VICE CHAIRPERSON HART: And, it looks like you
23 are, you are draining towards 34, 54, 1354?

24 MS. FOWLER: So, yes. So, there's a gutter if you
25 look at A3 in that same exhibit --

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1 VICE CHAIRPERSON HART: Yes.

2 MS. FOWLER: -- there's going to be a gutter kind
3 of along the length of the addition where the raised portion
4 is and then there's, it's going to have a down spout in the
5 corner, yes, adjacent to 1354.

6 VICE CHAIRPERSON HART: Ah, I see that now.

7 MS. FOWLER: Yes. So, it just comes down in the
8 corner and then that'll get extended out to, to the yard.

9 VICE CHAIRPERSON HART: Okay.

10 So, are there any other questions for the, for the
11 applicant?

12 (No audible response.)

13 VICE CHAIRPERSON HART: Nope. Now remembering,
14 did we, we actually haven't talked to the Office of Planning
15 yet for this case. You've had a couple of cases now and I'm
16 trying to remember where we are in the, in the process.

17 Good morning.

18 MS. ELLIOTT: Thank you, Mr. Vice Chair.

19 I'm Brandice Elliott representing the Office of
20 Planning. Do have to make a quick correction to our report,
21 nothing that affects our recommendation.

22 We do note that the maximum lot occupancy would
23 be 70 percent except that in the table that we've included
24 under section 3 on page 2, we put 71.2 percent and that is
25 not the case, and the applicant has confirmed that the lot

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1 occupancy would not exceed 70 percent.

2 So, we can support the, all of the requested
3 relief. I'll stand on the record of the report except for
4 that minor change and I'm happy to answer any questions you
5 have.

6 VICE CHAIRPERSON HART: And, just so that I, I
7 understood that. Page 2 in the table, you're saying it's
8 instead of the 71.2, it would be 70?

9 MS. ELLIOTT: That is correct. We got it right
10 everywhere else in the report except the most obvious place.

11 VICE CHAIRPERSON HART: Sometimes the most obvious
12 is hard to see.

13 Are there any questions for the Office of
14 Planning?

15 (No audible response.)

16 VICE CHAIRPERSON HART: Does the applicant have
17 any questions for the Office of Planning?

18 MS. FOWLER: No, thank you.

19 VICE CHAIRPERSON HART: Is there anyone here
20 wishing to speak in support of the application?

21 (No audible response.)

22 VICE CHAIRPERSON HART: Anyone here wishing to
23 speak in opposition to the application?

24 (No audible response.)

25 VICE CHAIRPERSON HART: And, also making sure that

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1 the ANC is not here?

2 (No audible response.)

3 VICE CHAIRPERSON HART: Okay. So, does the Board
4 have any more questions for the applicant?

5 (No audible response.)

6 VICE CHAIRPERSON HART: Do you have any final
7 words you'd like to say?

8 MS. FOWLER: No, thank you.

9 VICE CHAIRPERSON HART: Okay.

10 So, I will close the record. Is the Board ready
11 to deliberate?

12 MEMBER WHITE: Yes.

13 VICE CHAIRPERSON HART: Anybody else like to
14 start? Anybody else like to start? Thank you.

15 MEMBER WHITE: I can start. So, they are asking
16 for lot occupancy and rear yard relief, correct?

17 MEMBER JOHN: That's correct.

18 MEMBER WHITE: Yes. So, I think with the Office
19 of Planning and also with the applicant just giving us that
20 edit with respect to the 70 percent proposed for lot
21 occupancy relief and they've amended their documents to
22 reflect that on the second floor, I think that they've met
23 the criteria with respect to the lot occupancy requirements
24 in order to provide that relief.

25 With respect to the relief for rear yard, they are

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1 asking for 11, 11 feet of relief requested. I think like the
2 other cases that we've heard similar today from Ms. Fowler,
3 I think that, that they've done a good job in terms of
4 meeting the criteria and creating a design that does not
5 provide any undue impacts to the neighbors, especially the
6 adjacent neighbors.

7 I am happy that the ANC provided some feedback,
8 especially with respect to the, this particular application.
9 One question that I will note is that they did condition
10 their support on being able to deal with the drainage issues.

11 And, I'm comfortable with Ms. Fowler's feedback
12 with respect to the design of this particular project and
13 that in terms of the location of the gutters, that the, that
14 the water impacts will not be negative to the adjacent
15 neighbors.

16 I don't know if that needs to be included as a
17 condition, but I think based upon the design that's in the
18 record, that I could definitely be in support of the
19 application.

20 And, then finally with the Office of Planning's
21 feedback, and additional comment at the end, I think that
22 they provide additional comfort that, that the applicant has,
23 has met the requirements for the special exception relief
24 that they're seeking and that the community seems to be in
25 support.

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1 So, I will be voting in favor of this application.

2 MEMBER JOHN: Mr. Vice Chair, I, I will support
3 the application as well. It's a modest second floor addition
4 and the applicants, applicant revised the, the architectural
5 plans at exhibit 32, to bring the lot occupancy to 70
6 percent.

7 And, so, based on the fact that this is a full
8 record, OP supports the application, there's community
9 support as well as the ANC and the Capitol Hill Restoration
10 Society also approved the design, I am, I can support the
11 application.

12 Oh, I also give great weight to the report of the
13 Office of Planning, which was very thorough and easy to
14 understand.

15 VICE CHAIRPERSON HART: Thank you.

16 I would just add, I would agree with your, your
17 assessment of the, of the case. I would also be in support
18 of the, of the application.

19 I'll note that they, they could have gone, the,
20 the project could have either been a taller building or it
21 could have gone back to increase the amount of space in the
22 building for the residents, for the property owners.

23 They chose, given that the, the condition, where
24 the project is, given that it is a historic district and that
25 there were concerns that there might be some impacts to the

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1 historic district by having a, another level that the
2 applicant has, has sought a way to make more of a minimal
3 impact on the, on the neighborhood and the, the houses in
4 this, in this area.

5 I thought that was a good decision. And, I would
6 as I said earlier, be in support of the application
7 understanding the, and agreeing with the Office of Planning
8 report, understanding that there was a minor error in the
9 report, but I think that was, that has been taken care of.

10 I would also be recommending approval of the
11 application.

12 Are there any other comments that any of my fellow
13 Board members --

14 (Simultaneous speaking.)

15 ZC CHAIR HOOD: I would just echo everyone's
16 comment. It definitely meets the criteria of subtitle E,
17 5201 as stated in all the comments from my colleagues and I
18 would agree that this is a ready for our approval.

19 VICE CHAIRPERSON HART: Okay, so I'll make a, a
20 motion to approve application no. 20100 of Jacquelyn Guy and
21 Jordan Silberman. Do I have a second -- oh, excuse me, as
22 read and captioned by the, by the Secretary.

23 Do I have a second?

24 MEMBER JOHN: Second.

25 ZC CHAIR HOOD: Second.

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1 VICE CHAIRPERSON HART: We have a lot of seconds.

2 (Laughter.)

3 ZC CHAIR HOOD: I'll give them to Ms. John.

4 VICE CHAIRPERSON HART: Thank you. Having been
5 seconded, does, does the -- wow, now you've gotten me all
6 like, confused Mr., Mr. Hood.

7 (Laughter.)

8 VICE CHAIRPERSON HART: All those in favor say
9 aye.

10 (Chorus of ayes.)

11 VICE CHAIRPERSON HART: Any opposed?

12 (No audible response.)

13 VICE CHAIRPERSON HART: Motion carries, Mr. Moy.

14 SECRETARY MOY: Staff would record the vote as 4-
15 0-1. This is on the motion of Vice Chair Hart to approve the
16 application for the relief requested. Seconding the motion
17 is Ms. John. Also in support Ms. White and Zoning
18 Commissioner Chair Hood and no other members participating.

19 I believe the motion carries.

20 VICE CHAIRPERSON HART: Thank you, Mr. Moy.

21 We're going to take a break, just a few minute
22 break. That's fine. We'll be back in, in just a few
23 minutes.

24 Thank you.

25 (Whereupon, the above-entitled matter went off the

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1 record at 10:41 a.m. and resumed at 10:54 a.m.)

2 BZA CHAIR HILL: All right, Mr. Moy, can you call
3 us back when you get a chance?

4 SECRETARY MOY: Yes, Thank you, Mr. Chairman.

5 The session, the hearing is back in session and
6 it's about 10:56 and I believe you wanted to address --

7 BZA CHAIR HILL: Yes, I'll kind of --

8 SECRETARY MOY: Go ahead.

9 BZA CHAIR HILL: -- I'm going to tell us about the
10 order just a little bit.

11 So, we're going to go back -- first of all, nice
12 to see everybody. Sorry I was a little late this morning.

13 We're going to go back to our decision cases and
14 just kind of tidy up one of those issues, and then we are
15 going to switch one case in terms of the next one we're going
16 to hear is 20097, followed by 20077.

17 So, just to kind of let everybody know about that.

18 (Whereupon, the above-entitled matter went off the
19 record at 10:54 a.m. and resumed at 11:04 a.m.)

20 BZA CHAIR HILL: So with that, Mr. Moy, if you
21 want to call our next hearing case, which I know I just said
22 we were reordering it, so that would be the 20097.

23 SECRETARY MOY: Yes, thank you, Mr. Chairman.

24 So, if we can have parties to the table to case
25 application no. 20097 of Jason and Ashley Meyer.

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1 This is captioned and advertised for a special
2 exception under subtitle E, section 5201, from the lot
3 occupancy requirements, subtitle E, section 504.1, and from
4 the nonconforming structure requirements, subtitle C, section
5 202.2, to construct a two-story rear addition to an existing
6 semi-detached principal dwelling unit, RF-3 zone at 310 5th
7 Street N.E., Square 813, Lot 31.

8 BZA CHAIR HILL: Okay, great. Let's see.

9 So, could you guys please introduce yourselves
10 from my right to left for the record?

11 MR. MEYER: Good morning.

12 Jason Meyer, I'm the owner of the property, 310
13 5th Street N.E., Washington, D.C.

14 MR. duPONT: Stephen duPont, I'm the architect.

15 And, Ms. White, thank you. I honestly don't know
16 how any of you guys find time to do this.

17 BZA CHAIR HILL: Thank you, that's very kind of
18 you.

19 All right, I'm going to pass that over.

20 Let's see. So, Mr. Meyer and Mr. duPont, there
21 was someone here who's requesting party status? Are they
22 here? Could you please come forward?

23 Could you please also introduce yourself for the
24 record, please?

25 MS. GREENAWAY: Good morning. My name is Megan

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1 Greenaway. I live at 312 5th Street, so directly adjoining
2 property to 310, and we're to the north of the property.

3 BZA CHAIR HILL: Okay, great. So, you're an
4 adjoining property, is that correct, Ms. Greenaway?

5 MS. GREENAWAY: That's correct.

6 BZA CHAIR HILL: So, I mean you know, we normally
7 ask for the applicant to describe how, you know, they are
8 uniquely qualified to be a party in opposition, rather than
9 just a member of the public. I think, you know, I can go
10 ahead and say that since you're an adjoining property owner,
11 we usually grant that party status because you're uniquely,
12 you know, affected.

13 Mr. Meyers, do you know what your, are you, do you
14 have neighbors on either side?

15 MR. MEYER: Just to the north.

16 BZA CHAIR HILL: Okay.

17 MR. MEYER: On our south there's a public alley.

18 BZA CHAIR HILL: Okay, so Ms. Greenaway's your
19 only adjoining neighbor.

20 And, then Ms. Greenaway, you also asked for a
21 postponement, is that correct?

22 MS. GREENAWAY: That's correct.

23 BZA CHAIR HILL: Okay, and I guess part of the
24 reasoning for the postponement as I understand -- well, first
25 of all, I mean does the Board have any objection to granting

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1 Ms. Greenaway a party status?

2 (No audible response.)

3 BZA CHAIR HILL: Okay. Does the applicant have
4 any objection to granting Ms. Greenaway party status?

5 MR. MEYER: Not at all.

6 BZA CHAIR HILL: Okay, great.

7 So, Ms. Greenaway, congratulations. You are now
8 a party. And, I can explain what that means as we kind of
9 go through some of this.

10 Let's see. In terms of the request for
11 postponement, I know, I think we're probably going to grant
12 the postponement and I'll let you know why because I
13 understand that there was a sun study that was included in
14 the, well there's a variety of reasons, but one of them is
15 the sun study that was included after the 21 day filing
16 deadline. And, then also I guess the plans were changed.

17 And, I don't know how significantly they were
18 changed, but they were changed. Could you maybe speak to the
19 change of plans and when that happened?

20 MR. duPONT: Yes. If you, the CHRS and the ANC
21 zoning committee both saw a plan where the second floor is
22 set back from the property line by about two foot ten. After
23 that, we increased the separation to four foot one and half
24 away from the property line on the second floor.

25 So, that change actually makes the addition

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1 smaller. In addition, we lowered the roof line so as not to
2 block the sky, so it's actually a lower roof line now than
3 the existing house.

4 And, the sun studies were done over last weekend
5 because since the ANC hearing, at all of these hearings we
6 were given support but since that hearing, we've been trying
7 to work with the neighbor to get it to a point where they
8 feel a little bit less --

9 BZA CHAIR HILL: More comfortable with the idea?

10 MR. duPONT: Yes.

11 BZA CHAIR HILL: So, the ANC --

12 MR. duPONT: I don't have anything in the record
13 from them but they did support --

14 BZA CHAIR HILL: Right.

15 MR. duPONT: -- both the Zoning Committee and the
16 full Board.

17 BZA CHAIR HILL: Right, real quick. When you say
18 that the ANC, so what, did the ANC see the revised plans?

19 MR. duPONT: The Zoning Committee did not. They
20 saw the larger scheme. The full Board did see the current
21 design.

22 BZA CHAIR HILL: The full, the full ANC saw the
23 revised plans?

24 MR. duPONT Yes.

25 BZA CHAIR HILL: Okay. And, then you're stating

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1 that they approved those revised plans?

2 MR. duPONT: They support.

3 BZA CHAIR HILL: They would say support. So, we
4 don't have anything in the record that says that -- oh, did
5 it come in?

6 VICE CHAIRPERSON HART: It looks like we just got
7 a report from the ANC on September the 23rd. Or maybe it was
8 sometime after that, but.

9 So, it looks like they, they did vote in support
10 4-0 with two abstentions, and then they have authorized
11 Commissioner Mark Eckenwiler to, to be present or present
12 testimony at this hearing.

13 BZA CHAIR HILL: Oh. Commissioner Eckenwiler?
14 Did you want to come forward? I thought you were here maybe
15 for the other one.

16 By the way, did everybody get sworn in?

17 (No audible response.)

18 BZA CHAIR HILL: Okay.

19 So, and I guess Commissioner Eckenwiler can
20 actually speak to this, but well, first of all, could you
21 please introduce yourself for the record?

22 COMMISSIONER ECKENWILER: Mark Eckenwiler, Vice
23 Chair, ANC 6E on behalf of the ANC.

24 BZA CHAIR HILL: Welcome, Commissioner. How are
25 you doing today?

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1 COMMISSIONER ECKENWILER: Very well, thank you Mr.
2 Chairman.

3 BZA CHAIR HILL: Good. Good.

4 Let's see. So, did you, are you, well first of
5 all I'd like to know whatever you're here to tell us about,
6 but also were you here, did you see the revised plans and is
7 that what they voted on?

8 COMMISSIONER ECKENWILER: I've reviewed them on
9 IZIS and I do want to drop a footnote here, Mr. Chairman.
10 We did submit a letter for the record by email on Monday.
11 For some reason that has not made its way into IZIS, but I
12 did hand Mr. Moy hard copies for the benefit of the Board.
13 So, that's why you have those before you now.

14 In looking at my file here, what I have, which I
15 believe is from our ANC meeting, shows the setback only two
16 foot ten at the second story, and that's my recollection of
17 what we saw at the full ANC meeting.

18 There was discussion about a potential need for
19 I think it was code reasons, in order to set that wall back,
20 that north elevation further back from the property line with
21 no. 312. But, I don't think that was reflected in the plans
22 that were presented to us.

23 That said, that makes things better instead of
24 worse. So, I, I can't see how it would in any way change our
25 position as set forth in the letter.

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1 BZA CHAIR HILL: Okay. So, you don't think they
2 need to come, and I just want to know for the record, you
3 don't think they need to go before your ANC for the revised
4 plans?

5 COMMISSIONER ECKENWILER: As the Chair of our
6 Zoning committee, I'm very confident that we would not need
7 to revisit this.

8 BZA CHAIR HILL: Okay. And, just for Office of
9 Planning, like, we don't need a supplemental, and I don't
10 know what you did with the, and I'm just kind of clearing all
11 this up because I think we're probably going to end up
12 postponing.

13 You gave your report on the revised plans?

14 MS. VITALE: Good morning, Mr. Chair, members of
15 the Board. Elisa Vitale with the Office of Planning.

16 The Office of Planning reviewed the original
17 submittal and provided our report based on the original
18 submittal. I believe our report was even filed before the
19 revised plans were uploaded.

20 Similar to what Commissioner Eckenwiler indicated,
21 the revised proposal reduces the scope of the addition. We
22 recommended approval of the original application. This
23 improves the situation and I believe we could also support
24 the revised plans.

25 BZA CHAIR HILL: Okay, so we don't need a

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1 supplemental from the Office of Planning?

2 MS. VITALE: I don't believe that would be
3 necessary.

4 BZA CHAIR HILL: Okay. All right.

5 Let's see. So, Ms. Greenaway, so what normally
6 happens I guess in terms of, I mean, you haven't had a chance
7 to look at all this, right? You haven't had a chance to look
8 at this, the, the sun study and I guess, you know, there
9 still is as I understand this and I, to be clear, you're
10 interested in postponing again so you have more time to look
11 at the, the items that were just recently put into the
12 record, correct?

13 MS. GREENAWAY: That's correct.

14 BZA CHAIR HILL: Okay. So, let's see. How much
15 time do you think you might need?

16 MS. GREENAWAY: Just about one to two weeks.

17 BZA CHAIR HILL: Okay.

18 MS. GREENAWAY: So, I don't -- can I just make a
19 statement?

20 BZA CHAIR HILL: Sure, of course.

21 MS. GREENAWAY: We, my husband and I, we've been
22 so appreciative of the applicant working with us and we don't
23 want to delay this anymore.

24 The reason for postponement is because we are in
25 opposition of, you know, I'm coming as a party status in

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1 opposition and we just learned yesterday in talking with our
2 lawyer and our architect, that even though -- so because
3 we're as an opposition of party status, even if the Board,
4 you know, granted the applicant what they desire, that is
5 still going to take them longer to get through the process.

6 So, our goal here is to remove our opposition.
7 And, so all we were asking for is another one to two weeks,
8 that we're hoping to come to a compromise and, and then we
9 can remove our opposition and not have to come to the Board
10 again.

11 BZA CHAIR HILL: Okay, great.

12 So, that being the case, Mr. Moy, what are our,
13 what's our docket look like next week and the week
14 thereafter?

15 SECRETARY MOY: Next week is a heavy docket, sir.
16 But and we have an appeal on the 9th of October. October
17 16th is quite a few but, well we have an appeal on that day
18 as well.

19 BZA CHAIR HILL: By the way, give me, give me a
20 second because I'm just getting so excited by all of the
21 appeals you're speaking of.

22 (Laughter.)

23 BZA CHAIR HILL: So, there's an appeal on, you
24 said there's an appeal on the 2nd?

25 SECRETARY MOY: On the 2nd we have, we have --

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1 BZA CHAIR HILL: You're just saying it's a heavy
2 docket?

3 SECRETARY MOY: Five, six, seven, eight. I think
4 probably six cases on the 2nd.

5 BZA CHAIR HILL: Okay.

6 SECRETARY MOY: So, that's, that's well, just sec.
7 Actually, 10 cases on the 2nd of October. On the 9th we have
8 an appeal. On the 16th we have an appeal, and then on the
9 23rd we're good with a lot of cases, about 10 but, I mean
10 it's --

11 BZA CHAIR HILL: Didn't you want to stay another
12 month, Ms. White? I think you're missing out on so many, so
13 many good days here.

14 (Laughter.)

15 BZA CHAIR HILL: Why don't we ahead and just put
16 it on the second, I guess, right? I don't know, I mean.

17 SECRETARY MOY: We can do that, sir

18 BZA CHAIR HILL: It's just another case and then
19 we've already kind of reviewed it and so that means next
20 week. Hold on one second. All right, Mr. duPont again?

21 MR. duPONT: I'll be out of town until the evening
22 of the 7th.

23 BZA CHAIR HILL: Okay. So, then and this is I'm
24 sorry, Mr. Meyers. I mean I don't know what we may need from
25 Mr. duPont or not, so you might be able to come on your own,

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1 I don't know. But, that means the 23rd, Mr. Moy, is that
2 when we no longer have an appeal?

3 SECRETARY MOY: That's correct, sir.

4 BZA CHAIR HILL: So, you're either going to get
5 the 2nd without your architect, or the 23rd with your
6 architect. And, you can take a minute.

7 MR. MEYER: I would prefer the 2nd if that could
8 be worked.

9 BZA CHAIR HILL: Okay, great.

10 So, Mr. Moy, you want to go ahead and put us back
11 on for the 2nd?

12 SECRETARY MOY: Done.

13 BZA CHAIR HILL: And, Mr. Meyers, Ms. Greenaway's
14 correct that if you are able to somehow figure out a way to
15 work around the opposition, it can get you, it can get you
16 working. It can get you moving sooner rather than later.
17 Okay?

18 All right. So, does anybody have any questions?

19 MR. RITTING: Can I make a suggestion over here?

20 BZA CHAIR HILL: Sure, of course.

21 MR. RITTING: One more housekeeping matter.

22 BZA CHAIR HILL: Sure.

23 MR. RITTING: There's a pending motion to waive
24 the deadline for the affidavit of posting. It would be nice
25 to tidy that up now before the, you continue the hearing.

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1 BZA CHAIR HILL: Okay. Mr. Meyers, why was the
2 posting, why is the affidavit of posting late?

3 MR. duPONT: Because I screwed it up.

4 BZA CHAIR HILL: Okay.

5 (Laughter.)

6 BZA CHAIR HILL: That's a good enough reason, I
7 suppose.

8 Let's see. Since the ANC is here and the ANC has
9 gone through the ANC and you have your next door neighbor
10 here, I believe that the probably the, the notice has been,
11 you know, everyone seems to be aware of this meeting.

12 So, I go ahead and approve the waiver unless the
13 Board has any opposition?

14 (No audible response.)

15 BZA CHAIR HILL: Okay, all right. Mr. -- okay,
16 anyway, so we've waived the, we've waived it.

17 MR. duPONT: May I ask a question?

18 BZA CHAIR HILL: Sure.

19 MR. duPONT: The signs stay up until after the 2nd
20 then?

21 BZA CHAIR HILL: No, I guess not.

22 MR. duPONT: We take them down?

23 BZA CHAIR HILL: You can take them down. To be
24 quite honest, sometimes I forget.

25 MR. duPONT: That would eliminate the, that would

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1 eliminate the posting problem.

2 (Laughter.)

3 BZA CHAIR HILL: Just leave them up. Actually,
4 just leave them up.

5 MR. duPONT: Okay.

6 BZA CHAIR HILL: You might as well. You know,
7 they're pretty.

8 (Laughter.)

9 BZA CHAIR HILL: Okay, all right.

10 MR. duPONT: Thank you.

11 BZA CHAIR HILL: So, anybody else --

12 VICE CHAIRPERSON HART: Just one question.
13 Because we have documents that the applicant submitted within
14 that 21 days period, do we have to have a waiver for that as
15 well?

16 MR. RITTING: Well, you routinely reopen, or allow
17 documents in late. but if you want to be technical about it,
18 you, you can, you can.

19 VICE CHAIRPERSON HART: I just didn't know if we
20 needed to do anything. If we don't need to do anything with
21 it, we don't have to. I just was --

22 MR. RITTING: I don't think you do, no.

23 VICE CHAIRPERSON HART: Okay, thanks.

24 BZA CHAIR HILL: Okay, it's your turn, Mr. Moy.

25 SECRETARY MOY: Just for my --

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1 BZA CHAIR HILL: Sure.

2 SECRETARY MOY: -- my own edification. Do you
3 want to set a deadline for any filings or you just want to
4 let that, let that go? Because it's --

5 (Simultaneous speaking.)

6 BZA CHAIR HILL: Well, I guess yes --

7 SECRETARY MOY: -- the hearing's next Wednesday.

8 BZA CHAIR HILL: Yes, I mean then when would we
9 set the deadline? Like Thursday, I mean Thursday, Friday?
10 Monday?

11 SECRETARY MOY: Friday or Monday. It depends on
12 --

13 BZA CHAIR HILL: I mean the only -- we're --

14 SECRETARY MOY: -- how much time you need to
15 review.

16 BZA CHAIR HILL: -- we're just giving time for the
17 party status person to kind of digest the information. And,
18 so I suppose we can leave the record open until Monday. If
19 there's any further things that the person in party status
20 or the applicant would like to submit, or the ANC.

21 But also, Ms. Greenaway, I mean, all the way up
22 to, you know, Tuesday, if you determine that you think that
23 you're comfortable with the, the proposal, then you can
24 withdraw your party status at any time.

25 I think so, right, OAG? You can even just by

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1 withdrawing party status you can do that at any time?

2 MR. RITTING: Sure, and, and she could even appear
3 at the hearing and withdraw it.

4 BZA CHAIR HILL: Right. I mean if you're going
5 to withdraw I wouldn't suggest you do that, but.

6 MS. GREENAWAY: So I don't have to come, right?

7 BZA CHAIR HILL: Yes, you don't have to come.
8 But, if you, so, so you can withdraw up to any point. And
9 again, if you do determine to withdraw, we would need
10 something in the record that states that.

11 Okay. All right, is anyone else?

12 (No audible response.)

13 BZA CHAIR HILL: Okay, great. Well, you guys have
14 a good day.

15 MR. MEYER: Thank you.

16 BZA CHAIR HILL: Thank you.

17 MR. MEYER: You're welcome.

18 (Pause.)

19 BZA CHAIR HILL: All right, Mr. Moy. Whenever you
20 want to call our next case.

21 SECRETARY MOY: Thank you, Mr. Chairman.

22 So, that would be case application number 20077,
23 a Richard J. Hamilton, III, captioned and advertised for
24 special exception under subtitle E, section 5201, for the lot
25 occupancy requirements, subtitle E, section 304.1 to

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1 construct a three-story rear addition to an existent
2 principal dwelling unit, RF-1 zone.

3 This is at 1831 Ontario Place N.W., Square 2584,
4 Lot 825.

5 This was last addressed, heard by the Board on
6 July 31st and the Board continued it to today, September
7 25th. The merits of the case have not been heard by the
8 Board yet.

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

10 If you could please introduce yourselves for the
11 record from my right to left.

12 MS. PERRY: Amanda Perry, ANC 1C.

13 MR. HAMILTON: R.J. Hamilton, owner of 1831
14 Ontario Place.

15 MS. HAMILTON: Julie Hamilton, 1831 Ontario Place.

16 BZA CHAIR HILL: Okay, great.

17 Well, Commissioner, welcome. We have
18 commissioners for days in here today, apparently.

19 (Laughter.)

20 BZA CHAIR HILL: And, let's see. So, if -- let
21 me think. Where am I going? So, yes, there was nobody
22 requesting party status.

23 Commissioner Perry, if won't mind just turning off
24 your microphone unless you're speaking because I, I get
25 feedback up here. I'm sorry.

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1 MS. PERRY: Sorry.

2 BZA CHAIR HILL: All right, so Mrs. Hamilton, Mr.
3 Hamilton, who's going to be presenting?

4 MR. HAMILTON: I will.

5 BZA CHAIR HILL: Okay. Well, welcome back. Ms.
6 Hamilton, you know, it's going to be fine. One way or the
7 other, it's going to be fine. Okay, like, you know, I
8 remember you last time. Like, what are you going to do?
9 Right?

10 So, okay. Mr. Hamilton, if you want to go ahead
11 and kind of walk us through your presentation. Kind of let
12 us know, you know, what you're planning on doing, or what
13 you're trying to do, and how you believe you meet the
14 criteria or the standard for us to grant the relief
15 requested.

16 I'm going to put 15 minutes on the clock just so
17 I know where we are. And, you can begin whenever you like.

18 MR. HAMILTON: Okay, thank you very much.

19 BZA CHAIR HILL: Could you just point that
20 microphone a little bit closer to you?

21 MR. HAMILTON: Sure.

22 BZA CHAIR HILL: All right, thank you.

23 MR. HAMILTON: Like I said, and I apologize I'm
24 going to read a little bit. I want to make sure I get all
25 my points out.

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1 But, I'm R.J. Hamilton and my wife, Julie. We own
2 1831 Ontario Place N.W. We're seeking a special exception
3 approval by the Board to permit lot occupancy of 62.71
4 percent in a 60 percent zone, and also relief from the, the
5 so-called 10 foot rule for row houses, that's E 204 -- 205.4.

6 Exhibit 37 of the record has a copy of a plat, and
7 we provided this last time to the Board, that shows the built
8 condition of 1831 Ontario Place, and the immediately adjacent
9 properties. And, we shaded on that exhibit the portion of
10 the property that relates to approximately 2.71 percent just
11 so that the Board can -- has that available and can see that.

12 The relief from the 10 foot rule actually relates
13 to a smaller portion of that area within the already shaded
14 area.

15 And, then we also --

16 BZA CHAIR HILL: Mr. Hamilton --

17 MR. HAMILTON: Yes?

18 BZA CHAIR HILL: -- which exhibit number again are
19 you talking about?

20 MR. HAMILTON: That was --

21 BZA CHAIR HILL: I'm sorry.

22 MR. HAMILTON: -- it was part of exhibit 37. We
23 provided it to the Board. It was one of the supplemental
24 materials we provided to the Board.

25 BZA CHAIR HILL: No, I got it. I just want to

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1 make sure I'm on the same page with you.

2 MR. HAMILTON: Yes.

3 BZA CHAIR HILL: Okay, please continue.

4 MR. HAMILTON: Okay. So, we also today provided
5 a sequence of events and, it was slightly revised from the
6 sequence of events that we provided at September 11 just to
7 give a little bit more information about the 10 foot rule
8 and, and how that works.

9 And, so as you'll see in September 2017 we hired
10 a designer to design our new addition. We live in a zoning
11 district that permits 60 percent occupancy and, with the
12 possibility to build to 62 percent if the zoning
13 administrator were to grant minor flexibility.

14 We requested and we were granted the right to
15 build to build to 62 percent of our lot, and those plans and
16 the zoning administrator's approval, are, are in the record
17 at exhibit 5A13, was incorporated into the plans.

18 So, the plans that we prepared and that were
19 reviewed by DCRA and approved, they were approved on the
20 basis of 62 lot occupancy and the building permit was issued
21 on that basis.

22 So, during construction we completed the wall
23 check survey before we enclosed the new addition. And, at
24 the time, it was, the survey showed that there was no
25 encroachment onto adjoining properties, but the Office of

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1 Zoning did flag a potential problem with the 10 foot rule and
2 requested that we perform a new survey because the wall check
3 survey didn't have a clear depiction of the properties on
4 either side.

5 Both properties had recent additions, additions
6 constructed and there were no accurate plats of record. So,
7 we had to survey all three properties.

8 When the new survey was completed, it showed that
9 our lot occupancy was 2.71 percent beyond 60 percent,
10 basically, .71 percent, and the Office of Zoning, they also
11 identified a potential violation of the 10 foot rule.

12 By that time, the home was finished, we'd passed
13 final inspection but for the placement of a wall oven, and
14 we had moved back into, into our house.

15 So, when we began the BZA process, we received a
16 referral memo from the Office of Zoning but it only included
17 the lot occupancy issue. So, as, so we asked about it and
18 Robert Reid, with the Office of Zoning went back to the
19 zoning administrator to confirm that the referral memo was
20 in fact, accurate.

21 And, as a result of that, we got a written
22 determination that there was in fact, no violation of E 205.4
23 and we provided that last time around and that's also, that
24 email exchange is also contained at exhibit 37.

25 So, based on what's happened, there appears to be

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1 some confusion, at least within the Office of Zoning about
2 how the 10 foot rule works. And, I can tell you that I am
3 even not sure how it's, how it's supposed to work at this
4 point.

5 But nevertheless, we think that with respect to
6 both the lot occupancy issue and the violation of the 10 foot
7 rule, we think our application meets the standard.

8 We have to satisfy, have to show that there's no
9 substantially adverse effect on the use or enjoyment of an
10 adjacent dwelling. We think that our application does that.
11 The light and air of the neighboring properties is not unduly
12 affected.

13 We have five-story apartment buildings on the
14 north side of the alley immediately across the alley from,
15 from our homes, and many of the other properties on the block
16 have large garages that extend all the way out to the alley,
17 or there have been additions, or there have been other
18 conversions into multi-family buildings that both pop back
19 and push up. And, we included a series of photos, that's
20 exhibit 6, and also exhibit 27A of the record.

21 We think that our application shows that the
22 privacy of neighboring properties was not going to be
23 affected since our addition does not have walls on the, or
24 I'm sorry, windows on the, on the side of the walls and the
25 only windows are in the rear. That's -- you can see that

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1 from the plans and also from the photos.

2 Our application also shows that the addition does
3 not visually intrude on the street frontage. We made no
4 modification whatsoever to the street frontage of the home.
5 We didn't pop up and we have a photo of the current street
6 frontage in exhibit 5.

7 We note, just I think for the record, that the
8 Office of Planning initially issued a report recommending
9 approval of the special exception for 62.71 percent lot
10 occupancy. Then, when the Office of Planning was asked to
11 consider relief in light of the 10 foot rule, they reached
12 the same conclusion and the supplemental report is, is in the
13 record.

14 As well, the ANC issued its resolution and
15 Commissioner Perry is here and can speak to that. But, they
16 did request that the BZA formally consider the 10 foot rule,
17 which is happening, and otherwise, the ANC took no official
18 position, but they did resolve to oppose an outcome that we
19 require demolishing any portion of the improvements.

20 We can say --

21 BZA CHAIR HILL: I'm sorry, repeat that last part
22 again?

23 MR. HAMILTON: The ANC resolved that they would
24 oppose an outcome that would require demolishing a portion
25 of the addition.

1 They took no official -- it was the two
2 resolutions. No official position but in opposition to an
3 outcome that would result in demolition.

4 Ultimately, we recognize that an addition is bound
5 to have some effect on neighboring properties and we know
6 that our neighbor at 1833 Ontario Place has expressed
7 reservations about the addition.

8 And, in order to resolve the concerns, the ANC
9 facilitated a meeting among two commissioners, including
10 Commissioner Perry, my wife, me and, also our neighbor. And,
11 the goal was to figure out a way and have a conversation
12 about a way to mitigate the, the effects, the negative
13 effects on the neighbor's property because of the addition.

14 We met in person and then we had subsequent email
15 communication and as part of that, we offered, you know, to
16 pay for landscaping in the rear that would ameliorate the
17 effect, the visual effect of the addition, and, you know, try
18 to get some more light into the property. Right now there's,
19 there are a lot of, there's a tree or two, maybe two trees
20 in the, in the rear of the property. But that offer wasn't,
21 wasn't accepted.

22 We should note that, you know, at this same time
23 we met with many neighbors on our block. We had signatures,
24 we had a letter that and obtained 15 signatures of neighbors
25 in support.

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1 At the ANC meeting we had two neighbors who came
2 out and spoke in support of the project and then once the
3 referral memo was modified after, after the last meeting, we
4 returned to our neighbors on the block and we, in the short
5 time we had, we were able to get signatures of 14 neighbors
6 in support. And, that updated letter is now in the record
7 at exhibit 43.

8 So, with that, we request the Board's approval of
9 our application and we're happy to ask any -- answer any
10 questions.

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

12 Is the Board, does the Board have any questions
13 for the applicant?

14 VICE CHAIRPERSON HART: If you could, there is a
15 letter in opposition from Bryce Jacobs and Matthew Mayors?

16 MR. HAMILTON: Yes.

17 VICE CHAIRPERSON HART: Have you, have you spoken
18 with them?

19 MR. HAMILTON: They are our immediately adjacent
20 neighbor. I believe she's here and will, will say something.

21 VICE CHAIRPERSON HART: All right.

22 MR. HAMILTON: She is here, yes.

23 BZA CHAIR HILL: Okay, Ms. Commissioner Perry.
24 So, I mean you know a little bit about what we do here, so
25 you're a party so you can either ask questions of the

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1 applicant or just go ahead and present some testimony, and
2 we can ask questions of you. Whichever you'd like to do and
3 I'll put the same amount of time on the clock, which is 15
4 minutes, and you can begin whenever you like.

5 MS. PERRY: Okay, thank you. I don't anticipate
6 needing anywhere near 15 minutes.

7 I believe you all have seen the ANC's resolution
8 and R.J. spoke to it as well and I think fairly well summed
9 it up.

10 Our biggest concern originally was that the, there
11 was no special exception relief being required for the 10
12 foot violation. So, we were very happy to see that that was
13 later requested and that certainly helps clarify the process
14 for us.

15 It doesn't really change the ANC's position, which
16 is kind of taking no position. We're really kind of
17 frustrated with this entire project just in terms of the
18 amount of time it's taken, and the fact it just shouldn't
19 have happened. I mean we're now in a situation where the
20 neighbor is unhappy.

21 You know, we didn't deal with this on the front
22 end. Obviously, you know, the Hamiltons are now living in
23 their home with their children and, the ANC didn't want to
24 take a position that would subject them to deconstructing the
25 addition.

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1 But, you know, we did want to express our
2 disappointment with how this happened. Obviously, we don't
3 know kind of where and how all of these kind of errors that
4 led to this situation occurred. But, you know, in the
5 absence of any evidence that the Hamiltons, you know, kind
6 of knew or caused this, there, we really don't feel like we
7 want to be kind of taking a punitive stance towards them.

8 So, really, I'm just here to, to answer any
9 questions that you have about the ANC's resolution, or any
10 other position that you would be interested in knowing our,
11 our take on.

12 BZA CHAIR HILL: Okay, great. Ms. White?

13 MEMBER WHITE: So, I understand you're not taking
14 a position, but in, with the current relief that's being
15 requested and the current state of the project today, does
16 the ANC have any particular problems that are connected to
17 the special exception relief that, that they're requesting?

18 You know, privacy concerns, light and air
19 concerns? You know, not, you know, not being in character
20 with, with the neighborhood?

21 I'm just trying to drill down just a little bit
22 deeper even though I understand that you're not taking a for
23 or against stance on, on the application.

24 MS. PERRY: So, when the ANC considered it, we
25 were only considering it in light of the lot occupancy issue

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1 and didn't obviously get into the requirements for the 10
2 foot rule.

3 We are, are certainly sympathetic to the
4 neighbor's situation, who you'll hear from. You know, this
5 is obviously an encroachment on her enjoyment of her property
6 and I don't, I don't want to speak for her but, it is our
7 understanding that she had also previously done an addition
8 and it's obviously a bitter pill to swallow when you kind of
9 follow the rules and then the person next to you deliberately
10 or not, you know, gets the benefit of kind of not being
11 within the rules and you kind of have to go out and face that
12 every day.

13 It's a lot more than just the inches or feet that,
14 you know, you're looking at. Sort of just a daily reminder.

15 I don't know that that actually really answered
16 your question, but, you know, I think all of those were
17 concerns that were sort of batted around the by the ANC.
18 Like, this just really sucks for the neighbor. You know,
19 just for her, her enjoyment of her backyard.

20 So, we're, we hate to be in this, in this
21 situation. And, some of it is honestly just a lack of sort
22 of knowing what you all do in these situations, and not
23 wanting to take a position of supporting or opposing this
24 relief request when, you know, if we were to oppose it, you
25 know, what would they be subjected to? I mean it's

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1 impossible to say how we might have voted on this if this had
2 all been done on the front end.

3 MEMBER WHITE: Okay, thanks.

4 So, you're just going to -- I appreciate the, the
5 response, but so for this, for purposes of this application,
6 there's nothing specific to give great weight to in terms of
7 for or against?

8 MS. PERRY: I mean, yes. I think that the, what
9 we wanted the great weight given to, I mean kind of the ANC's
10 strongest position in here was that the 10, 10 foot rule
11 needed to be factored in. And, it has, so, you know, they've
12 been asked.

13 ZC CHAIR HOOD: Mr. Chairman, but Commissioner --
14 the way I understand everything from this discussion, you
15 stopped short. You didn't take a position, which I
16 understand, but you stopped short of anything being done to
17 what's already there. That's kind of where you stopped.

18 So, kind of you did take a position but you didn't
19 take a position, if that sounds right. That's the way it's
20 coming across to me.

21 MS. PERRY: Yes.

22 ZC CHAIR HOOD: No, don't, don't answer that.
23 Don't answer that.

24 MS. PERRY: Okay.

25 ZC CHAIR HOOD: I'm going to help you.

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1 MS. PERRY: Okay.

2 ZC CHAIR HOOD: Don't answer that. Okay.

3 But, but you stopped short right there of not
4 doing demolition or taking anything down. You stopped right
5 there?

6 MS. PERRY: Can I answer that one?

7 ZC CHAIR HOOD: Yes, yes.

8 MS. PERRY: Yes.

9 ZC CHAIR HOOD: Okay, all right, that's' all.

10 MS. PERRY: Yes, I mean we're not opposed to you
11 all imposing some sort of conditions that you think are
12 appropriate. We're not opposed to frankly, letting you doing
13 whatever it is you want to do. We just wanted to be clear
14 that the ANC was not endorsing --

15 ZC CHAIR HOOD: Right.

16 MS. PERRY: -- them having to take down the back
17 of the house.

18 ZC CHAIR HOOD: And, somebody who had a lot to do
19 with that rule, I appreciate that. Thank you.

20 Now let me just ask this, Mr. Chairman, if I'm in
21 order. I may be out of order but I'm going to ask it just
22 how it is and I don't mean any disrespect.

23 Is it go ahead and do it and ask for forgiveness?
24 That's not the case though, is it?

25 MR. HAMILTON: That wasn't the case, no.

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1 ZC CHAIR HOOD: Okay. All right, thank you Mr.
2 Chairman.

3 VICE CHAIRPERSON HART: Just a question for the
4 applicant.

5 If you, and I was, had looked through the, the
6 images I and I can't find it now, the one image that shows
7 where the, the issue about the 10 foot 12 foot.

8 Well, what's the, what's the document that you
9 provided to us that --

10 MR. HAMILTON: Oh, it was part of I think it's
11 exhibit 37. It was the materials that I provided at the
12 beginning of the, at the beginning of the hearing last time.

13 There should be an exhibit that shows a shaded
14 portion at the rear of the, of the addition that, that
15 indicates about 2.71 percent of the building and what that
16 would look like.

17 VICE CHAIRPERSON HART: Well, I was looking at
18 what the, where the actual the measurements that we were
19 talking about were. Because there was an issue about is this
20 10 feet and someone measured it incorrectly and said oh, it's
21 actually you know, longer than that.

22 So, I'm trying to find out. I thought I had seen
23 it in here and I can't recall where that is.

24 MR. HAMILTON: A copy of the final plat that has
25 all of the measurements on it should also be in, in exhibit

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1 37 on one of those pages. It's included as part of the
2 zoning administrator's decision, or at least written
3 determination on the 10 foot rule. It might, it may be page
4 3 of that exhibit.

5 MEMBER JOHN: Page 7. Page 7, I think.

6 MR. HAMILTON: Page 7, Thank you.

7 VICE CHAIRPERSON HART: Okay. Yes, I don't have
8 any further questions.

9 BZA CHAIR HILL: Okay, yes. Mr. Hood, if it was
10 like build and ask for forgiveness, I'd build more than eight
11 inches.

12 ZC CHAIR HOOD: I just asked a question.

13 BZA CHAIR HILL: Okay.

14 (Laughter.)

15 BZA CHAIR HILL: All right, could I -- no, do we
16 have any questions, any further questions for the
17 commissioner?

18 (No audible response.)

19 BZA CHAIR HILL: Okay, going to turn to the Office
20 of Planning.

21 MS. MYERS: For the record, Crystal Myers with the
22 Office of Planning.

23 The Office of Planning is recommending approval
24 of this case at both special exception reliefs and stands on
25 the record of the staff report.

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1 BZA CHAIR HILL: Okay, does anybody have any
2 questions for the Office of Planning?

3 VICE CHAIRPERSON HART: If you could go into the,
4 the actual relief and how you, how the Office of Planning
5 sees it?

6 MS. MYERS: Sure. So, in both cases we looked at
7 the light and the air, and the impacts to both neighbors and
8 the surrounding neighborhood, and we did not see an unduly
9 impact. And, by that I mean not to say that there isn't some
10 level of impact or some, there perhaps is some level of
11 impact, but the, the criteria is that it be undue. And, we
12 did not feel that the additional two feet was to a point of
13 making an undue impact.

14 We also looked at privacy concerns. There are no
15 windows on either side, so we did not feel that it was a
16 undue privacy impact to the neighbors.

17 The design of the addition is pretty standard
18 residential design, which is compatible with the surrounding
19 neighborhood on the visual character on the alley. And, you
20 can't see it from the front. So, on the street it has no
21 impact.

22 And, another thing I would point out is there is
23 a lot of additions, rear additions on this alley. Some
24 actually larger. So, it's actually from appearance's sake,
25 not out of character for the area. It's a marginal increase

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1 from what you can do as a matter of right. But it was a
2 pretty modest size rear addition.

3 So, Office of Planning did not feel that this was
4 at a level of, of being at a significant impact on the alley
5 and we didn't feel like it was an undue impact on the
6 surrounding neighborhoods.

7 VICE CHAIRPERSON HART: And, if you could for a
8 few words on how you think the, one of the letters that we,
9 well, the, the letter that we received that was opposing this
10 was also stating something about kind of views, you know,
11 from their property being affected by this extension on the
12 back of -- how do, how do you all look at how people's views
13 are impacted by that?

14 MS. MYERS: Views in the sense of when they look
15 out of their --

16 VICE CHAIRPERSON HART: Yes.

17 MS. MYERS: -- properties and they see the rear
18 addition?

19 VICE CHAIRPERSON HART: Yes.

20 MS. MYERS: It's a standard residential design
21 addition. And, as I was mentioning earlier, it's not out of
22 character for the neighborhood. Actually, there's some
23 pretty more substantial ones just a couple of doors down.

24 So, when you live on an alley, or when you, when
25 your property is on an alley and you look at the rear, I

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1 think there's a certain expectation that there perhaps may
2 be additions in the future on your neighbors' properties.
3 And, as long as those additions are designed in a way that
4 is compatible with the others, you know, Office of Planning's
5 point of view is that visually, it would not be out of
6 character from, from what, you know, is in the neighborhood.

7 Now, I do understand that there is a lot of
8 concern or that one of the major issues is the fact that this
9 has already been built, and I'd like to be clear that Office
10 of Planning also prefers to look at projects before they are
11 built, and prefers to have a chance to review the relief
12 before it's actually been done.

13 But we understand that this is a situation that's
14 being corrected now and reviewing it and, you know, what
15 we're seeing now. But even if we were to have seen it in the
16 earlier stages, this, this is something that we are
17 comfortable supporting because it is a, a rear addition that
18 only needs a modest, or a pretty minor matter of relief.

19 So again, we recommend approval.

20 VICE CHAIRPERSON HART: Thank you.

21 BZA CHAIR HILL: So Ms. Myers, the question I have
22 and this is what I kind of get sometimes confused about in
23 terms of the zoning administrator. So, they, they can the
24 2 percent again, is the two feet relief that is being allowed
25 past the 10 feet, is that correct?

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1 MS. MYERS: Well, there's lot occupancy relief and
2 there's the 10 foot rule relief.

3 BZA CHAIR HILL: Uh-huh.

4 MS. MYERS: I think in this case with the lot
5 occupancy, that's where they went over --

6 BZA CHAIR HILL: Oh, that's the 2 percent.

7 MS. MYERS: -- the 60 percent so they went to
8 62.71.

9 BZA CHAIR HILL: Right.

10 MS. MYERS: And then there, like you said, there
11 was the rear extension relief and that was going from -- to
12 12.15 feet. So 10 feet is what you're allowed to do. 12.15
13 is over.

14 So, the lot occupancy could have gone up other
15 ways, but what they did was they went, they increased the lot
16 occupancy but they also extended further back. That's there.

17 BZA CHAIR HILL: Can you clarify for me again?
18 How much further back did they go past the 10 feet?

19 MS. MYERS: 2.15 feet.

20 BZA CHAIR HILL: All right, two feet fifteen
21 inches?

22 MS. MYERS: Yes.

23 BZA CHAIR HILL: Okay.

24 MS. MYERS: Yes. Two feet fifteen inches.

25 BZA CHAIR HILL: Right, okay.

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1 MS. MYERS: Or no, I'm sorry. Not two feet
2 fifteen. It's two feet -- 2.15.

3 BZA CHAIR HILL: Okay, all right.

4 Okay, does anybody have any more questions for the
5 Office of Planning?

6 (No audible response.)

7 BZA CHAIR HILL: Does the applicant have any
8 questions for the Office of Planning?

9 MR. HAMILTON: No, thank you.

10 BZA CHAIR HILL: Does the ANC have any questions
11 for the Office of Planning?

12 MS. PERRY: No, Thank you.

13 BZA CHAIR HILL: Okay.

14 Is there anyone here wishing to speak in support?

15 (No audible response.)

16 BZA CHAIR HILL: Is there anyone here wishing to
17 speak in opposition?

18 MS. JACOBS: Yes.

19 BZA CHAIR HILL: Will you please come forward?

20 Did you get sworn in earlier?

21 MS. JACOBS: Yes.

22 BZA CHAIR HILL: Okay.

23 If you could please state your name for the
24 record, please.

25 MS. JACOBS: Bryce Jacobs.

1 BZA CHAIR HILL: Okay.

2 Okay, Ms. Jacobs, I think right, you were here the
3 last time, I think. And, so as you know, you'll have three
4 minutes to give your presentation, or I'm sorry, your
5 testimony to the Board as part of the public.

6 There are clocks on either side and you can begin
7 whenever you like.

8 MS. JACOBS: I have some photos and --

9 BZA CHAIR HILL: Sure, you can go ahead bring that
10 up to the Secretary there and he can, he can pass those out
11 then.

12 And, if you give a set to the applicant as well.

13 MS. JACOBS: They're collated. It's just two
14 documents.

15 BZA CHAIR HILL: Ok, Ms. Jacobs, go ahead.

16 MS. JACOBS: Thanks.

17 So, we did our own addition. We have no problem
18 with our neighbors getting the maximum enjoyment of their
19 home. We have --

20 BZA CHAIR HILL: Can I just stop you one second,
21 Ms. Jacobs? Once again, you're the immediate next door
22 neighbor, correct?

23 MS. JACOBS: I'm adjacent attached to them.

24 BZA CHAIR HILL: Yes, okay. Just, just go ahead
25 and give, you gave us some stuff. Go ahead and give your

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1 presentation. Don't worry about the clock for now. Just
2 I'll tell you when it gets a little bit longer than you
3 should be talking.

4 MS. JACOBS: Thanks. I'll try to be fast.

5 BZA CHAIR HILL: So go ahead, yes.

6 MS. JACOBS: So, we've lived next to them for
7 eight years. We did our own renovation prior to them doing
8 theirs. We had the adjacent property on the other side of
9 us become a two-flat unit. I was here in front of this Board
10 keeping them to task as well because I know that developers
11 are notorious for trying to skirt the rules.

12 And, so I spent money on a lawyer and an architect
13 to make sure that they complied with the rules and then when
14 I did my own renovation, complied with the rules as well.

15 I would only assume that my neighbors would have
16 done the same and they did not do that here. They told us
17 that they were going to do a by right renovation, and then
18 proceeded to not have any conversations with us until the
19 property was finished and they had this issue with being too
20 large.

21 When we worked with the developers on the property
22 next to us, we were in constant communication about anything
23 that could possibly affect our property and I trusted that
24 because R.J. and Julie were my neighbors, that they were
25 doing something by right, they were not going to go beyond

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1 that.

2 They did not disclose to me though I know they
3 don't have to, I still think it would be the neighborly thing
4 to do, that they were asking for minor relief to go bigger
5 than by right as it was.

6 And, then when I mentioned to them at one point
7 that I thought it looked very large, they asked if they --
8 if I would prefer white siding instead of dark siding and I
9 said yes, that would be great. And, then we had no further
10 communication about any of their plans.

11 I am glad that the zoning administrator went back
12 and revised his opinion on the 10 foot rule because now we
13 are, I think there is still some discrepancy on the inches,
14 but between two and three feet larger than any addition. So,
15 I'm glad that he said that we should actually be, you know,
16 complying with the rules that exist.

17 I do have some -- we have some issues with the
18 Office of Planning's report especially because again, like
19 we've all talked about that we're doing this after the fact.
20 No light studies were done, no shade studies were done. I
21 didn't -- nobody had, neighbors didn't have a chance to
22 comment on any plans.

23 The addition of R.J. and Julie's house is actually
24 much larger than any other addition on the street. The one
25 larger house is a new construction of a whole house, not an

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1 addition. Everybody else on the block has outdoor space,
2 which R.J. and Julie now took and made part of their house.

3 The first page of the pictures is the view of the
4 tree lined street that I had up Clydesdale, so if you look
5 right out of my porch, out of my deck, I would -- used to see
6 this beautiful tree lined street and now all I see is the
7 side of their building. Where other people do have decks,
8 you could still see the view.

9 So, I, I feel like this almost three feet was --
10 the rules were ignored through the entire process. They have
11 inconsistent plans with different measurements. Some of
12 their plans are not stamped and I do think Mr. Hood, that
13 this is a case of asking for forgiveness, not permission.
14 And, they were not forthcoming or honest and it is almost
15 three feet of an addition.

16 If they had not found these errors I would have
17 thought that, you know, all of their kitchen cabinets and
18 things that they had ordered to make their addition work
19 would have not fit if there was like two plus feet of an
20 additional kitchen that they didn't know that they were
21 having.

22 So, I, I really feel like rules and regulations
23 should be here to be enforced. I am not sure why we have
24 them if we don't enforce them. And, there are lots of
25 implications to my family and my home, and my property value

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1 that we don't feel like have been taken into consideration
2 in this case.

3 BZA CHAIR HILL: Okay, thank you, Ms. Jacobs.

4 Does the Board have any questions for the witness?

5 ZC CHAIR HOOD: Yes. Yes, Ms. Jacobs, I'm starting
6 to have flashbacks about that 10 foot rule but let me ask
7 you. So, you were having discussions at one point and then
8 they stopped? You stopped having, you all stopped
9 communicating?

10 MS. JACOBS: Well, discussions?

11 ZC CHAIR HOOD: With what they were, with what
12 they were doing and --

13 MS. JACOBS: Not through any of the process. They
14 came to us and said they were going to build a by right
15 addition. I said great, we just did our addition, and that
16 was the only discussion we had.

17 Throughout the building we hardly had any
18 discussions about it. There was one email exchange about the
19 color of the siding when I thought, you know, oh it looks
20 very big.

21 And, I did ask them to make sure that the dust did
22 not get into our house. I had a newborn at the time and it
23 was getting dusty, so they did by law remedy that.

24 But there were no other discussions throughout the
25 building of the property.

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1 ZC CHAIR HOOD: So, so let me ask you. What is
2 your recommendation?

3 MS. JACOBS: I would like to see them have to take
4 it down.

5 ZC CHAIR HOOD: Take it down and, and come into
6 compliance?

7 MS. JACOBS: Correct.

8 ZC CHAIR HOOD: Okay. All right, thank you, Mr.
9 Chair.

10 BZA CHAIR HILL: All right, anyone else for the
11 witness?

12 VICE CHAIRPERSON HART: Yes, I do. Thank you very
13 much for, for coming.

14 There's a project that is, there's a building that
15 is what is this, it's two houses away from you on the other
16 side. I'm not sure what that one is. There's a, there's a
17 large building that we see, but there's also like two down.

18 I'm only asking in some of the exhibits that the
19 applicant has provided, that one looks actually larger than
20 this one and I just don't know if that's, if that's, if
21 that's what you're talking about new construction?

22 MS. JACOBS: Correct.

23 VICE CHAIRPERSON HART: So, there are two
24 buildings that are, that are larger. One is very much
25 larger, that is I'm sorry I can't get to a, an exhibit to --

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1 well, exhibit, exhibit 6 actually are some photographs that
2 the applicant has provided.

3 And, that shows there, it shows a number of
4 photographs from the, that the applicant has. It shows the
5 front of the house, the first photograph, and then the next
6 ones show the rear of the house. In one of them it shows
7 their, their house. There is a house that's next to them and
8 I don't know -- I'm sorry, what is your address again?

9 MS. JACOBS: 1833.

10 VICE CHAIRPERSON HART: So, 1829 I guess, would
11 be, is on the other side. That does not have an, have an
12 addition, but 1827 would have the -- it's just two, two
13 houses down the other direction from you.

14 MS. JACOBS: Yes, so two houses --

15 VICE CHAIRPERSON HART: That one has, has an
16 addition?

17 MS. JACOBS: No, that's a new construction.

18 VICE CHAIRPERSON HART: And, then what's, what's
19 next to that? Because that's very large.

20 MS. JACOBS: So, the one that's adjacent to me
21 1835?

22 VICE CHAIRPERSON HART: Yes.

23 MS. JACOBS: So --

24 VICE CHAIRPERSON HART: No, no, I mean the
25 opposite.

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1 MS. JACOBS: 1831?

2 VICE CHAIRPERSON HART: Yes.

3 MS. JACOBS: So, 1831 is actually smaller than
4 R.J. and Julie's --

5 VICE CHAIRPERSON HART: That's correct.

6 MS. JACOBS: -- and only abuts five feet from my
7 rear wall.

8 VICE CHAIRPERSON HART: Okay.

9 MS. JACOBS: And, that is the Bogdan Builders
10 property that is a two-flat. The one that's adjacent to that
11 house is a new construction of a very large home that all of
12 us were quite surprised at when that was built on the, on the
13 block.

14 And, the real issue is that none of those houses
15 to that side of my house block anything. That was alley and
16 a street that curves and so there was no problem with light
17 or air, or view.

18 The issue is that from my house to R.J. and
19 Julie's, you could go, you would look and all of the houses
20 were smaller, they all had outdoor space and you could see
21 up the alley to a tree lined street.

22 And, so it's literally only our house and then the
23 Bogdan Builder house that are affected by R.J.'s property,
24 and they moved in in June and so never saw, they don't know
25 that it was any different before.

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1 VICE CHAIRPERSON HART: Okay.

2 MS. JACOBS: And, the properties adjacent and
3 three doors down from R.J. and Julie's house are all non-
4 owner occupant renters.

5 VICE CHAIRPERSON HART: And, you're saying that
6 the, you're looking from your house to the north, I guess?
7 The photograph that you provided --

8 MS. JACOBS: Correct.

9 VICE CHAIRPERSON HART: -- is looking --

10 MS. JACOBS: Correct.

11 VICE CHAIRPERSON HART: Okay. I was just trying
12 to get orientation on this and it's sometimes hard because
13 it's just hard.

14 MS. JACOBS: You're welcome to come and see it.

15 VICE CHAIRPERSON HART: Thank you.

16 And, you know, one of the things that I also heard
17 you say, or I guess in the, your, the information that you
18 provided here, the letter that you provided, you were talking
19 about the impact on the, on views and you'd, you'd heard the
20 response. The reason I ask that was because I wanted to
21 understand how they, how the Office of Planning looks at
22 that.

23 And, it is, that's somewhat of a, it's a hard
24 thing because you know, this is your house and, this is when
25 you are in your house and looking out you don't want to have,

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1 you know, when something has changed from that, then you, you
2 have a different reaction to it.

3 And, it is hard in some ways because the, the
4 zoning regs somewhat talk about it to, but they're not very
5 definitive in talking about it. They don't say okay if you
6 block somebody's view then you can't do that. It says you
7 know, what is that impact? Is it an undue impact or is it
8 an impact? You know, does it, does it affect something or
9 is it an undue impact?

10 And, I think that those are things that we have
11 to weigh and, and that's why I was trying to understand what
12 the Office of Planning is, is talking about it and I, I
13 wanted to understand you're asking that this two feet be,
14 that, that this actually be, that we deny this application
15 and that it be, it be removed.

16 Are you looking for that then to just go to the
17 10 feet, or are you looking for that to be all the way, all
18 the way removed? I'm not sure what your, what your end goal
19 is.

20 MS. JACOBS: No, to comply with the 10 foot push
21 back rule.

22 VICE CHAIRPERSON HART: And, you do understand
23 that, that the zoning regulations have two ways in which you
24 can, that folks, that applicants can come to, to us and ask
25 for a special exception, or they can come to ask for a

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1 variance. And you understand the difference between the two?

2 The difference between the two --

3 MS. JACOBS: I'm certainly no expert.

4 VICE CHAIRPERSON HART: No, no, it's fine.

5 And, the reason I bring it up is because the
6 difference between a special exception and a variance is that
7 the special exception is something that is actually somewhat
8 contemplated in the, and it's and there are criteria set up
9 within the zoning regulations that say if you meet these,
10 these criteria, then the Zoning Commission, the BZA should
11 be approving that, that application.

12 If you're looking for something that is outside
13 of that, so you're looking for something that is, you know,
14 that is not contemplated in the zoning regulations, you're
15 trying to vary from what the zoning regulations allow, then
16 that is a we call it a higher bar.

17 It is you have a much more of a, it's much more
18 of an onus to be able to, for us to be able to approve that.
19 And, there usually are very special cases where that is, is
20 comes up.

21 This case is a special exception. So that's what
22 they're, they're coming to us for. So, it's a different set
23 of criteria that we're, that we're using. And, so because
24 of that, it, we have to look at it to see whether or not we
25 believe that they have met that, those criteria that are set

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1 up in the zoning regs and then decide upon that. That's what
2 we, that's kind of what we have to deal with.

3 The variances is a little bit, as I said much more
4 difficult because there are things that are, you know, that
5 the applicant has to prove that they have, you know, that
6 there are some situations that make them have to do this
7 particular development and then, then we decide on that as
8 well.

9 I'm only giving you that background just to
10 understand kind of how we have to look at this. And so,
11 that's more of a statement than a, than a question.

12 MS. JACOBS: Thank you. I'm certainly no expert.
13 I've learned a lot from my two dealings with this, with the
14 property on both sides of me.

15 And, to your point about the view, I totally
16 understand that that's, you know, also a hard thing to think
17 to quantify.

18 When we did try to negotiate some sort of
19 agreement to make me a little happier, I did ask for a green
20 wall on the side of the house. That was not part, they did
21 not want to offer that so I tried to amend, you know, to
22 create a different kind of view and I also asked them to move
23 the air conditioner unit to the roof where everybody else's
24 is. That also was not as part of the agreement.

25 BZA CHAIR HILL: Okay. All right.

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1 Does anybody have any more questions for the
2 witness?

3 MEMBER WHITE: Just one.

4 BZA CHAIR HILL: Sure, please go ahead Ms. White.

5 MEMBER WHITE: Just one more question. I have to
6 get all my questions out because after today.

7 MS. JACOBS: Your last day.

8 MEMBER WHITE: Yes.

9 (Laughter.)

10 MEMBER WHITE: I don't know if you think that's
11 a good idea, but. But no, it's just a simple question.

12 So, with the rear addition it's 12 feet back,
13 right? So, if they were to do this by right, it would be 10
14 foot.

15 So, can you quantify, you know, the impact with
16 that extra two feet back in terms of how it relates to not
17 meeting the special exception criteria?

18 MS. JACOBS: Yes. It's hard to say. I've tried.
19 I've tried to measure it and I also think there's some
20 discrepancy again on the -- how many inches it really is
21 according to some measurements that I have it's 12 feet 8
22 inches, which is almost 3 feet.

23 But I've tried to take the tape measure and see,
24 you know, if it went back how, what I would be able to see.
25 It's very hard to tell. There is a chance that I would get

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1 some of our view back of the street. Being totally honest,
2 it's hard to tell.

3 MEMBER WHITE: Okay, thank you.

4 BZA CHAIR HILL: Okay, great. Anyone else?

5 MEMBER JOHN: So, based on that statement, you do
6 know that the regulations don't protect your view? They
7 protect light and air.

8 So, so the question is how much light and air
9 would you lose from two feet, which is approximately one and
10 a half times this here? And, and let me just I -- well, go
11 ahead and answer that question.

12 MS. JACOBS: Well, no sun studies were done. No
13 -- we don't know. I think that two feet actually makes a big
14 difference. When I had my landscaper come out he's like oh,
15 well now you have to change everything in your yard.

16 So, I, I do think it makes a difference though
17 again because they didn't go through this process before, we
18 don't have any evidence or studies that have showed, that can
19 show us.

20 MEMBER JOHN: And, is that big tree in your yard
21 as well?

22 MS. JACOBS: Yes.

23 MEMBER JOHN: Okay. Okay, that's it for now.
24 Thank you.

25 BZA CHAIR HILL: Okay, great.

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1 ZC CHAIR HOOD: So as I try to put all this
2 together now --

3 BZA CHAIR HILL: Okay.

4 ZC CHAIR HOOD: I'll be doing --

5 BZA CHAIR HILL: Ms. White, I'm sorry, your mic
6 is on, too.

7 ZC CHAIR HOOD: Oh, okay. I'll yield to Ms.
8 White. Okay.

9 BZA CHAIR HILL: No, no.

10 ZC CHAIR HOOD: Okay, all right as I try to put
11 all this together, I know the Supreme Court has told this
12 Board and the Zoning Commission many times you don't buy a
13 view. But I also hear what the opposition is saying about
14 following the law.

15 But then again I also know that, that the zoning
16 regulations do the special exception does have like nine or
17 ten, I can't remember how many things in it, says in there
18 if you meet that then not saying that we have to approve it,
19 but there are ways to, to be able to put that special
20 exception in place to be able to do what you're trying to
21 achieve.

22 So, I can really understand now how the ANC, and
23 that's where I'm going. I can understand how you all got to
24 where you're going. Because I'm hearing all these
25 conflicting views of how we got there and I'm really not sure

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1 if three, even if its three feet, how much of an impact three
2 feet would be. I'm really not sure. And, I'm also listening
3 to the what the, what the Supreme Court said about views.

4 So, I'm just letting you know what's going on in
5 my head. Maybe your discussion can help me rationalize some
6 of that because right now I can tell you I'm all over the
7 place.

8 All right, Thank you, Mr. Chairman.

9 I just wanted to talk -- no, there's no question.

10 BZA CHAIR HILL: Okay, I was --

11 (Simultaneous speaking.)

12 ZC CHAIR HOOD: I just wanted to put that on the
13 record --

14 BZA CHAIR HILL: All right, okay.

15 ZC CHAIR HOOD: -- and, talk it out loud.

16 BZA CHAIR HILL: Okay. All right, Ms. Jacobs,
17 thank you very much for your testimony.

18 Yes, please, thank you.

19 All right, does the ANC have anything they'd like
20 to add at the end?

21 MS. PERRY: No.

22 BZA CHAIR HILL: Okay. Does the applicant have
23 anything they'd like to add at the end?

24 MR. HAMILTON: I don't think so.

25 BZA CHAIR HILL: Okay, great. All right, so I'm

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1 going to go ahead and close the hearing.

2 Is the Board ready to deliberate?

3 (No audible response.)

4 BZA CHAIR HILL: Would someone like to start?

5 VICE CHAIRPERSON HART: Sure.

6 So, I, I think I, we had a similar case.

7 We had a case earlier today where there was a,
8 something that was already constructed and then we had to,
9 you know, look at that. There was relief that was needed
10 after the construction had already started.

11 And, at that case, I actually said that I have a,
12 I am definitely more hesitant about approving those cases
13 than I am where someone is seeking relief prior to the
14 construction actually occurring.

15 I, so that being said, I, I was very, I thought
16 it was very helpful that the applicant has provided us with
17 their quote-unquote sequence of events. I think this is
18 exhibit 37 I think that is.

19 And, why, the reason I say that it's helpful and
20 I think this is a little bit longer than what was submitted
21 to us, but regardless, it did help to set forth how we had
22 gotten to this point. And, it, it does help me understand
23 that a little bit better and that understanding is, is
24 helpful for, you know, this entire case for me.

25 I also understand that where the ANC is coming

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1 from so thank you very much for Ms. Perry, Commissioner Perry
2 who has left?

3 MS. JACOBS: She'll be right back.

4 VICE CHAIRPERSON HART: Okay, it's like I just
5 said something and now she's gone.

6 And, and also and I'm forgetting your name now --

7 MS. JACOBS: Bryce.

8 VICE CHAIRPERSON HART: -- Ms. Jacobs. I
9 appreciate your, the information that you have provided to
10 us and the testimony that you provided to us, because I think
11 we all, we have to take all of this into consideration.

12 So, having said all of that, if this project had
13 come to us as just a, a regular case in that it had not been
14 constructed and we were just looking at it, I would look at
15 it as how did they meet the criteria?

16 And, I would step through 5201.3 regarding, you
17 know, adding this, adding this, this, adding this addition
18 to the, to the back of their property and understand the
19 light and air impacts and whether or not that is unduly
20 affected the privacy and use of enjoyment of neighboring
21 properties should not be unduly compromised.

22 The addition of accessory structures as viewed
23 from the street, alley or the public way should not, should
24 not substantially visually intrude upon the character, scale
25 and pattern of the houses along the street frontage. Also

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1 understanding that the, the applicant has provided us with
2 diagrams and all that other stuff and understanding the
3 information about how much the lot occupancy is.

4 Taking all of that into account, I actually come
5 down and would be in support of this application but I am
6 troubled by the, the information that Ms. Jacobs provided
7 just because it's, it is one thing when you are, you know,
8 living next to someone and you're trying to do some, some
9 work and you're thinking that your, you know, that the
10 project is actually going to be going according to what the
11 zoning allows and then to find out that it actually does not.
12 So, that part of it I am troubled by.

13 The zoning aspects of it, I am actually I think
14 that the project meets, the, the applicant has provided
15 information for me to be able just to support it but I am
16 noting that there is this troubling aspect of it that I think
17 that they should be, that the applicant should have been more
18 forthcoming with the project in terms of the process so that
19 the next door neighbor would have been understanding what's,
20 what's happening and, I don't think that we would necessarily
21 have been at this point in the, in our, you know, that they'd
22 have to well, that we'd have, that we'd be at this point.

23 The one last thing that I, I'd just like to say
24 is, and I was trying to explain this in that I think if this
25 were a variance there may be some, I would have more of a,

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1 a hesitation about the, being in support of it. But, it is
2 special, a special exception and I do think they have met
3 those, the criteria that, that is set forth in the zoning
4 regs and I'd be, I'd like to listen to the rest of the, of
5 my fellow Board members to understand their perspectives on
6 this as well.

7 That's it.

8 MEMBER WHITE: I can add some comments and then
9 I guess others can fill in the gaps. I mean I'm, I'm also
10 troubled by the issue that you can build something that's not
11 compliant. And, I understand there were a lot of factors
12 involved and be able to come in and, and possibly file an
13 application for acceptance.

14 And, I understand, you know, the neighbor's
15 problem with it. And, I understand the dilemma with the,
16 that the ANC also has with this as well. But, especially
17 with respect to the whole idea of demolishing the
18 construction that was already built.

19 I kept asking questions specifically with respect
20 to the criteria tied to the special exception because if the
21 criteria weren't met, then I definitely would not be
22 supporting it.

23 And, I was trying to kind of quantify what that
24 additional two, three feet had on the neighbor's enjoyment
25 of her property, light and air. Not necessarily view because

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1 again, that's up for discussion whether or not your, your
2 views are actually protected.

3 But, I think that they met the criteria here.
4 And, I, I kept probing and I also listened to some of the
5 questions that you asked here. I think they met the lot
6 occupancy as well as the rear addition criteria here.

7 But, this is a very sensitive issue because you're
8 dealing with a neighbor that's not happy with the work
9 product and, and you guys see each other every day. So, you
10 know, I know that kind of probably leaves a bad taste in her
11 mouth.

12 But, I would propose that in the event my other
13 Board members decide to approve this, that you try to at
14 least offer up some conditions or some things that you're
15 willing to do to make her enjoyment of her yard a little bit
16 more enjoyable.

17 But at this point, I think they met the relief
18 requested especially with the comments from the Office of
19 Planning. I think that provided me with sufficient
20 information to be able to feel comfortable with, with moving
21 forward.

22 MEMBER JOHN: Okay, Mr. Chairman.

23 ZC CHAIR HOOD: I'm going last.

24 MEMBER JOHN: You're going last?

25 ZC CHAIR HOOD: I'm going last.

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1 MEMBER JOHN: So, these cases are always difficult
2 and, you know, you're basically pitting one neighbor against
3 the other. And, it's especially difficult here because the
4 addition is already built and, and to me there is no
5 indication that the owner acted in bad faith.

6 And, just looking at the sequence of events again,
7 there was a wall check that was done in September of 2018.
8 And, so seems to me at that point the discrepancy should have
9 been noted. And, so I don't believe there is any dispute
10 about that one.

11 And, so we're at the issue now where we have an
12 as built addition, which is 2.7 or something like that, feet
13 beyond the by right allowance of 10 feet. And, typically if
14 this case had come up before the addition was built, it's the
15 sort of thing that I would not have difficulty approving
16 because it's, it's not a large addition. The delta, the 2.7
17 feet is not really that significant as the Office of Planning
18 testified.

19 Now I did listen to the neighbor's concerns about
20 light and air. And, she herself said she could not quantify
21 the amount of the increase in, or the additional loss of
22 light and air from this two feet.

23 And, it seems to me a lot of her concerns were
24 about the view and a lot of the pictures in, and some of the
25 pictures in the record dealt with the loss of the view.

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1 And, I also note that the neighbor also wanted to
2 compromise through the addition of a green wall and changing
3 the color of the addition. Well, those things would not
4 change or, or reduce any impact on the light and air.

5 And, so I thought that OP did a, a good job
6 explaining why there was no, in OP's view, why there was no
7 undue impact. And, so I credit OP's analysis and give great
8 weight to that analysis, especially the part that discussed
9 the position of the windows and the, the other houses in the,
10 on that street that have large additions at the rear.

11 And, there is that huge apartment building and
12 then the flat and, and I, I empathize with the neighbor
13 because she's in between those additions. And so, even so,
14 I, I still cannot find that there is undue impact on light
15 and air and, I also credit the ANC's report that stated that
16 this, that there is impact and the regulations recognize that
17 there is impact, but the impact has to be undue and which is
18 close to unbearable, something drastic, not just some impact.

19 So, so based on those considerations, I think the
20 application meets the criteria for special exception as laid
21 out in the regulations and I can support it.

22 BZA CHAIR HILL: Okay. I'll let the Chairman go
23 last.

24 So, yes, I mean I agree. It's disappointing. I
25 mean I live, you know, I live in a dense part of the city,

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1 I hear my neighbors all the time, I hear people below me and
2 so, you know, there are things that happen that just drive
3 me nuts in my neighborhood. And, so I can understand how,
4 how something now being two feet a few inches past whatever
5 the 10 foot rule is, because basically we're talking about
6 the 10 foot rule, that could be a, a daily annoyance.

7 I think that, I also just from the, the time line
8 did not think that the applicant did this intentionally. I
9 also -- we're here all the time with things that happen after
10 the fact and we oftentimes, sometimes we do have people tear
11 it down, you know?

12 And I guess, you know, I was kind of being
13 somewhat flippant with Chairman Hood in that, you know, it's
14 not the eight inches I suppose, it's really the 2. whatever
15 15 thing it was that's beyond the 10 feet. I mean it's not
16 really so much the lot occupancy that I think the next door
17 neighbor has truly the objection with.

18 And, so but I still think that I mean we've had
19 things, you know, 12 feet, 18 feet I mean go way back past
20 the 10 foot rule when we're trying to determine undue impact.

21 And so, you know, I wouldn't do something two
22 feet, I was saying I wouldn't do something two feet a couple
23 inches and then have to rebuild the whole thing if that came
24 in after the fact and having to go through it.

25 So, going through what the Office of Planning

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1 analysis was again how it comes down to undue impact, because
2 this is something that is within the regulations as a special
3 exception, I mean I don't know what the ANC would have done
4 with this had it come I guess directly to them originally.

5 I still think the Office of Planning would have
6 the same recommendations because they don't actually look at
7 things in terms of whether its built or not, you know, they
8 look at it as whether or not it meets the standard.

9 And, so I would agree with the Office of Planning
10 in terms of the, you know, past the 10 feet, the 2.15 inches
11 is not, or 2.15 is not undue to the neighboring property.
12 But, I do appreciate and understand how it's, it's
13 troublesome for the, the neighbor to be confused as to what
14 they thought they were going to get and now they have
15 something else.

16 I do think for whatever it's worth, you know, the
17 applicant, you know, again, I don't think they tried to do
18 this. I think they tried to at least turn the wall into a
19 white wall from a brown wall and, you know, if there is
20 something that the applicant can do to help, you know, great.
21 If it's all now just hopefully water under the bridge, then
22 there you go.

23 But, I do think that I would agree with the Office
24 of Planning's recommendation, and actually even the ANC's
25 recommendation not to tear down what's there, even though

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1 they also had not had an opportunity to analyze this prior
2 to it being done.

3 So I'll be voting in support.

4 Chairman Hood?

5 ZC CHAIR HOOD: Well, you know these cases I've
6 seen many of them and, I always hate after the fact zoning.
7 But anyway, we are where we are. I can throw a whole lot of
8 other things into it about the 10 foot rule, the special
9 exception. I could put all that in there, but I think the
10 whether it's three feet, two and a half or whatever, whatever
11 that number is, to me I think it's de minimis.

12 But my biggest problem, and I had to think about
13 this. I had to throw everything else out and think about
14 what I have before me. I believe I agree with every last
15 thing that I've heard from my four Board members as far as
16 moving forward.

17 I don't think this rises to the level of me to
18 vote against it even though unfortunately, I know Ms. Jacobs
19 is the one who's going to endure this. And, always I'm
20 concerned about who's going to endure the decisions we make.

21 But, I think this is very de minimis and again,
22 I really hate after the fact. If I had to vote on after the
23 fact zoning, I would vote against it but I'm going to stay
24 with the merits of the case. I think this is flavored for
25 us, for at least for my vote to approve.

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1 Thank you, Mr. Chairman.

2 BZA CHAIR HILL: Okay. Thank you.

3 I'm going to make a motion to approve application
4 no. 20077 as captioned and read by the Secretary including
5 the additional relief from the rear extension E 205.4 as
6 amended in the ZA memo no. 41, and ask for a second from Ms.
7 White.

8 MEMBER WHITE: Second.

9 BZA CHAIR HILL: Seconded by Ms. White. All those
10 in favor say aye.

11 (Chorus of ayes.)

12 BZA CHAIR HILL: All those opposed?

13 (No audible response.)

14 BZA CHAIR HILL: The motion passes. Mr. Moy.

15 SECRETARY MOY: Staff would record the vote as 5-
16 0-0. This is on the motion of Chairman Hill to approve the
17 appended relief for approval and, seconding the motion is Ms.
18 White. Also in support Ms. John, Vice Chair Hart, and Zoning
19 Commissioner Chair Hood.

20 BZA CHAIR HILL: Okay, Thank you Mr. Moy.

21 Thank you all very much.

22 (Pause.)

23 BZA CHAIR HILL: All right, Mr. Moy, you can call
24 our last case for the day.

25 SECRETARY MOY: All right, thank you, Mr.

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1 Chairman.

2 That would be appeal no. 20112 of ANC 1A. This
3 appeal is captioned and advertised as the appeal from the
4 division -- appeal from of the decision made on May 7, 2019
5 by the Zoning Administrator, Department of Consumer and
6 Regulatory Affairs.

7 The issue building permit no. B as in bravo,
8 1903000 permitting an addition and converting a three-unit
9 apartment house to eight units in the RA-2 zone.

10 This is at 1435 Girard Street, that's G-I-R-A-R-D,
11 N.W., Square 2668, Lot 52.

12 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.

13 Could you please introduce yourselves for the
14 record from my right to left?

15 MS. LORD-SORENSEN: Good afternoon, Chairman Hill,
16 members of the Board. Adrienne Lord-Sorensen, Assistant
17 General Counsel with the D.C. Department of Consumer and
18 Regulatory Affairs.

19 MR. LeGRANT: Good afternoon. Matthew LeGrant,
20 Zoning Administrator, DCRA.

21 MR. SULLIVAN: Martin Sullivan, with Sullivan &
22 Barros on behalf of the property owner.

23 MR. CLOCK: And, Jason Clock, ANC 1A.

24 BZA CHAIR HILL: Could you spell your last name
25 for me, sir?

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1 MR. CLOCK: Sure, C-L-O-C-K.

2 BZA CHAIR HILL: Oh, I'm sorry, I didn't hear
3 that.

4 All right, were you all sworn in earlier?

5 MR. LeGRANT: I was not.

6 BZA CHAIR HILL: Okay, whoever hasn't been sworn
7 in, if you could please stand and get sworn in by the
8 Secretary to my left.

9 SECRETARY MOY: Do you solemnly swear or affirm
10 that the testimony you are about to present in this
11 proceeding is the truth, the whole truth and nothing but the
12 truth?

13 (Witnesses sworn.)

14 SECRETARY MOY: Thank you, you may be seated.

15 BZA CHAIR HILL: Mr. Sullivan, you don't normally
16 stand, do you? Or you just --

17 MR. SULLIVAN: This is the first time I've ever
18 done that.

19 BZA CHAIR HILL: Right, you just kind of were like
20 --

21 (Simultaneous speaking.)

22 BZA CHAIR HILL: -- you wanted to exercise, get
23 the blood going?

24 (Laughter.)

25 BZA CHAIR HILL: Right, right. No, that's the

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1 that's the truth, right. Oh, I see, the truth.

2 Well, I got to say Mr. Clock, sorry you're here
3 for this part at the little end, well what I'm about to say
4 is you how appropriate. You guys are here for the last case
5 of Ms. White. You know, this is, this is the end, right?

6 I don't know if you missed all the nice goodbyes
7 and everything but you know, they're, they're regulars, Mr.
8 Clock. Just to let you know. So, there you go.

9 All right. Let's see, so Commissioner, you're
10 bringing this up here, right, to us, and there's a variety
11 of couple of things on the record that I'm trying to figure
12 out here. And, so I'm going to kind of walk through what I
13 understand and we'll see what happens, right?

14 So, DCRA is admitting there's an error. I haven't
15 heard anything yet from the property owner on the record in
16 terms of what their thoughts were. I believe at least last
17 time when I reviewed, there is an issue that supposedly going
18 to be resolved I guess, on November 12, in terms of the
19 revocation or something like this.

20 And, then there is a request to postpone and then
21 there's some other things I could possibly walk through but
22 I guess the first question, well, I guess, Mr. Clock, I know
23 you're bringing up this appeal, Commissioner I should say,
24 I'm sorry.

25 But just real quick to Mr. Sullivan, you're

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1 representing the property owner, correct?

2 MR. SULLIVAN: Yes.

3 BZA CHAIR HILL: So, do you have an issue with
4 revocation of the permit?

5 MR. SULLIVAN: No. I think we're -- the property
6 owner is in agreement with DCRA's position now, and with the
7 position of the appellant.

8 BZA CHAIR HILL: Okay.

9 MR. SULLIVAN: And, so we're, we're in the process
10 of revising the permit.

11 BZA CHAIR HILL: So, you're in the process of
12 revising the permit?

13 MR. SULLIVAN: The permit to come into compliance.

14 BZA CHAIR HILL: Right. So now I'm going to turn
15 to OAG because I'm a little confused.

16 What I -- so then, right. So I, at one point, I
17 thought that if they're pulling the permit we could dismiss
18 the case as moot.

19 So now what Mr. Sullivan is saying that the
20 property owner wants to revise the permit, therefore, they're
21 not pulling the permit, therefore, it's not necessarily moot,
22 so we would possibly postpone this until after the revocation
23 took place just to keep everybody's rights alive and then see
24 where we got.

25 Is that correct?

1 MR. RITTING: That makes sense.

2 BZA CHAIR HILL: Okay, so Commissioner, do you
3 understand everything I just kind of said?

4 MR. CLOCK: I believe so, yes.

5 BZA CHAIR HILL: Okay. So, then that being the
6 case, if anybody has any questions, what I was going to do
7 was postpone this until, you know, maybe December 4 because
8 November 6 something's supposed to happen and then that gives
9 a couple weeks to kind of figure everything out, and then
10 we're back here on December 4 to either see whether we're
11 back here with an appeal, or if the appeal goes away because
12 of the revised permit, I, I don't know.

13 Does that sound appropriate to everyone? Well,
14 first does it sound appropriate to the person who's the
15 applicant, which is the commissioner?

16 MR. CLOCK: Yes.

17 BZA CHAIR HILL: Okay. Does that sound
18 appropriate to the property owner?

19 MR. SULLIVAN: Yes.

20 MS. LORD-SORENSEN: Yes.

21 BZA CHAIR HILL: Okay. I don't know if the ZA
22 wants to say yes just because.

23 (Laughter.)

24 MR. LeGRANT: Yes.

25 BZA CHAIR HILL: Okay, great. I know, you're

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1 taking notes.

2 All right, so then let's go ahead and postpone
3 this until 12/4, Mr. Moy.

4 SECRETARY MOY: Yes, sir, it's done.

5 BZA CHAIR HILL: Okay, great.

6 All right, is there anything else anyone else
7 would like to add?

8 MR. CLOCK: I just want to thank Ms. White for
9 her service and her expertise, and I'm sorry your last case
10 wasn't so exciting.

11 (Laughter.)

12 BZA CHAIR HILL: I don't know. Commissioner, we
13 are so --

14 (Simultaneous speaking.)

15 MEMBER WHITE: It's only going to be three hours,
16 so it's exciting.

17 BZA CHAIR HILL: We are so excited, we are so
18 excited. I can't tell you.

19 All right, all right then, you guys are all thank
20 you very much for coming, we'll see you on the 12th of
21 December -- or I'm sorry, the 4th of December or we won't.

22 I guess any final thoughts from anybody? Again,
23 I'm just saying goodbye to Ms. White, thank you so much.
24 Anybody else? No?

25 MS. LORD-SORENSEN: I'd like to say goodbye. It

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1 was a pleasure working with you --

2 BZA CHAIR HILL: Oh, there you go.

3 MS. LORD-SORENSEN: -- this past year and a half.

4 MEMBER WHITE: Thank you, it was nice working with
5 all of you. I mean I have a regular day job like a lot of us,
6 but I see you guys every week and you're just a part of my
7 routine.

8 So, it's going to be a hard habit to break, so,
9 but it's been fun. Thank you.

10 MR. LeGRANT: Likewise, Thank you for your service
11 to, to the District. You know --

12 MEMBER WHITE: Thank you.

13 MR. LeGRANT: -- I appreciate all the feedback
14 you've given me over the years.

15 MEMBER WHITE: Thank you. I've learned a lot from
16 you as well, yes.

17 MR. CLOCK: And, well you can always come and sit
18 in the audience, too.

19 (Laughter.)

20 MEMBER WHITE: I'll watch you on TV.

21 MR. CLOCK: Okay.

22 MR. SULLIVAN: I'll echo the sentiments. Thank
23 you very much. It's been a pleasure working with you for the
24 last few years. Thank you.

25 MEMBER WHITE: Thank you, Mr. Sullivan. It's been

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1 fun seeing you almost every week.

2 MR. SULLIVAN: Thank you.

3 (Laughter.)

4 BZA CHAIR HILL: All right, okay. All right, that
5 being said, we'll see Ms. White around the city.

6 Mr. Moy, is there anything else left for the
7 Board?

8 SECRETARY MOY: I have nothing from the staff,
9 sir.

10 BZA CHAIR HILL: All right, then we stand
11 adjourned.

12 Thank you all very much. Thank you.

13 (Whereupon, the above-entitled matter went off the
14 record at 12:30 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 09-25-19

Place: Washington, DC

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



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