

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 3, 2020

+ + + + +

The Regular Public Hearing convened via Videoconference, pursuant to notice at 9:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA JOHN, Board Member
CARLTON HART, Board Member (NCPC)

ZONING COMMISSION MEMBER[S] PRESENT:

PETER MAY, National Park Service Designee
MICHAEL G. TURNBULL, FAIA Designee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
KAREN THOMAS
STEPHEN COCHRAN
MATT JESICK

The transcript constitutes the minutes from the
Public Hearing held on June 3, 2020.

I-N-D-E-X

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(9:37 a.m.)

1
2 CHAIRPERSON HILL: Okay, great. Thank you. All
3 right. The hearing will please come to order. Good morning,
4 ladies and gentlemen. We're convening and broadcasting this
5 public video -- public hearing by video conferencing. This
6 is the June 3rd, 2020 public hearing of the Board of Zoning
7 Adjustment of the District of Columbia. My name is Fred
8 Hill, Chairperson. Joining today is Carlton Hart, Vice
9 Chair; Lorna John, board member; and representing the Zoning
10 Commission is Peter May. Also later on we'll have Michael
11 Turnbull and Anthony Hood on for different cases.

12 Today's hearing agenda is available to you on the
13 Office of Zoning website. Please be advised that this
14 proceeding is being recorded by a court reporter, and is also
15 web cast live via WebEx and YouTube. The video will be
16 available on the Office of Zoning's website after the
17 hearing. Accordingly, all who are listening on the website
18 or over telephone will be muted during the hearing, and only
19 persons who have signed up to participate or testify will be
20 un-muted at the appropriate time.

21 Please state your name and home address before
22 providing oral testimony on your presentation. Oral
23 presentation should be limited to a summary of your most
24 important points. When you're finished speaking, please mute
25 your audio so that your microphone is no longer picking up

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1 sound or background noise. If you're experiencing
2 difficulties access WebEx or with your telephone call-in, if
3 you have forgotten to sign up 24 hours prior to this hearing,
4 then please call our OZ hotline number.

5 Now I'm going to read this and then repeat it
6 again. So this is the OZ hotline number if you have any
7 issues with your testifying or have questions, I suppose.
8 And that number again, or that number is 202-727-5471. Once
9 again that number is 202-727-5471. To sign up to testify,
10 you should have done so previously 24 hours in advance, and
11 then you would have received the WebEx login or call-in
12 instructions. So that number again, in case you have any
13 issues when trying to testify, as you had priorly -- as you
14 had signed up prior to today.

15 All persons planning to testify either in favor
16 or in opposition must have signed up in advance, you will be
17 called by name. At the time of sign up, all participants
18 complete the oath of affirmation as required by Subtitle Y
19 408.7. If you wish to file written testimony or additional
20 supporting documents at the time of your hearing, then please
21 be prepared to describe and discuss it at the time of your
22 testimony.

23 The order of procedures for special exceptions and
24 variances are in Subtitle Y Section 409, and the order of
25 procedures for appeals are in Subtitle Y Section 507.

1 At the conclusion of each case, and this is
2 different for those who are listening, at the conclusion of
3 each case, an individual who is unable to testify because of
4 technical issues may file a request for leave to file a
5 written version of the planned testimony to the record within
6 24 hours. If additional written testimony is accepted, then
7 parties will be allowed a reasonable time to respond. The
8 Board will then make its decision at its next meeting, but
9 no earlier than 48 hours after the hearing.

10 So what that basically means is we won't be doing
11 any bench decisions at this time because of the technical
12 nature of this video hearing so that there's enough time for
13 if there's any technical reasons, people have time to submit
14 testimony, or if there's any issues.

15 Moreover, the Board may request additional
16 specific information to complete the record. The Board and
17 the staff will specify at the end of the hearing exactly what
18 is expected, and the date when persons must submit the
19 evidence to the Office of Zoning. No other information shall
20 be accepted by the Board. I guess I'm going to check as I'm
21 midway through this, can you guys all hear me? If you could
22 just nod. Okay. I just want to make sure it's working,
23 thank you.

24 The Board's agenda may include previous cases set
25 for decision. After the Board adjourns the hearing, the

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1 Office of Zoning, in consultation with myself, will determine
2 whether a full or summary order may be issued. A full order
3 is required when the decision it contains is adverse to a
4 party included in affected ANC. A full order may also be
5 needed if the Board's decision differs from the Office of
6 Planning's recommendation. Although the Board favors the use
7 of summary orders whenever possible, an applicant may not
8 request the Board to issue such an order.

9 The District of Columbia Administrative Procedures
10 Act requires that the public hearing on each case be held in
11 the open before the public. However, pursuant to section
12 405B and 406 of that act, the Board may, consistent with its
13 rules and procedures in the act, enter into a closed meeting
14 on a case for purposes of seeking legal counsel on a case
15 pursuant to D.C. Official Code Section 2-575(b)4 and/or
16 deliberating on a case pursuant to D.C. Official Code Section
17 2-575(b)13, but only after providing the written public
18 notice in the case of emergency closed meeting after taking
19 a roll call vote.

20 I'm going to mention one additional item here,
21 that the virtual hearing now -- so there's amendments to
22 Subtitle Y, Board of Zoning Adjustment Rules of Practice and
23 Procedures. In Section 103, Meetings and Hearings of Chapter
24 1, administration of Subtitle Y Board of Zoning Adjustment
25 rules of practice and procedures is amended by revising

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1 Section 103.12 and by adding a new Section 103.13. So that's
2 where everyone who's listening can also see more of the
3 specifics as the regulations now speak to the virtual
4 hearings.

5 Preliminary matters are those which relate to
6 whether a case will or should be heard today, such as a
7 request for a postponement, continuance or withdrawal, or
8 whether proper and adequate notice of the hearing has been
9 given. If you're not prepared to go forward with the case
10 today, or if you believe that the Board should not proceed,
11 now is the time to raise such a matter.

12 Mr. Secretary, do we have any preliminary matters
13 to discuss?

14 MR. MOY: There are preliminary matters that are
15 more appropriate to address when I call the specific case,
16 Mr. Chairman.

17 COMMISSIONER MAY: Mr. Chairman? Mr. Chairman,
18 can you hear me? I'm not hearing you. I'm having some
19 computer troubles. I'm going to need to restart my computer
20 and come back on.

21 CHAIRPERSON HILL: Okay, great. Well it's going
22 to take a minute anyway for me to kind of get ready for the
23 cases, so we'll wait for you to come back.

24 COMMISSIONER MAY: All right, I'll be right back.

25 CHAIRPERSON HILL: Thank you.

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1 COMMISSIONER MAY: Yeah.

2 (Whereupon, the above-entitled matter went off the
3 record at 9:44 a.m. and resumed at 9:48 a.m.)

4 CHAIRPERSON HILL: Mr. May, does that seem to be
5 working?

6 COMMISSIONER MAY: I am back.

7 CHAIRPERSON HILL: Okay, great. All right. Let's
8 see if we get Ms. John here. All right, we're all back.
9 This is good. So Mr. Moy, for the record, you're going to
10 have to un-mute your mic. I have three monitors here. I'd
11 like that for whenever we get back to the dais because it's
12 very handy.

13 MR. MOY: Okay. That's noted for the record, Mr.
14 Chairman.

15 CHAIRPERSON HILL: Okay, great. Wonderful. All
16 right, Mr. Moy. So let's see how this works, okay? If you
17 want to go ahead and call our first case.

18 MR. MOY: All right. Thank you, Mr. Chairman. I
19 believe that would be case application number 20217 of Tricia
20 Jefferson. Now this application is as amended for special
21 exceptions under Subtitle E Section 5201; from the rear yard
22 requirements Subcategory E Section 506.1; nonconforming
23 structure requirements, Subtitle C Section 202.2; and
24 pursuant to 11 DCMR Subtitle X Chapter 10 for area variance.

25 This is from the lot occupancy requirements,

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1 Subtitle E Section 504.1 to construct a rare edition to an
2 existing attached principal dwelling unit, RF3 zone. This
3 is at 508 D Street Northeast Square 836 Lot 48.

4 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
5 Moy. Ms. Jefferson, can you un-mute -- can you hear us?

6 MS. JEFFERSON: Yes, we can hear you. Can you
7 hear us?

8 CHAIRPERSON HILL: Yes, thank you.

9 MS. JEFFERSON: Okay, great.

10 CHAIRPERSON HILL: Could you please both introduce
11 yourselves for the record, and your address?

12 MS. JEFFERSON: Sure. I'm Tricia Jefferson and
13 this is my husband, Martin Walsh, and we live at 508 D Street
14 Northeast, Washington, D.C.

15 CHAIRPERSON HILL: Okay, great. Well Ms.
16 Jefferson, Mr. Walsh, welcome.

17 MS. JEFFERSON: Thank you.

18 MR. WALSH: Thank you.

19 CHAIRPERSON HILL: You are our first virtual
20 hearing.

21 MR. WALSH: We're honored.

22 MS. JEFFERSON: Yeah, we're very honored.

23 CHAIRPERSON HILL: Yeah. Well, this is going to
24 go down in history.

25 (Laughter.)

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1 MS. JEFFERSON: All of this is going down in
2 history.

3 CHAIRPERSON HILL: It's unfortunately true.

4 MS. JEFFERSON: Yeah.

5 CHAIRPERSON HILL: So, Ms. Jefferson, I suppose
6 -- so just so you know, I mean, we have all of our Board
7 members here. We normally meet, obviously, in a hearing
8 room, and there's also, the Office of Planning is with us.
9 And I believe there's a timer now that you can see. You're
10 lagging. I'll wait a minute.

11 MS. JEFFERSON: Oh, I see. Oh, we do see 15.

12 MR. WALSH: Oh, right. Okay.

13 MS. JEFFERSON: Is it 15 minutes; is that right?

14 CHAIRPERSON HILL: As of now it's 15 minutes. I'm
15 just letting you know there's a timer there.

16 MS. JEFFERSON: Okay.

17 CHAIRPERSON HILL: However, Ms. Jefferson, I'm --
18 and this could be me, my video, I've lost the video of you,
19 but I can hear you guys. Now you're back. And so sometimes
20 my video connection goes in and out. So if I'm not
21 responding to you, by raising your hand or something, just
22 go ahead and speak up, okay?

23 MS. JEFFERSON: Okay. All right.

24 CHAIRPERSON HILL: Okay. So if you, Ms.
25 Jefferson, if you can kind of walk us through your project

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1 and also tell us how you believe you're meeting the standard
2 for us to grant the relief requested. Mr. Young, Paul, I'm
3 going to go ahead and I'm going to put 15 minutes on there.
4 Ms. Jefferson, you don't need to worry about the time, but
5 I'm just kind of being aware of it. So, Paul, if you want
6 to start that clock. And, Ms. Jefferson, you can begin
7 whenever you like.

8 MS. JEFFERSON: Okay. And in the interest of, you
9 know, time I'm just going to turn this over to my husband.
10 He'll walk you through the application while I multitask with
11 home schooling our children, if that's okay.

12 CHAIRPERSON HILL: That sounds great.

13 MS. JEFFERSON: All right, thank you.

14 MR. WALSH: All right. Thank you everyone for,
15 you know, considering our application. I'm Marty Walsh,
16 Tricia's husband. We're seeking a variance of, I think, the
17 key one is the lot occupancy limitations on our house here
18 at 508 D Street Northeast. We're looking to do a single
19 story about 150 square foot rear addition.

20 CHAIRPERSON HILL: Mr. Walsh?

21 MR. WALSH: Yes?

22 CHAIRPERSON HILL: If I could interrupt you, I
23 just realized, there's a little bit of a preliminary matter
24 with us. And again, I unfortunately lost the video of you.

25 MR. WALSH: Okay.

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1 CHAIRPERSON HILL: So I can't see you, but I can
2 hear you. I guess this is really for our fellow Board -- if
3 you wouldn't mind just -- so there was, in terms of the
4 notice, that's what we're kind of going around because since
5 we have -- since this is now a virtual meeting, we just have
6 to kind of speak to the notice requirements.

7 As I understand it, and this is really now more
8 to my fellow Board members, the Office of Zoning has sent out
9 letters to the 200 footers, meaning the people that are
10 within 200 feet of the property. The Office of Zoning has
11 also -- and that's in Exhibit 57. The Office of Zoning has
12 also sent out letters to the parties that are involved, and
13 that's also Exhibit 58. It appears as though we do have an
14 affidavit of posting and maintenance.

15 Mr. Walsh, I guess you guys did post the property,
16 correct?

17 MR. WALSH: Yes.

18 CHAIRPERSON HILL: And may I ask how long you
19 posted it for?

20 MR. WALSH: For more than the 15 days. I forget
21 the exact date, but we counted back from the hearing date,
22 I think we -- it's in the affidavit. Maybe it's, like, May
23 15th or 16th.

24 CHAIRPERSON HILL: Okay. In the posting, did it
25 have today's date for the hearing?

1 MR. WALSH: It did. Robert Reed helped to send
2 us little snippets to correct and paste over, so we notified
3 that it was this June 3rd date and then that it was by WebEx.

4 CHAIRPERSON HILL: Okay. So just for my fellow
5 Board members, and again I lost Ms. John's video, however
6 so therefore maybe I'm comfortable with proceeding forward
7 in terms of the notice. Mr. May, do you have any issues with
8 that?

9 COMMISSIONER MAY: I do not.

10 CHAIRPERSON HILL: Okay. Mr. Hart?

11 VICE CHAIRPERSON HART: I do not either.

12 CHAIRPERSON HILL: Okay. Ms. John? I've lost
13 your video so that's why I'm going to call people by name.
14 Do you have any issues with the --

15 MEMBER JOHN: I'm fine with the notice.

16 CHAIRPERSON HILL: Okay, great. So, Mr. Walsh,
17 thank you for that. If you want to go ahead and continue,
18 that would be wonderful.

19 MR. WALSH: Sure, thank you. Yeah, so we're
20 seeking the lot occupancy variance to do this 150 square foot
21 single story rear addition. The purpose is really to
22 accommodate aging parents. And we have the support of both
23 neighbors, we received the support of our ANC.

24 And, you know, we understand certainly, I mean
25 we've lived in the house for 12 years, we understand the

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1 concern about precedent with granting variances.

2 And I think our property is somewhat unique
3 because it has, the neighboring property runs -- has a wall,
4 a two-story wall that runs the full length of our property
5 line. And so it was done I think, I don't know, maybe before
6 zoning restrictions went into place so I don't think that
7 would be permitted now. But so, it creates somewhat of a
8 unique situation for our property, and we think that that's
9 a significant distinguishing characteristic. You know, and
10 I think the ANC agreed in supporting our application that
11 that was the case.

12 We're also kind of at the end of a public alley.
13 We're not really visible from any public street and we're
14 hidden away by that neighboring property. So I think that
15 kind of in a nutshell is our application. I'm happy to
16 answer other questions or go into more detail, but I know you
17 guys have a full schedule so I also don't want to belabor
18 this. I know we're a small request.

19 CHAIRPERSON HILL: All right, Mr. Walsh. Thank
20 you. Now does the Board have any questions for the
21 Applicant?

22 COMMISSIONER MAY: I have no questions.

23 VICE CHAIRPERSON HART: I had one question, Mr.
24 Chairman. I was a little unclear. Were they blocking any
25 windows that are on the neighbor's -- is that to the north

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1 of you, the one with the longer wall?

2 MR. WALSH: There are no windows on that wall.

3 VICE CHAIRPERSON HART: Okay. Okay. Thank you.

4 MR. WALSH: Thank you.

5 CHAIRPERSON HILL: Ms. John, do you have any
6 questions?

7 MEMBER JOHN: No questions, Mr. Chairman.

8 CHAIRPERSON HILL: All right. Can we go ahead
9 then and turn to the Office of Planning, Mr. Cochran?

10 MR. COCHRAN: Good morning Mr. Chairman, members
11 of the Board. I'm Steve Cochran with the Office of Planning
12 reporting on BZA case number 20217. I'm happy to simply
13 summarize OP's recommendations, but if you like, I can go
14 into more detail on how they meet individual tests.

15 But for the proposed 9 foot two-story addition to
16 the RF3 zone, the rowhouse in Capitol Hill, OP's recommending
17 that the Board approve the request as special exception from
18 the rear yard requirements of Subtitle E Section 202.2, and
19 the requested variance from the lot occupancy requirements
20 of Subtitle E Section 504.1.

21 The Applicant's proposing a 13.5 deep rear yard
22 rather than the required 20 foot rear yard, and to have 79.6%
23 lawn occupancy rather than the by right 60% or the 70% that's
24 permitted as a special exception. The application appears
25 to meet the special exception criteria established by

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1 Subtitle E Sections 205, Section 5201, and Section 5202. And
2 then the variance part of the application appears to meet the
3 criteria established by Subtitle X Section 1001.2. And OP's
4 not recommending any special conditions be attached to your
5 decision.

6 So that's our summary testimony. If you have any
7 questions, of course I'd be happy to answer.

8 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
9 Cochran. Does the Board have any questions for Mr. Cochran?
10 I'll go around the table here. I'll start with Mr. May.

11 COMMISSIONER MAY: No questions.

12 CHAIRPERSON HILL: Mr. Hart?

13 VICE CHAIRPERSON HART: Just one quick question.
14 Mr. Cochran, you noted that the practical difficulty is that
15 it's -- the lot is 61% smaller than the total lot on the
16 square?

17 MR. COCHRAN: That's right. Yeah, it's 61% as
18 large as the minimum standards and it's 3 feet narrower than
19 the minimum standards. And what the OP report noted was that
20 if it were a conforming lot, the house and the proposed
21 addition would exceed the by right limitations by only 23
22 square feet, and then it could be considered as a special
23 exception.

24 VICE CHAIRPERSON HART: Okay. Thank you very
25 much. I just wanted to make sure I had that clear. Thank

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1 you.

2 MR. COCHRAN: You're welcome.

3 CHAIRPERSON HILL: Ms. John, do you have any
4 questions?

5 MEMBER JOHN: No questions.

6 CHAIRPERSON HILL: Mr. Walsh, do you have any
7 questions for the Office of Planning?

8 MR. WALSH: I don't. The only thing I would
9 clarify is I think it might have been mentioned that it was
10 two-story. It's just a one-story, single story rear
11 addition, not two.

12 MR. COCHRAN: I beg your pardon.

13 MR. WALSH: No problem. Thank you.

14 CHAIRPERSON HILL: Okay, great. Well, all right.
15 So Mr. Cochran, it's wonderful to see you. I hope you're
16 doing well.

17 MR. COCHRAN: Absolutely. Thank you for asking.

18 CHAIRPERSON HILL: I must say the background, you
19 look very official. You look like you have all kinds of
20 binders there and you have all kinds of research material.
21 You look very impressive.

22 MR. COCHRAN: I won't get in the way of that
23 illusion.

24 CHAIRPERSON HILL: All right, well very good. All
25 right. So now, Mr. Moy, I'm a little bit unclear, and maybe

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1 OAG can help. Normally this is where I would ask for public
2 testimony either in support or in opposition, and I believe
3 that we have -- people have had 24 hours or the ability to
4 sign up. And so therefore since we don't have any public
5 testimony witnesses, is there anything I'm supposed to say
6 or is that good enough? And I guess I can turn to OAG.

7 MR. MOY: Just for my own clarification, there's
8 no one that's in attendance virtually that wants to testify;
9 is that correct?

10 CHAIRPERSON HILL: Well that's what I'm a little
11 unclear -- and I shouldn't say unclear. As I understand it,
12 public testimony witnesses had to sign up 24 hours prior, and
13 so we don't have any anyone that's signed up for testimony
14 at this point. And so I'm just kind of, I suppose,
15 confirming that and sharing that with the audience. I mean
16 this is normally where again where I would have asked for
17 public testimony. So I guess is it enough just to state that
18 we don't have anyone that has signed up 24 hours prior either
19 in favor or in opposition?

20 MR. MOY: Yes, I believe it is.

21 CHAIRPERSON HILL: Okay. All right.

22 MR. MOY: One further question, is there an ANC
23 that has signed up to testify?

24 CHAIRPERSON HILL: No one has signed up to
25 testify, and no ANCs have signed up to testify. However if

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1 I neglect to remember to mention that the next time I go
2 through these, please somebody do bring that up for me if you
3 wouldn't mind that, right, there's no ANCs signed up either.

4 MR. COCHRAN: The ANC 6C sent a letter in support
5 of the case, and the record doesn't show any letters either
6 in opposition or in support.

7 CHAIRPERSON HILL: Okay, great. Well thank you,
8 Mr. Cochran. So that all being the case, Mr. Walsh, do you
9 have anything to add at the end?

10 MR. WALSH: I don't think so. Again, I just
11 wanted to say thank you for one, also scheduling us first,
12 and two, just considering our request. I appreciate
13 everyone's time and thanks for consideration.

14 CHAIRPERSON HILL: Sure, you're welcome. Okay.
15 So then unless any Board members -- I actually can see
16 everybody right now, so you can raise your hand if you want
17 to. Unless anyone has any other questions or issues, I'm
18 going to go ahead and close the hearing. As I mentioned at
19 the beginning -- okay Mr. May, give me one second then.

20 As I mentioned at the beginning, we're not going
21 to decide today because we're going to leave the record open
22 -- well, not the record open. I guess if there was any
23 issues with anybody's technical issues, people have 24 hours
24 to let us know about that. And then there would be another
25 24 hours for anyone to respond to those technical issues --

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1 I'm sorry, comments. And so, therefore, it's really 48
2 hours. So therefore, we're not going to decide today.

3 Mr. May, you had a question?

4 COMMISSIONER MAY: No, I just had a comment. I
5 thought I heard that there were no letters of support. There
6 actually were two letters of support from the abutting
7 neighbors on either side.

8 MR. COCHRAN: That's correct. I had covered up
9 that part of my testimony, sorry.

10 COMMISSIONER MAY: No problem.

11 MR. COCHRAN: There are two letters of support in
12 the file.

13 COMMISSIONER MAY: Right. Right.

14 MR. WALSH: I appreciate you noting it.

15 COMMISSIONER MAY: Thanks.

16 CHAIRPERSON HILL: Okay, great. Wonderful. Well
17 with that, I'm going to go ahead and close this hearing and
18 then I guess put it on the calendar next week, Mr. Moy, for
19 a decision.

20 MR. MOY: Yes, sir. We can set this case
21 application up for a decision at our meeting session next
22 Wednesday which is June the 10th.

23 CHAIRPERSON HILL: Okay, great. So Mr. Jeffer --
24 I'm sorry. So Mr. Walsh, you're not going to be needed
25 because we don't take public testimony during the meetings

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1 portion, but you're obviously welcome to watch.

2 MR. WALSH: Thank you.

3 CHAIRPERSON HILL: Okay? All right. Well
4 congratulations and I wish that you were our last but you're
5 only our first for the day. All right. So, Paul, I guess
6 now -- I don't even know. Do you take out -- okay, I guess
7 that was that.

8 And then, Mr. Moy, if you want to go ahead and
9 call our next one while I go ahead and grab it.

10 MR. MOY: Yes. Thank you, Mr. Chairman. So the
11 next case application before the Board is number 20219 of
12 Julia Garrison. This is an application for special exception
13 under Subtitle E Sections 206.2 and 5203.3 from the upper
14 floor addition requirements, Subtitle E Section 206.1. This
15 would alter an existing rooftop architectural element on an
16 existing attached principal dwelling unit. RF-1 zone, this
17 is at 3629 13 Street Northwest Square 2829, Lot 148.

18 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
19 Moy. Ms. Garrison, are you there? I think Ms. Garrison you
20 -- oh there --

21 MS. GARRISON: There we are. I think I'm un-
22 muted. Can you hear me?

23 CHAIRPERSON HILL: Yeah. I can hear you, thank
24 you. Or we can hear, I should say.

25 MS. GARRISON: Great.

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1 CHAIRPERSON HILL: Ms. Garrison, I'm again having
2 kind of video lag issues and so I don't actually see you but
3 I can hear you. And so if for some reason you're seeing that
4 I'm not acknowledging you, just please speak up and I can
5 hear you. Is that okay?

6 MS. GARRISON: That's okay.

7 CHAIRPERSON HILL: Okay, great. Could you please
8 introduce yourself for the record and state your home
9 address?

10 MS. GARRISON: Yeah. My name is Julia Garrison,
11 and I live at 3629 13th Street Northwest, Washington, D.C.,
12 20010, and I'm the owner of the house. And thank you for the
13 opportunity to present today.

14 CHAIRPERSON HILL: Great. Ms. Garrison, did you
15 watch the previous one?

16 MS. GARRISON: I did.

17 CHAIRPERSON HILL: Oh, great. So then now you've
18 seen the process. And unfortunately, I don't have any video
19 so it's just not as much fun for me, but welcome.

20 MS. GARRISON: Thank you.

21 CHAIRPERSON HILL: Congratulations on being the
22 second case. You are less historic.

23 (Laughter.)

24 MS. GARRISON: It's okay, it's okay.

25 CHAIRPERSON HILL: Okay. So let's see, if you

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1 could go ahead and -- I put 15 minutes. Is that 15 minutes,
2 Paul? Yeah. Okay. 15 minutes on the clock there, if you
3 can see that timer. And if you wouldn't mind just kind of
4 walking us through your application and explaining -- taking
5 us through the standard as to why you believe we should grant
6 the requested relief, and you can begin whenever you like.

7 MS. GARRISON: Thank you. Thank you again for --

8 MR. RITTING: Sorry, may I interject?

9 MS. GARRISON: Yes.

10 CHAIRPERSON HILL: One second.

11 MR. RITTING: Hi. I'm Jacob Ritting, I'm the
12 attorney. I just wanted to remind everyone that we should
13 do the notice first before we go into her --

14 CHAIRPERSON HILL: Okay. So Mr. Ritting is
15 correct. Ms. Garrison, give me one second here. So as far
16 as the notice --

17 MS. GARRISON: Yes.

18 CHAIRPERSON HILL: -- and we're going to talk
19 about these in each and every case. So the Office of Zoning
20 did send out letters to the 200 -- people within 200 feet in
21 Exhibit 43, then there's an Office of Zoning letter that went
22 out to the parties in Exhibit 44. And also, it looks as
23 though the posting and maintenance did come in, in terms of
24 the affidavit.

25 Ms. Garrison, how long was your property posted?

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1 MS. GARRISON: Yeah. The original sign, which had
2 the original hearing date of April 1st, was posted I think
3 15 or perhaps longer than before April 1st, and it remained
4 posted throughout the delayed proceeding. And then I added
5 the language from Mr. Reed that he sent around about the
6 WebEx hearing as well as the hearing date of June 3rd on the
7 day he sent it, which I believe was 15 days ago.

8 CHAIRPERSON HILL: Okay, great. All right. So
9 let's see. Right. You're saying it had today's date then.

10 MS. GARRISON: Yes. I printed off just a little
11 piece of text that said June 3rd and pasted it on there and
12 then pasted the link that Mr. Reed sent.

13 CHAIRPERSON HILL: Okay, great. Let's see, so
14 does the Board have any -- and I'm going to walk around just
15 so I can hear everybody. Does the Board have any issues with
16 the posting? Mr. May?

17 COMMISSIONER MAY: No, I have no issues.

18 CHAIRPERSON HILL: Mr. Hart?

19 VICE CHAIRPERSON HART: No, I have no issues.

20 CHAIRPERSON HILL: Ms. John?

21 MEMBER JOHN: No, I have no issues.

22 CHAIRPERSON HILL: Okay. All right. So, Ms.
23 Garrison, we're back to you again. If you want to go ahead
24 and walk us through your application. And Mr. Young, if you
25 could start the clock. Thank you.

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1 MR. YOUNG: All right.

2 MS. GARRISON: Thank you so much again for the
3 opportunity to present today. Before I get into the details
4 of the plans, I did want to highlight that the Office of
5 Planning and ANC 1A have recommended approval of this special
6 exemption. And additionally, every neighbor that I've been
7 able to speak with has been un-opposed to my plan including
8 my next door neighbors to the north, Paul Suitidan, and his
9 wife, Elizabeth Neff.

10 I attempted to contact the neighbors to the south,
11 but I was unable to. I'm not sure anyone's living there, but
12 I knocked on their door and left a letter in addition to all
13 the letters that have been sent through this process.

14 So thank you for displaying the documents. All
15 I want to do is make the slope of my roof steeper so that
16 it's a mansard roof, so that I can stand up in what is now
17 a crawl space and use it as a closet. I am not adding any
18 height to my house, like two others on my block have been
19 allowed to do. And additionally, most of the other houses
20 on my side of the block have roofs that are steeper than
21 mine, and this modification will actually make my house more
22 in line with the other houses on the block.

23 The easiest way to explain this is to look at the
24 exhibits submitted in my burden of proof. You can get a sense
25 of the current slope of my roof in what is displayed before

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1 you as Exhibit 1.

2 And you can click to the next slide. And this is
3 Exhibit 2. Once again, this is my house, and to the left you
4 can see my neighbor to the north and the right, my neighbor
5 to the south. But you can see that my roof is significantly
6 less steep than the roof next door to mine.

7 And you can go to the next slide. Through the
8 rest of my exhibits, you will also see that the other roofs
9 are less steep, but the slope I am hoping to match is seen
10 in Exhibit 4. These are five houses that are non-consecutive
11 that are on my block that have this slope. And having this
12 slope of a roof would allow me to stand up in the crawl
13 space. And having more accessible storage space will help
14 me and my partner prepare for when we start a family and need
15 additional storage space.

16 I believe that this will meet the requirements
17 because there are two retaining walls actually on either side
18 of my roof already that extend beyond where my roof currently
19 is, so I do not believe that this modification will unduly
20 affect the air or light of neighboring properties, or
21 compromise their privacy or use and enjoyment. It won't
22 cover up any windows, it won't block or impede a chimney or
23 external vents.

24 And actually, as I stated before, I believe that
25 it will actually make my house look more like the other

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1 houses that are on my block. I hope you will grant this
2 special exemption because the Office of Planning and ANC 1A
3 recommended approval. My neighbors don't oppose it. It
4 would make my house look more like the houses on the block.
5 And because other houses have been granted more extreme
6 deviations such as adding significant height.

7 Thank you so much for your time and consideration,
8 and I'm more than happy to answer any questions you might
9 have.

10 CHAIRPERSON HILL: Okay, great. Thank you, Ms.
11 Garrison. Ms. Garrison, the one question I did have was the
12 ANC had spoken to -- they had wanted to keep the dormers --

13 MS. GARRISON: Yes.

14 CHAIRPERSON HILL: -- and keep the way the dormers
15 were in the drawings.

16 MS. GARRISON: Yes.

17 CHAIRPERSON HILL: Can you speak a little bit to
18 that and what the ANC was speaking to?

19 MS. GARRISON: Yes. And I told the ANC this as
20 well. The dormers, they're going to stay. I love the
21 dormers, I love the way they look. The difference is the
22 slope. I don't know if you can see my video, but the plan
23 is for the slope to -- of my roof to be steeper behind the
24 dormers, but the dormers are going to remain as they are.
25 And actually in the plans that were submitted originally and

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1 are still the same plans, the dormers are both on the
2 proposed and the original drawings, so they're not going
3 anywhere.

4 CHAIRPERSON HILL: Okay. So for the record,
5 they're going to stay the same way that the ANC had been in
6 support of them.

7 MS. GARRISON: Yes.

8 CHAIRPERSON HILL: Okay. Let's see now, can I ask
9 anyone of the Board if they have any questions? And I'm
10 trying to see if I can go through this again.

11 Mr. May, do you have any questions?

12 COMMISSIONER MAY: Not really a question but more
13 of a comment on this. And this doesn't really go to the
14 relief. I don't really have any questions about the relief.
15 It's just that the images that you show of the -- and
16 particularly the one that we're looking at on the screen,
17 where that the mansard section of the roof is very, very
18 steep. I think that you have some flexibility in how you do
19 this. Certainly the drawings don't specify what that angle
20 is. And I think a slightly -- just a bit more of an angle --

21 MS. GARRISON: Okay.

22 COMMISSIONER MAY: -- would allow the dormers to
23 feel less like they're kind of pasted on. These look like
24 appliques on a flat vertical surface.

25 MS. GARRISON: Okay.

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1 COMMISSIONER MAY: And I've seen this sort of
2 treatment done in many circumstances. It can be done very
3 well. And just a little bit more of an angle I think would
4 make it look more attractive. And that's just an
5 architectural suggestion.

6 MS. GARRISON: Yeah, I agree and will do my best
7 to implement that.

8 COMMISSIONER MAY: Okay, thanks.

9 CHAIRPERSON HILL: Mr. Hart?

10 VICE CHAIRPERSON HART: No. I don't have any
11 questions. I had a similar comment as to Commissioner May.
12 It looks like some of the images that we had that were
13 submitted may be in line with what Commissioner May was
14 looking for, but the two that we see here are really -- he's
15 right, they are very -- they almost look like they are
16 applied to the roof. So again, not something that -- it's
17 more of a suggestion than, you know, a thing that they have
18 to do. But that's it.

19 CHAIRPERSON HILL: Ms. John?

20 MEMBER JOHN: Mr. Chairman, I have a question
21 about what the drawings show concerning the pitch of the roof
22 because I believe we're approving the application based on
23 the drawings we have. So not sure how the Applicant could
24 then go back and change the pitch that's already been
25 described. Maybe someone else has an answer.

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1 CHAIRPERSON HILL: Yeah, well I had kind of a
2 similar question but Mr. Ritting, I don't know -- this
3 happens at times. I don't know whether we can mention any
4 type of flexibility, or if one of the architects can come up
5 with some kind of language concerning flexibility so that Ms.
6 Garrison would be able to change that? Mr. Ritting, do you
7 have a thought? Mr. Ritting, you're muted if you're trying
8 to speak.

9 MR. RITTING: I'm sorry. Classic teleconference
10 mistake. I apologize. I understood Mr. May's comments to
11 mean that he looked at the plans and they do not specify an
12 angle. Perhaps he could speak to that. Before he answers,
13 I'll answer your direct question which is I believe that it
14 is possible to include some sort of statement in the
15 conditions of approval that say that there's additional
16 flexibility of the pitch if in fact it is specified in the
17 plans. And a third option would be that you leave the record
18 open for Ms. Garrison to submit a revision or even a comment
19 on the plans that she submitted specifying that there is that
20 change in pitch. And I'll end my comments there.

21 CHAIRPERSON HILL: Okay.

22 COMMISSIONER MAY: If I could say something about
23 this. The pitch is not really very clearly shown on this.
24 There's a cloud note that says, new wall with slope, seawall
25 partition, slope one to one -- one something, it looks like

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1 something got cut off there, because it's certainly not one
2 to one. That would not make sense. Again, because it's not
3 shown in the dimension of the drawing and it's called out
4 strangely, I do think there is flexibility but I also think
5 that it would be easy enough to say that, you know, with some
6 flexibility to modify the pitch or to increase the pitch.

7 Ms. Garrison, did you have a comment?

8 MS. GARRISON: Yes. I have my plans open on my
9 computer right now and it does look, for some reason, the PDF
10 they're cut off. But when I hover above the one to one, it
11 says one to twelve actually when the text expands when I
12 hover over it.

13 COMMISSIONER MAY: One to twelve, okay. Well all
14 right, so that's not in the drawing that we have.

15 MS. GARRISON: Correct. I think it's embedded in
16 the metadata, maybe.

17 COMMISSIONER MAY: Yeah. And we're not going to
18 figure that out today. I think this is an issue that we can
19 decide on next week. But I think that if you're open to
20 reconsidering that angle, I think that we could -- we can
21 approve this with flexibility to modify that angle to
22 increase the slope. And I, you know, whatever -- I don't
23 have any particular range in mind but I would think that we
24 could include that language. I think that's what Mr. Ritting
25 was suggesting.

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1 MS. GARRISON: Okay. Yeah, I'm happy to do that.
2 I just, you know, want to make sure I leave here with clarity
3 on what you need from me.

4 COMMISSIONER MAY: Yeah. Personally, I would not
5 want you to have to submit another set of drawings.

6 MS. GARRISON: Okay.

7 COMMISSIONER MAY: I think that we can decide it
8 with flexibility. But again, Mr. Ritting, do you have
9 anything further to say?

10 MR. RITTING: No, I don't. I think we can come
11 up with some language to put with the order between now and
12 next week. And, Ms. Garrison, if you could submit a revised
13 plan or just a comment on the revised plan, that might be the
14 most expedient way to get to the resolution of this issue.
15 The comment being a further explanation of the flexibility
16 on the roof pitch.

17 MS. GARRISON: Okay. And just stating that there
18 is flexibility to deviate from the plans that were submitted
19 such that it's not as steep as those in Exhibit 4, or
20 essentially the grooves that you see right now? Is that what
21 you would like it to say? I just want to make sure I get
22 the right language here.

23 CHAIRPERSON HILL: Hold up. Hold on a second.
24 So I guess -- well first thing is I didn't understand the
25 architectural nature of it. The one to twelve stuff, Mr.

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1 May, what does that mean?

2 COMMISSIONER MAY: So it means that for every one
3 inch back it goes twelve inches up.

4 CHAIRPERSON HILL: Okay. Is that --

5 COMMISSIONER MAY: So it's very, very steep.

6 CHAIRPERSON HILL: Is that more or less what you
7 were looking for?

8 COMMISSIONER MAY: Well it was not clear. It was
9 in the metadata in the PDF file, so I saw the note in the PDF
10 file most recently.

11 CHAIRPERSON HILL: But it's in the plans. It's
12 in the plans, correct?

13 MS. GARRISON: Mm-hmm.

14 COMMISSIONER MAY: It's embedded in the electronic
15 version of the plans. It's not on the paper version of the
16 plan, right? If you printed this out, you wouldn't see that.

17 CHAIRPERSON HILL: I understand.

18 COMMISSIONER MAY: But in any case, it's -- I
19 think that the flexibility to go to one to ten or one to nine
20 or something like that would be beneficial. And I think that
21 all Ms. Garrison needs to do is do an additional submission
22 requesting some flexibility to study further what the pitch
23 would be. And you can talk to your architect about what the
24 range of it might be that still achieves what you want. Just
25 put that in there and then you'll have the (telephonic

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1 interference) to do what you need to do when you go for
2 permit.

3 MS. GARRISON: Okay. And, just out of curiosity,
4 that would not require, like, a new hearing or that would --

5 COMMISSIONER MAY: No. No.

6 MS. GARRISON: Okay.

7 COMMISSIONER MAY: That's the last thing I want
8 to have you do.

9 MS. GARRISON: Thank you. Just want to make sure.

10 COMMISSIONER MAY: That's what we're trying to
11 avoid.

12 MS. GARRISON: Okay.

13 CHAIRPERSON HILL: What I'm just trying to talk
14 through is whether or not we do or don't need anything from
15 Ms. Garrison. I think that the discussion in terms of the
16 language for flexibility for the pitch of the roof, that's
17 something we can discuss when we're deliberating in the
18 order.

19 And so I don't want Ms. Garrison to also get tied
20 to whatever now we're talking about in terms of some issues.
21 Right, Mr. May? What is it that you would like to see?

22 COMMISSIONER MAY: So, I'm only suggesting that
23 she make that submission because that was Mr. Ritting's
24 suggestion that would be the easiest path. Again, I think
25 that if Ms. Garrison has ready access to her architect to

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1 say, well, how much could I slope it and still achieve what
2 I want on the inside, and the architect can give her a
3 number, then she can just send us a note with that number in
4 it.

5 So it would range anywhere from 1 to 12 down to
6 1 to 9, or 1 to 8, whatever the architect says. And that
7 would make it very clear and we could approve it with that
8 flexibility.

9 We could also simply say that ourselves, but again
10 it's worth it if Ms. Garrison wants to have a conversation
11 with her architect about it. Plus, we're not deciding today.
12 If we were deciding today I'd say yes, let's just figure it
13 out right now. But we have a week to decide it.

14 MS. GARRISON: Okay. I had one quick question if
15 I may.

16 CHAIRPERSON HILL: Sure.

17 MS. GARRISON: All right. So, I would appreciate
18 the flexibility. I can talk to my architect about what that
19 would look like as a range. But just to be clear, is it your
20 position that 1 to 12 is not okay? Or that 1 to 12 would be
21 okay, but you'd like it better if it was maybe 1 to 10 or 1
22 to 9 so it could achieve the same --

23 COMMISSIONER MAY: We're spending a lot of time
24 talking about something that's not super important. It's
25 certainly not that critical to your relief.

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1 MS. GARRISON: Okay.

2 COMMISSIONER MAY: It was just a suggestion about
3 how to make it look as good as possible.

4 MS. GARRISON: Okay, yeah.

5 COMMISSIONER MAY: It may look better with a bit
6 more of a slope.

7 MS. GARRISON: Okay. Wonderful. Thank you so
8 much for the clarification.

9 MEMBER JOHN: So, Mr. Chairman, I posed the
10 question initially because I could not determine from the
11 drawings what the pitch was. So there was no baseline to
12 determine what the flexibility would be. So I think it would
13 be useful if we could have something in the record showing
14 what the baseline is.

15 If now it is 1 to 12 then certainly we could grant
16 flexibility for 1 to 10, or whatever. But the drawings I
17 looked at could not tell me what the pitch was, as proposed.
18 And my concern was that there could be an issue later on in
19 terms of getting a permit if the drawings are not clear.

20 CHAIRPERSON HILL: Okay. So this is what I
21 propose. Rather than -- and Ms. John -- everybody speak up
22 whenever they want, concerning what my thoughts on this are
23 -- is that I don't know what the costs are involved with
24 getting another drawing.

25 I mean, in terms of there being a range, I

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1 understand what is being -- this is just a suggestion now.
2 Ms. Garrison, we don't want you to do anything that would
3 hamper what your programming is. Right?

4 So why don't you go ahead and talk with your
5 architect and if he wants to -- he or she wants to submit a
6 range for whatever the slope of that roof is, and then go
7 ahead and submit that into the record, then we can then
8 deliberate on that range.

9 MS. GARRISON: Okay.

10 CHAIRPERSON HILL: Okay? And I think -- would
11 that satisfy everyone on the Board?

12 MEMBER JOHN: That works for me.

13 CHAIRPERSON HILL: Okay. Mr. May? Okay, all
14 right. So now I get to turn to the Office of Planning, and
15 with that I'll go ahead and ask the Office of Planning to
16 chime in. Great. Hello, Ms. Myers. I can see you.

17 MS. MYERS: Yes, I can see you all as well.
18 Hello, Ms. Garrison.

19 MS. GARRISON: Hello.

20 MS. MYERS: Anyway, this will just be short and
21 sweet. The Office of Planning -- this is Crystal Myers. The
22 Office of Planning is recommending approval and stands on the
23 record of the staff report.

24 CHAIRPERSON HILL: Okay, great. Thanks, Ms.
25 Myers. All right. So does the Board have any questions for

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1 the Office of Planning? And I can actually see everybody so
2 you can nod yes or no if you do. No, okay. Ms. Garrison,
3 do you have any questions for the Office of Planning?

4 MS. GARRISON: No.

5 CHAIRPERSON HILL: Okay, great. So as I mentioned
6 during the last hearing, in terms of witnesses I don't have
7 anyone that signed up either in favor or in opposition, or
8 any ANC members 24 hours prior. So there is no one else that
9 was wishing to speak.

10 So Mr. Ritting, I assume that's okay?

11 MR. RITTING: Yes.

12 CHAIRPERSON HILL: Okay. All right. So that
13 being the case then, Ms. Garrison, do you have anything you'd
14 like to add at the conclusion?

15 MS. GARRISON: That's it. Just thank you so much.

16 CHAIRPERSON HILL: Okay, great. All right, then
17 we'll go ahead. I'm going to close this hearing, unless the
18 Board has anything else to add, and -- Mr. Hart, sure, go
19 ahead.

20 VICE CHAIRPERSON HART: I think we just close the
21 hearing but leave the record open for whatever subsequent
22 documentation that Ms. Garrison is going to be supplying to
23 us.

24 CHAIRPERSON HILL: Yes, thank you for that
25 clarity. If you could, Ms. Garrison, just go ahead and

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1 submit what we were speaking to. And then otherwise we'll
2 close the hearing.

3 MR. RITTING: I had a suggestion about the
4 submission, Ms. Garrison.

5 MS. GARRISON: Yes.

6 MR. RITTING: If you talk to your architect and
7 you just want to print out the plan sheet and hand write the
8 new pitch information, that would be adequate.

9 MS. GARRISON: Okay. Sounds good. Thank you so
10 much.

11 CHAIRPERSON HILL: All right. Let's see. Okay.
12 So then Mr. Moy, we'll put this on for decision next week.

13 MR. MOY: Yes, sir.

14 CHAIRPERSON HILL: And actually, now that I'm
15 realizing this, when do you want Ms. Garrison to submit that
16 information by? Mr. Moy, you're muted.

17 MR. MOY: That's something I need to learn.

18 CHAIRPERSON HILL: It's going to happen to all of
19 us a lot and everybody's going to say, excuse me, you're
20 muted.

21 MR. MOY: Okay. So I would suggest, Mr. Chairman,
22 that if the Applicant could make the submission into the --
23 directly into the case record by this Thursday would be
24 desirable. Well, actually, that would be tomorrow. Or if
25 not certainly by no later than Friday.

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1 MS. GARRISON: Sounds good.

2 MR. MOY: Let's say Friday.

3 MS. GARRISON: Okay. Thank you.

4 CHAIRPERSON HILL: And Ms. Garrison, if you have
5 any problems with that with the architect just let us know,
6 okay?

7 MS. GARRISON: Okay. Sounds great. Thank you so
8 much.

9 CHAIRPERSON HILL: Okay. All right. So, let me
10 see. Is that it for everybody, before Ms. Garrison leaves
11 us? All right, okay. All right, thanks, Ms. Garrison.

12 MS. GARRISON: Thank you so much. Have a great
13 day.

14 CHAIRPERSON HILL: You too. And then Ms. Myers
15 is leaving us. Thank you, Ms. Myers. And then now Mr. Moy,
16 if you want to go ahead and call our next case.

17 MR. MOY: Should I wait for you to return, Mr.
18 Chairman?

19 CHAIRPERSON HILL: I appreciate it. I'm in the
20 room. I'm here. I'm not going anywhere.

21 MR. MOY: I assumed you were still on audio.

22 CHAIRPERSON HILL: I appreciate it. I'm just
23 getting up and getting files.

24 MR. MOY: All right, that's all right. Okay, so
25 the next case application before the Board is No. 20223 of

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1 Bernard Berry. And this is captioned for special exception
2 under Subtitle E Section 5201 from the lot occupancy
3 requirements of Subtitle E Section 304.1 to construct an
4 addition to a three-story principal dwelling unit, with a
5 cellar level and roof deck pool, RF-1 Zone at premises 509
6 O Street Northwest, Square 479, Lot 818. And Mr. Chair, you
7 may wish to address the notice requirements before you go any
8 further.

9 CHAIRPERSON HILL: Okay, thank you. Paul, can you
10 bring up the witnesses?

11 MR. YOUNG: Yes. The agent is Eric Teran and he
12 had issues with his video so he's calling in, and he should
13 be able to speak.

14 CHAIRPERSON HILL: Okay.

15 MR. TERAN: I'm here.

16 CHAIRPERSON HILL: Okay, great. Could you please
17 introduce yourself for the record?

18 MR. TERAN: My name is Eric Teran. I'm the
19 architect for Mr. and Mrs. Berry and they reside at 2800
20 North Rosser Street in Alexandria, Virginia.

21 CHAIRPERSON HILL: Okay. Mr. Teran, were you able
22 to watch at least a couple of the hearings beforehand or you
23 were not?

24 MR. TERAN: I've been watching it all, it's quite
25 exciting.

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1 CHAIRPERSON HILL: Okay. It is a little exciting.
2 At least mildly entertaining, I think, if you're stuck at
3 home and this is any interest to you. Let's see. So, for
4 the Board in terms of the notice.

5 So the Office of Zoning did send out letters to
6 the 200 footers which is in Exhibit 34. The Office of Zoning
7 also sent out letters to the parties in Exhibit 35. Mr.
8 Teran, do you know about the placard and whether it was
9 posted?

10 MR. TERAN: Yes. The original one was I think
11 around February 15th, for the original date. And then we
12 posted again I think it was around May 15th, May 16th, around
13 there.

14 CHAIRPERSON HILL: For this date?

15 MR. TERAN: Yes.

16 CHAIRPERSON HILL: Okay. All right. I'm
17 comfortable with that. Does the Board have any issues
18 concerning notice, Mr. May?

19 COMMISSIONER MAY: No.

20 CHAIRPERSON HILL: Mr. Hart?

21 VICE CHAIRPERSON HART: No.

22 CHAIRPERSON HILL: Ms. John?

23 MEMBER JOHN: No.

24 CHAIRPERSON HILL: Okay. All right, so Mr. Teran,
25 we're going to go ahead and let you -- I'll keep track of the

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1 time. Mr. Young, if you want to go ahead and start the timer
2 when he begins. But I put 15 minutes on the clock, Mr.
3 Teran. I don't think you're going to go that long.

4 But if you want to go ahead and explain to us the
5 application and then also how your client is meeting the
6 burden so that we can grant the application. There's
7 something in the record that allows you to speak for the
8 Applicant, is that correct?

9 MR. TERAN: That is correct.

10 CHAIRPERSON HILL: Okay. So you can begin
11 whenever you like, Mr. Teran.

12 MR. TERAN: Good morning, Mr. Chairman and members
13 of the Board. We are asking for a special exception for a
14 lot occupancy of 68.8 percent. Per the document and plans
15 that we have provided, we have met the burden of proof for
16 a special exception to exceed the allowed lot occupancy. The
17 following is a summary of the proof provided.

18 The house is in harmony with the neighborhood.
19 There are 12 properties in the immediate vicinity and 6 of
20 them are actually over 70 percent.

21 Number two, the light and air to adjacent
22 properties is not being compromised as the addition is only
23 on the first and second floor with an outdoor spiral
24 staircase on the third floor to the roof.

25 Additionally, the home is now stepping so that

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1 breaks up the facade and the massing of the home. The
2 neighbors' privacy is not being violated as the windows are
3 facing the owner's rear yard, as they were in the original
4 building. So there's no change.

5 Next one, the addition is in the rear yard and
6 will be minimally seen from the public space while walking
7 along O Street. And we have received support from the ANC
8 6E Zoning Committee, the ANC 6E Board, the Office of
9 Planning. They all had recommended this project for lot
10 occupancy special exception.

11 Additionally we have numerous support letters and
12 over 20 signatures of support from immediate neighbors.
13 Through careful consideration and thoughtful design relief
14 may be granted without substantial detriment to the public
15 good and without substantially impairing the intent, purpose,
16 or integrity of the zone plan.

17 We believe the proposed additional area meets the
18 criteria set forth by the Board of Zoning Appeals special
19 exception review standards. And we are happy to answer any
20 questions. Thank you.

21 CHAIRPERSON HILL: Okay, great. Does the Board
22 have any questions? And I'm going to go around, first. Mr.
23 May?

24 COMMISSIONER MAY: Yes, I have questions about
25 what I saw in the record. It's less about the relief you're

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1 asking for and it's a question about whether you need relief
2 for other aspects of it. Because we wouldn't want you to
3 have to come back again.

4 Specifically, it looks like according to the
5 design, there's a guard rail that's above the roof height
6 that is not set back from the side wall. And I think at the
7 front as well, I forget. And I'm wondering about that. Do
8 you think you need relief for those features?

9 (Simultaneous speaking.)

10 MR. TERAN: We're within the by right. The roof
11 I believe is at the 35-foot height limit and then I believe
12 we're allowed -- I think was it 3 feet or 4 feet for the
13 guard rail. And we're within that limit. So we're not
14 extending past what zoning law has allowed us to do.

15 COMMISSIONER MAY: Okay. I thought you had at 35
16 feet, that's everything and then if you have a guard rail
17 above it that's less than 4 feet it would have to be set
18 back.

19 (Simultaneous speaking.)

20 COMMISSIONER MAY: -- it would have to be set
21 back. What?

22 MR. TERAN: The guard rail is less than 4 feet.

23 COMMISSIONER MAY: Right. You're allowed to have
24 things on top of the roof that are less than 4 feet, but they
25 still have to be set back one-to-one. That's what my

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1 understanding was. I'll ask the Office of Planning as well.

2 MR. TERAN: For that portion we already have that
3 -- that's already all approved on the original permit when
4 we started building construction.

5 (Simultaneous speaking.)

6 MR. TERAN: -- already been approved.

7 COMMISSIONER MAY: Really?

8 MR. TERAN: It was approved at the beginning, I
9 think it was 2019.

10 COMMISSIONER MAY: That's really surprising. I'm
11 going to ask the Office of Planning to see if that's correct.
12 But that was the one question that I had, because it does not
13 -- I don't know that it would be a big deal to get that
14 relief if you needed it, but I thought it would need it. So
15 anyway. I'll ask the Office of Planning. That was my only
16 question, Mr. Chairman.

17 CHAIRPERSON HILL: Okay, thank you. Mr. Teran,
18 so you're okay for now. It doesn't seem like you have any
19 questions or comments from the Commission. Let's see. Mr.
20 Hart?

21 VICE CHAIRPERSON HART: No, I don't know have any
22 questions.

23 CHAIRPERSON HILL: Ms. John?

24 MEMBER JOHN: No questions.

25 CHAIRPERSON HILL: Pardon me, Ms. John? I'm

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1 sorry.

2 MEMBER JOHN: I have no questions.

3 CHAIRPERSON HILL: Thank you. I'm going to go
4 ahead and turn to the Office of Planning. Mr. Mordfin, I
5 think you're muted. I can't see through your photo so I
6 don't know. Now you're muted again.

7 MR. MORDFIN: Good morning. I'm Stephen Mordfin
8 with the Office of Planning. First I'll address your
9 question having to do with the guard rail. I do believe Mr.
10 May is correct that the guard rail does have to be set back.
11 I was going to look that up in the zoning regs while you were
12 talking but I didn't have enough time.

13 But aside from that issue, the Office of Planning
14 does support this application to increase the lot occupancy.
15 It's less than 70 percent and otherwise has no issues with
16 this application and is in support. I will check further
17 into the guard rail issue just to confirm that what I am
18 saying is correct.

19 CHAIRPERSON HILL: Mr. Mordfin, what you're saying
20 then is they do need relief from that?

21 MR. MORDFIN: I believe so. I just want to double
22 check that with the zoning regs to make sure that what I'm
23 saying is correct. But I do believe it has to be set back.
24 If it's above 4 feet then it has to be set back a distance
25 equal to its height.

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1 COMMISSIONER MAY: Well, it's not above 4 feet,
2 it's less than 4 feet, but I still think it has to be set
3 back. It doesn't need relief to exist, but it would need
4 relief from the setback.

5 MR. MORDFIN: From the setback.

6 COMMISSIONER MAY: That's my reading of it, or my
7 recollection of it.

8 MR. MORDFIN: Right. That's why I wanted to look
9 it up in the zoning regs. From when that part of the
10 conversation started I didn't get that far into the zoning
11 regs to actually confirm that.

12 COMMISSIONER MAY: Right.

13 CHAIRPERSON HILL: And then Mr. Mordfin, if they
14 need relief from the setback we don't need new plans, we
15 would just need to understand whether the Office of Zoning
16 or the Board is comfortable with that relief, is that
17 correct?

18 MR. MORDFIN: We would just -- oh, okay. So
19 somebody else has looked it up. So Mr. May is correct that
20 they do need relief from that aspect, that was discussed on
21 the guard rail. Even though they had a permit, that could
22 have been an error. So, that's one conditional area of
23 relief that the Applicant then does now require.

24 CHAIRPERSON HILL: So then the Applicant has to
25 ask for that relief, correct?

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1 MR. MORDFIN: Correct.

2 CHAIRPERSON HILL: And you aren't able to say at
3 this point, or are you, if the Office of Planning would be
4 in approval of that relief?

5 MR. MORDFIN: Well, the Applicant also has the
6 option of making it conform. The Applicant has to do two
7 things. Either request the relief, or to revise the plans
8 to make the guard rail conform and then not have to request
9 relief.

10 CHAIRPERSON HILL: How would they revise the plans
11 to make the guard rail conform?

12 MR. MORDFIN: I'm sorry?

13 CHAIRPERSON HILL: How would they revise the plans
14 to make the guard rail conform?

15 MR. MORDFIN: They could set the guard rail back.

16 COMMISSIONER MAY: That would put it in the middle
17 of their swimming pool. It probably wouldn't work.

18 MR. MORDFIN: Oh. Well, then in this case then
19 probably his only option would be to request the additional
20 relief.

21 CHAIRPERSON HILL: And do you know if -- you don't
22 know whether the Office of Planning would be in favor of that
23 additional relief at this point, correct or not?

24 MR. MORDFIN: I would like to look at it from that
25 perspective, first, before I comment on it. I just think it

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1 would be better, because we didn't analyze it for that -- we
2 didn't notice that that was not in conformance and it would
3 just be good to look at it and just to make sure that we
4 don't see anything. Because we didn't really focus on that
5 because that wasn't requested. We didn't pick up on it
6 either unfortunately.

7 CHAIRPERSON HILL: So Mr. Teran, I guess -- I
8 don't necessarily think this is going to be a problem, but
9 just to let you know. I guess we will have to revise the
10 application to request this added relief from the one-to-one
11 setback for the guard rail. And then the Office of Planning
12 could take a look at that.

13 I know that you've already gone to the ANC, or
14 your Applicant has gone to the ANC and they are in support,
15 or they don't have any issues or concerns of this design.
16 Do you at least understand what the discussion -- that is
17 going on right now, Mr. Teran?

18 MR. TERAN: Yes, I understand. I mean, the only
19 problem is that I believe the guard rails have already been
20 ordered. The roof is already I think almost done. And the
21 base of the guard rail has already I believe been installed.
22 And so considering that this was approved back I think it was
23 January or February of 2019 and it went through about eight
24 months through the building department and zoning, I believe
25 that would be a hardship that we'd have to change anything.

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1 We weren't asking for relief because we already
2 got that approved. We thought we were compliant since we got
3 that approval. So I don't know -- I mean, I wouldn't want
4 to hold this portion of the special exception up either.

5 CHAIRPERSON HILL: Mr. Teran? It's okay. I think
6 that your Applicant would have a big case against, right,
7 hardship, or the fact that they've submitted -- I forget what
8 the legal word is -- that they've already followed the
9 approved plans.

10 However, I guess now -- I'm trying to just figure
11 out how we can tidy this up, is what I'm trying to get
12 through. So, OAG, they would add the relief requested, or
13 how would that work now? What's the next step?

14 MR. RITTING: Well, I believe Mr. Teran's comments
15 were that he has an approved permit that is vested. That's
16 I think the term you were looking for. And he could proceed
17 at his risk that that permit --

18 CHAIRPERSON HILL: I'm going to interrupt you, Mr.
19 Ritting. I'm sorry to cut you off. If they wanted to ask
20 for this relief how do they now then do that?

21 MR. RITTING: They would make a submission
22 requesting the additional relief and submitting it to the
23 Board.

24 CHAIRPERSON HILL: Okay.

25 MR. RITTING: Then Office of Planning would have

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1 a chance to comment and the ANC would have a chance to
2 comment. And after that you would schedule it for another
3 hearing.

4 CHAIRPERSON HILL: Just for -- I shouldn't say
5 just for -- this additional relief requested, we would have
6 to keep the record open for the ANC is what you're saying,
7 Mr. Ritting?

8 MR. RITTING: Correct.

9 CHAIRPERSON HILL: Okay. Mr. Teran, I'm just
10 trying to cover this stuff up as best we can for you. If you
11 want to go ahead and speak with the Office of Planning --
12 have you been working with Mr. Mordfin already? I assume you
13 have.

14 MR. TERAN: Yes.

15 CHAIRPERSON HILL: So if you want to go ahead, Mr.
16 Teran, and speak with Mr. Mordfin, and see how you can change
17 the relief requested to include -- this is better for your
18 client in the long run. Right? So go ahead and ask for the
19 relief requested that Mr. May is bringing up. You can just
20 speak with Mr. Mordfin and he'll tell you how to go ahead and
21 change your application, or add the additional relief.

22 I don't think that, Mr. Moy, this has to go back
23 to the ANC, and also the Board members I'm speaking to. I
24 think we could keep the record open perhaps for anything that
25 we needed to hear from the ANC. I don't know how we would

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1 go about doing that, I suppose. I'm just trying to think of
2 timing here.

3 Let me ask in terms of the issues for the relief
4 requested, other than what Mr. May has now pointed out, does
5 the Board have any further questions? Because I'm kind of
6 just walking through this. Mr. Hart, you're shaking your
7 head no. Ms. John, do you have any questions?

8 MEMBER JOHN: Just clarification that this
9 application does not affect the third floor, which would
10 include the roof deck and the pool.

11 MR. TERAN: Correct. On the third floor it just
12 becomes a terrace, and then just the spiral stairs to get up
13 to the roof. But the roof isn't getting bigger and the
14 interior space on the third floor is not getting bigger.

15 MEMBER JOHN: And so I agree that the Applicant
16 is proceeding at its own risk, because it's a self-certified
17 application. So you know, we can certainly try to clarify
18 the application because that might be in the Applicant's best
19 interest.

20 CHAIRPERSON HILL: Okay. So, I'm trying to now
21 walk this through. And OAG, I guess I will look to you. If
22 the Applicant works with Office of Planning, and if they add
23 the additional relief, then we could leave the record open
24 for any comments from the ANC, and maybe deliberate on this
25 in two weeks? I'm trying to understand how we include this

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1 in the process now, with the added relief.

2 MR. MORDFIN: Mr. Chairman?

3 CHAIRPERSON HILL: Yes.

4 MR. MORDFIN: Alternatively, because we're still
5 at the beginning of this hearing, we could look at this while
6 the hearing goes on and make a recommendation on what Office
7 of Planning would recommend for this relief before the end
8 of today's hearing, if that satisfies the needs of the Board.

9 CHAIRPERSON HILL: So you, Mr. Mordfin -- and Mr.
10 Mordfin, I'm sorry, I can't see the video of you. You're
11 suggesting that you speak with the Applicant now and then
12 the, Applicant would amend its self-certified application.
13 And then the Office of Planning would be able to provide some
14 comment on that by the end of the day?

15 MR. MORDFIN: Correct. Well, actually, we need
16 to look into whether or not first we need to -- I think I
17 misspoke. We need to look into whether or not we agree that
18 relief is needed and let you know before the end of the
19 hearing. So, let me backtrack and retract what I just said.
20 I didn't say it clearly.

21 CHAIRPERSON HILL: Okay. All right. That's all
22 right. So then I suppose, Mr. Teran, if you could -- or Mr.
23 Mordfin, do you know how to reach Mr. Teran?

24 MR. MORDFIN: I assume his contact information is
25 in the application. Otherwise he can also email me.

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1 CHAIRPERSON HILL: Mr. Teran, do you have Mr.
2 Mordfin's email?

3 MR. TERAN: Yes, I believe I do.

4 CHAIRPERSON HILL: Okay. I don't want anybody to
5 say any phone numbers on the record. Mr. Teran, if you could
6 go ahead and email Mr. Mordfin and try to get into contact
7 with each other after this portion of the hearing, and then
8 we'll circle back around to this at the end of the day and
9 see where we are.

10 MR. TERAN: Okay. My biggest concern is I
11 wouldn't want to hold up the addition to the rear yard
12 because of the guard rails on the roof. So if it's going to
13 be delayed say by two, three, four, five weeks the decision,
14 we'd rather split up the decisions, because the owner really
15 wants to get going on the back yard addition. So that's my
16 biggest concern, where this starts to become delayed, the
17 petition.

18 CHAIRPERSON HILL: I understand, Mr. Teran. We're
19 not trying to delay this. So we don't want to delay this.
20 We're trying to just make sure -- and I guess fortunately
21 Commissioner May did notice this, that it will be as tidy as
22 possible for your client.

23 Mr. Moy, in terms of -- and also OAG because I
24 know that we're in this virtual world now. In terms of us
25 coming back around to this at the end of the day is there any

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1 issues with that?

2 MR. RITTING: Yes. The ANC is a party. You're
3 making potentially a new submission with new relief. They
4 need to have an opportunity to comment on that before you
5 close the record and make a decision.

6 CHAIRPERSON HILL: No, I understand, Mr. Ritting,
7 and I appreciate that. We would not be closing the record
8 today. There would still be some way or opportunity for the
9 ANC to comment upon the additional relief. I'm just more
10 speaking to, is there an issue with us circling back around
11 here again at the of the day.

12 MR. RITTING: No.

13 CHAIRPERSON HILL: Okay. Because I remember one
14 time I did -- but you're correct, I closed the record. There
15 was one time where we did a case, closed it, came back at the
16 end of the day and that ended up being an error. We're not
17 closing the hearing. In terms of us coming back around to
18 this at the end of the day, the OAG is comfortable with that?

19 MR. RITTING: Yes.

20 CHAIRPERSON HILL: Okay. All right. So Mr.
21 Teran, go ahead and please email Mr. Mordfin and see if you
22 guys can connect. And then I guess, Mr. Mordfin, you can
23 kind of reach out to Mr. Moy or somehow circle back around
24 so we can come back to this at the end of the day. All
25 right?

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1 MR. TERAN: Okay.

2 CHAIRPERSON HILL: Okay. So that ends that
3 portion of the discussion and concludes public testimony.
4 And if you guys can all be here -- I'm getting, kind of, some
5 feedback on this.

6 There was no one in here -- or I'm sorry. For
7 this case there was no public testimony and there was no ANCs
8 that had signed up for public testimony 24 hours in advance.
9 So there's no one here that has signed up to testify. So
10 that being the case, Mr. Teran, do you have any questions
11 concerning this portion of what we discussed?

12 MR. TERAN: No. I'll talk to the Office of
13 Planning and I guess we'll be back to you in a little bit to
14 see what's going on.

15 CHAIRPERSON HILL: Yes. I mean, let us know what
16 your day -- it's going to be, if possible with you it will
17 be at the very end of the day, meaning after we finish all
18 of our discussions. At this point I'm going to guess maybe,
19 I don't know, 4:00, 3, 4:00, something like that maybe.

20 MR. TERAN: That's fine. I'm not going anywhere.
21 I'm at home.

22 CHAIRPERSON HILL: Okay, that's good. All right.
23 So, let's see. I think that's it for now then, Mr. Moy. And
24 we'll come back and circle around at the end of the day. Is
25 that understood, Mr. Moy?

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1 MR. MOY: Yes, sir.

2 CHAIRPERSON HILL: Before we call up our next case
3 would everyone mind if we just take a five-minute break?
4 Okay. All right. So we'll just come back in like five
5 minutes. Just take a quick break if that's all right. Thank
6 you.

7 (Whereupon, the above-entitled matter went off the
8 record at 10:57 a.m. and resumed at 11:05 a.m.)

9 CHAIRPERSON HILL: So, Mr. Moy, if you want to go
10 ahead and call our next case, please?

11 MR. MOY: Thank you, Mr. Chairman. So I believe
12 the application before the Board now is Application No. 20210
13 of Hadell and Fannie Callands, C-A-L-L-A-N-D-S, as amended,
14 for special exceptions under Subtitle E Section 5201 from the
15 lot occupancy requirements, Subtitle E Section 304.1, non-
16 conforming structure requirements, Subtitle C 202.2. This
17 would construct a new two-story rear addition to an existing
18 three-unit apartment house, RF-1 Zone at 1012 16th Street
19 Northeast, Square 4075, Lot 176.

20 And again, Mr. Chair, just to remind you to go
21 through the -- address the notice requirements again.

22 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
23 Moy. If you could please -- and I have two people here, it
24 looks like. I can't see Mr. or Ms. Callands. I see Ms.
25 Felder. Could you introduce yourself, first, Ms. Felder?

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1 MS. FELDER: Yes, hi. My name is Tenika Felder.
2 I'm the architect on the project and I'm representing Mr.
3 Hadell and Ms. Fannie Callands for this property. And
4 actually Ms. Callands is on the line, she is one of the
5 homeowners.

6 CHAIRPERSON HILL: Okay. Ms. Callands, could you
7 please introduce yourself for the record? You're on mute.

8 MS. CALLANDS: Yes, good morning. My name is
9 Fannie Callands and we are at properties 1012 16th Street
10 Northeast, Washington, D.C.

11 CHAIRPERSON HILL: Okay, great. Ms. Callands, you
12 seem to be giving me a little bit of feedback so perhaps if
13 you could mute your microphone and we'd have questions for
14 you.

15 I guess first if we could, as a Board, go over the
16 notice requirements. So, they did -- the Office of Zoning
17 did send out letters to people within 200 feet of the
18 property in Exhibit 42. In Exhibit 43 there is the Office
19 of Zoning letters to the parties. In terms of the posting
20 and maintenance, we did get an affidavit of posting but not
21 maintenance.

22 Ms. Callands, or Ms. Felder, I don't know who
23 could speak to this. Did you guys actually post on the
24 property, and if so, for how long and was it for this date?

25 MS. FELDER: Yes. So, we did the original posting

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1 back on February 27th which was 21 days before the original
2 hearing date. We received the information from Mr. Reed for
3 this hearing with the new date of June 3rd, which we revised
4 the sign and posted that on May 21st. And we did upload an
5 affidavit of maintenance to the website as well.

6 CHAIRPERSON HILL: Okay, great. I can actually
7 see everyone this time, so if you just want to nod if anybody
8 has any issues with the posting. I do not. Does anyone have
9 any issues with the posting? No? All right. I don't see
10 anyone saying yes, so with that as consensus we'll go ahead
11 and move forward.

12 Ms. Felder, if you want to go ahead and just walk
13 us through -- I assume you're going to be presenting to us.
14 Is that correct, Ms. Felder?

15 MS. FELDER: That's correct.

16 CHAIRPERSON HILL: If you could go ahead and walk
17 us through the application of what your client is trying to
18 achieve in terms of how you believe they're meeting the
19 standard for us to grant the requested relief. There is 15
20 minutes on the clock there and you can begin whenever you
21 like.

22 MS. FELDER: Thank you. Good morning, Mr.
23 Chairman and Board members. This application is to request
24 approval for a special exception for relief from the lot
25 occupancy requirements of Subtitle E 304.1 and relief from

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1 the non-conforming structures requirements of Subtitle C
2 202.2 in order to construct a new two-story rear addition to
3 an existing three-unit apartment building.

4 The building is located at 1012 16th Street
5 Northeast which is Square 4075, Lot 176. The property is
6 situated to the west of Florida Avenue Northeast and is
7 located mid-block between Oates and Levis Street Northeast.
8 The subject building is currently a two-story three-unit
9 apartment building and one of the Applicants, Mr. Hadell
10 Callands, resides in one of the ground floor units.

11 The Applicants wish to construct a new two-story
12 addition to the rear of the existing structure. The proposed
13 addition is approximately 7 feet by 9 feet. It will infill
14 an existing void at the rear of the structure and would add
15 approximately 64 square feet of living space to two of the
16 building's units, one of which is the Applicant's.

17 The applicant is seeking relief from the lot
18 occupancy requirement under Subtitle E 304.1, and under this
19 subtitle the maximum lot occupancy permitted is 60 percent.
20 However, the lot occupancy of the property with the building
21 as it currently exists is 64 percent, which is over the
22 allowable requirement. And the proposed new addition would
23 increase the current lot occupancy by 2 percent, from 64
24 percent to 66 percent.

25 Additionally, the Applicant is seeking relief from

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1 the non-conforming structures requirement under Subtitle C
2 202.2. The subject building as it currently exists is a non-
3 conforming structure due to current lot occupancy. Given the
4 proposed new addition will increase the current lot occupancy
5 by 2 percent, however, it will not have an adverse effect to
6 the use and development standards for the building.

7 The proposed new addition is infilling an existing
8 void at the rear of the existing building and it will not
9 project beyond the current building line, nor that of the
10 neighboring building. Permitting the addition will enhance
11 the appearance of the building, and as an extension the
12 neighborhood, while creating more usable, habitable space to
13 the residents of the building, one of whom is the Applicant.

14 The proposed new addition will not have any
15 adverse effects on the neighboring properties. The adjoining
16 building has no windows on the wall that will abut the
17 proposed new addition. And again, the new addition will not
18 project beyond the existing rear building walls of the
19 neighboring existing buildings.

20 We have received letters of support from the ANC,
21 from DDOT, and the Office of Planning. Also, the adjoining
22 neighbor has expressed no objection to the proposed new
23 addition. So for all these reasons the Applicants
24 respectfully request that the Board grant approval for this
25 application. We're happy to answer any questions you may

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1 have. Thank you.

2 VICE CHAIRPERSON HART: We can't hear you.

3 CHAIRPERSON HILL: Great, thank you. That's my
4 first unmute-able thing. So, Ms. Felder, thank you very
5 much. I'm going to go around the table. Does the Board have
6 any questions for the applicant starting with you, Mr. May?

7 COMMISSIONER MAY: I do not have any questions.

8 CHAIRPERSON HILL: Mr. Hart?

9 VICE CHAIRPERSON HART: Just one clarification.
10 The updated drawings were just to show what? That you
11 submitted -- I'm looking at what that is. Sorry. 18A1 and
12 A2.

13 MS. FELDER: Originally we were going to request
14 relief for the rear yard requirement as well, but we decided
15 not to do that and just set the building back so that we meet
16 the rear yard requirement.

17 VICE CHAIRPERSON HART: Okay, thank you.

18 CHAIRPERSON HILL: Ms. John, do you have any
19 questions? Okay. Let's see, I'm going to turn to the Office
20 of Planning, please.

21 MS. MYERS: Hi. This is Crystal Myers with the
22 Office of Planning. The Office of Planning is recommending
23 approval of this case and stands on the record of the staff
24 report.

25 CHAIRPERSON HILL: Okay. Does anyone have any

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1 questions for the Office of Planning? Mr. May?

2 COMMISSIONER MAY: No questions.

3 CHAIRPERSON HILL: Mr. Hart?

4 VICE CHAIRPERSON HART: No questions.

5 CHAIRPERSON HILL: Ms. John? Ms. Felder, do you
6 have any questions for the Office of Planning?

7 MS. FELDER: I do not.

8 CHAIRPERSON HILL: Okay. All right. Let's see.
9 There is -- what is it. So again this is where I would
10 normally turn to the audience to see if there's anyone here
11 wishing to speak in support or in opposition. As I'm noting
12 on the record here, no one has signed up 24 hours in advance
13 to speak, including the ANC. So I don't believe we have
14 anyone that needs to speak.

15 Ms. Felder or Ms. Callands, do you have anything
16 else you'd like to add at the end of the hearing?

17 MS. FELDER: No.

18 CHAIRPERSON HILL: Ms. Callands, I can't see you
19 so I apologize. Do you have anything you'd like to add at
20 the end of the hearing?

21 MS. CALLANDS: One moment. Can you hear me?

22 CHAIRPERSON HILL: Yes, I can. Thank you. You
23 do not have anything to add, correct?

24 MS. CALLANDS: No.

25 CHAIRPERSON HILL: Okay. Well, if you did hear

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1 the beginning of the hearing, we are unable to make decisions
2 from the bench. We're waiting 24 hours to leave the record
3 open if anyone had any technical issues, and then 24 hours
4 after that if there were anyone that had any technical issues
5 that allowed parties to respond. So we wouldn't be making
6 decisions till 48 hours. So it will be next week that we'll
7 have an opportunity to deliberate on this case.

8 So, unless anyone else has anything to add, I'm
9 going to go ahead and close the record. Does the Board have
10 anything they'd like to add? No, no. Okay. I can't see Mr.
11 May, but I'm assuming he says no.

12 All right, Mr. Moy. Let's go ahead and put this
13 on for decision on next week, please.

14 MR. MOY: Yes, sir. It's on for next week,
15 decision.

16 CHAIRPERSON HILL: Okay. It's I think 6/10. I
17 forgot now. Is it 6/10?

18 MR. MOY: That's correct. June 10th, in the
19 morning.

20 CHAIRPERSON HILL: Okay. And Ms. Felder and Ms.
21 Callands again as I mentioned before we don't take public
22 testimony during our deliberation, so you're welcome to watch
23 but we won't be taking any public testimony. So you guys
24 have a nice day, okay?

25 MS. FELDER: Okay. Thank you so much. We

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1 appreciate it. Thank you.

2 MS. CALLANDS: Thank you. Bye bye.

3 CHAIRPERSON HILL: All right, Mr. Moy. If you
4 want to go ahead and call our next case, that would be great.

5 MR. MOY: Thank you, Mr. Chairman. So that would
6 be Case Application No. 20218 of Gwendolyn Keita, K-E-I-T-A,
7 for use variance from the use permissions for accessory
8 apartments Subtitle U Section 253.5, to permit an accessory
9 apartment within an existing, semi-detached principal
10 dwelling unit. R-3 Zone. This is at 5200 4th Street
11 Northwest, Square 3257, Lot 88.

12 And of course, before we get into the merits of
13 the application, going through addressing the notice
14 requirements, Mr. Chairman.

15 CHAIRPERSON HILL: Okay, great. Thank you. Let's
16 see. Ms. Keita, can you hear me?

17 MS. KEITA: Yes, I can hear you.

18 CHAIRPERSON HILL: Could you please go ahead and
19 introduce yourself for the record?

20 MS. KEITA: Yes, good morning. My name is
21 Gwendolyn Keita. I reside at 64 Cherry Hills Drive, Aiken,
22 South Carolina. I did have the sign up from early February.
23 It never came down and I added the information that Mr. Reed
24 sent about the change in date and the way the meeting would
25 be held.

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1 CHAIRPERSON HILL: Okay, great. Thank you. Ms.
2 Keita, I'm going to go ahead, and we're going to walk through
3 -- it seems as though you've been watching now because you
4 kind of know about the preliminary stuff. I unfortunately
5 cannot see you, so this is less fun for me. But -- I don't
6 know, just it's nice to see a face.

7 MS. KEITA: I thought I would be able to be seen.

8 CHAIRPERSON HILL: No, it's an issue on my end.
9 I think everybody else can see you. For some reason I can't.
10 Or no, other people are shaking their head they can't see.
11 Maybe if you hover over your -- if you put the cursor over
12 the photographs that you see of all of us and if you click
13 the left cursor maybe the little things below will pop up and
14 video maybe is canceled out. I don't know.

15 MS. KEITA: It's not coming up. Sorry, it's not
16 coming up.

17 CHAIRPERSON HILL: That's okay, that's okay.
18 Sometimes I can't see anybody. We can hear you, though. So
19 if you need to say anything and I don't acknowledge you
20 please just speak up and I'll stop talking. Okay?

21 MS. KEITA: Okay.

22 CHAIRPERSON HILL: Okay. So in terms of notice
23 with the Board, the Office of Zoning did send out their
24 letters to the 200 footers, which is in Exhibit 42. The
25 Office of Zoning also sent out the letters to parties in

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1 Exhibit 43.

2 As the Applicant has just testified, they have
3 posted, and I believe they posted in a timely manner for this
4 particular hearing. Does the Board have any issues with the
5 notice? And I'm going to start with you, Mr. May, if you
6 could please say yes or no.

7 COMMISSIONER MAY: No.

8 CHAIRPERSON HILL: Mr. Hart?

9 VICE CHAIRPERSON HART: No.

10 CHAIRPERSON HILL: Ms. John?

11 MEMBER JOHN: Mr. Chairman, I don't see that
12 notice of posting for the new date in the record. So if it
13 exists, perhaps the Applicant could upload it to the system.

14 CHAIRPERSON HILL: Ms. Keita, I think you were
15 just speaking to the fact that you posted with the new date,
16 correct?

17 MS. KEITA: Right. I didn't take pictures, dated
18 pictures, with the new date, but I did have it posted from
19 the time Mr. Reed said we should.

20 CHAIRPERSON HILL: Okay. Ms. John, that's what
21 I had heard earlier. Do you want a photograph of that in the
22 record?

23 MEMBER JOHN: I think I'll accept the Applicant's
24 representation at this time.

25 CHAIRPERSON HILL: Okay, thank you. All right,

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1 so Ms. Keita, if you could go ahead and walk us through your
2 application and what you're trying to accomplish, and also
3 why you believe you're meeting the standard for us to grant
4 the relief requested. And you can begin whenever you like.

5 MS. KEITA: Okay. I am applying for the use
6 variance to allow my house not to have either the personal
7 dwelling or accessory apartment owner occupy it.

8 I meet the criteria for the Board to authorize a
9 variance, given General Provision 1000.1, in terms of the
10 extraordinary or exceptional situation or condition of the
11 specific piece of property. The house is located on a corner
12 lot with the main entrance on 4th Street, and the lower
13 basement level entrance on Hamilton Street.

14 The lower level entrance is designed as to
15 possibly give the appearance as the entrance to a separate
16 house. The house has been rented to two families for over
17 30 years. When I bought the house the owner indicated that
18 the basement could be rented as a separate unit and even had
19 a separate address, in keeping with the neighborhood
20 appearance. I understand that the separate address could no
21 longer be found, but it did have one at one time.

22 Number two, the strict adherence would result in
23 exceptional practical difficulties or to exceptional and
24 undue hardships upon the owner of the property. To be unable
25 to rent the house to two families will be an undue hardship,

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1 as I would have to evict one or both of the tenants, both of
2 which have called the address home for approximately nine
3 years.

4 I cannot move to D.C. at this time, as I am the
5 only family member in Aiken to help my 95-year-old aunt. It
6 would be very costly to change the property so it would be
7 reverted to a single-family home. I have kept the rent low
8 for the area, helping to ensure affordable housing to D.C.
9 residents.

10 Also, number three, the relief can be granted
11 without substantial detriment to the public good and without
12 substantially impairing the intent, purpose, and integrity
13 of the zone plan as embodied in the Zoning Regulations and
14 map.

15 To have the house continue being rented to two
16 families will not negatively impact the zoning district or
17 the neighboring properties. Both the basement and upstairs
18 units have had very stable tenants. The current tenants have
19 lived there for approximately nine years. Sorry. Thus
20 maintaining the stable neighborhood objective. Sorry, I'm
21 trying to turn this off. Okay.

22 CHAIRPERSON HILL: You're okay.

23 MS. KEITA: The current tenants have lived there
24 for approximately nine years, thus maintaining the stable
25 neighborhood objective.

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1 Likewise, the previous tenants were there
2 approximately the same amount of time, if not more. Although
3 my house is in keeping with the single-family appearance and
4 concept, there are apartments at the end of the 4th Street
5 block, as well as on the next block going down 4th Street.

6 Granting this variance will not adversely affect
7 the use of neighboring properties and will not be detrimental
8 to the public good. It doesn't increase traffic, noise, or
9 lighting. It looks like other houses in the neighborhood.

10 My home has been rented to two families almost
11 continuously since I purchased it in 1981. At first I lived
12 upstairs and rented out the basement. When I moved, I rented
13 out the upstairs as well. So two families rented the house.
14 During this time I have never to my knowledge had a complaint
15 from my neighbors. That's it.

16 CHAIRPERSON HILL: Okay. All right, well, great.
17 Thank you, Ms. Keita. Ms. Keita, are you an attorney, by any
18 chance?

19 MS. KEITA: No, I'm a psychologist.

20 CHAIRPERSON HILL: Oh. Well, you have a future
21 in land use if you want to go ahead and kind of like finish
22 with your psychology practice.

23 Let's see. Okay. Does the Board have any
24 questions for the Applicant? Let's start with you, Mr. May.

25 COMMISSIONER MAY: I do not have any questions.

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1 CHAIRPERSON HILL: Okay. Mr. Hart?

2 VICE CHAIRPERSON HART: No, I do not have any
3 questions. Thank you.

4 CHAIRPERSON HILL: Ms. John?

5 MEMBER JOHN: I have no questions.

6 CHAIRPERSON HILL: Okay. I'm going to turn to the
7 Office of Planning, please.

8 MS. FOTHERGILL: Good morning, Chairman Hill and
9 members of the Board. Anne Fothergill with the Office of
10 Planning. Can everyone hear me okay?

11 So for case 20218 the Office of Planning
12 recommends approval of the use variance. I did want to make
13 one clarification about the OP report. The first prong of
14 the variance test in the OP report refers to the first prong
15 for an area variance, but we do find that it meets the
16 criteria for the first prong for use variance, that there
17 would be an undue hardship on the property owner if the
18 relief wasn't granted. And I'm happy to take any questions
19 about the OP report or our recommendation. Thanks.

20 CHAIRPERSON HILL: Okay. Does the Board have any
21 questions for the Office of Planning? I'll start with you,
22 Mr. May.

23 COMMISSIONER MAY: I do not.

24 CHAIRPERSON HILL: Mr. Hart?

25 VICE CHAIRPERSON HART: No, I do not.

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1 CHAIRPERSON HILL: Ms. John?

2 MEMBER JOHN: I have no questions.

3 CHAIRPERSON HILL: Ms. Keita, do you have any
4 questions for the Office of Planning?

5 MS. KEITA: No, I don't, but I did forget to say
6 that the ANC was in support.

7 CHAIRPERSON HILL: Okay, thank you. Thank you.
8 All right, Ms. Fothergill, just hang out there for a minute.
9 Nice to see you. Nice to see -- this is great. We get to
10 see everybody one at a time. Everybody's still alive.

11 MS. FOTHERGILL: Nice to see everyone.

12 CHAIRPERSON HILL: Yes. Okay. All right. Okay.
13 All right. So, let's see, where are we. Okay. I believe
14 there is public testimony. I don't know if, Paul, you have
15 somebody there that is speaking in support I believe?

16 MR. YOUNG: So, there was one person that had
17 signed up, but I am not seeing them logged in here.

18 CHAIRPERSON HILL: Okay. So again for the record,
19 there was someone who had wanted to sign up for public
20 testimony in support, and that person seems to be a Mr.
21 Lawrence. And so we will see what happened. If there is an
22 issue I suppose Mr. Lawrence could submit something into the
23 record, if he wanted to. Is somebody trying to say
24 something? Oh, Ms. Keita?

25 MS. KEITA: If he was unable to come, let me say

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1 one of the things that he said in his letter to the record
2 was that he didn't know me, which is true. He did send me
3 an email after the fact. But he could attest to the
4 longevity of the house and the tenants, and that there was
5 at one point a separate mail address.

6 CHAIRPERSON HILL: Okay. Well, Ms. Keita, I can't
7 take your testimony on his behalf, anyway.

8 MS. KEITA: Okay.

9 CHAIRPERSON HILL: Just because you don't have a
10 letter of authorization or anything like that. But however,
11 if there is something in the record from him, that's fine.
12 And I guess this -- again, since this is somebody who is
13 speaking in support, I'm not as concerned about it. But this
14 is why I suppose we're keeping -- if there's technology
15 issues, that's why we're keeping this open for 24 hours and
16 then 48 hours -- 24 hours after that as well.

17 So, however, that's fine. I'm just kind of
18 speaking for the record that Mr. Lawrence was the only person
19 that had any possible interest in testifying, but he is not
20 here as of now. So that being the case I don't see anyone,
21 that the Board had any further questions. Ms. Keita, do you
22 have anything else you'd like to add at the end?

23 MS. KEITA: No, I would just like to thank you all
24 and to thank the staff for their help throughout this
25 process.

1 CHAIRPERSON HILL: Okay, wonderful. Well, Ms.
2 Keita, thank you and I'm sure your aunt is really lucky to
3 have you down there and wish you my best on that, because I
4 also am taking care of aging parents.

5 Okay, so we'll go ahead and close the hearing,
6 then. And Mr. Moy, if you could set this on for decision
7 again for June 10th.

8 MR. MOY: Yes, sir. It's done.

9 CHAIRPERSON HILL: Great. Mr. Ritting, oh, there
10 you are. So, I guess I'm kind of curious now, because this
11 is going to now possibly come up. Someone was wanting to
12 speak, supposedly, right? And they possibly self-selected
13 out and chose not to come today. So, is that -- so, are we
14 keeping -- the 24 hours is if there was any technology issues
15 associated with, I suppose, anything with the hearing, right?

16 And so therefore now 24 hours is going on for
17 perhaps this person to come forward and say they couldn't get
18 online, or something like that. But the record is not open
19 for everyone or anything, correct? It's just for people that
20 maybe were trying to speak? That's my question.

21 MR. RITTING: Yes. The rule -- the emergency rule
22 for the virtual hearing says an individual or organization
23 representative who is unable to testify at a public hearing
24 due to a technical issue may file a request for leave to file
25 a written version of the planned testimony to the record

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1 provided that the request includes an explanation of the
2 technical issues that prevented the timely testimony, the
3 request is submitted to the record within 24 hours, and
4 parties are allowed a reasonable time to respond.

5 So, I think the important word there is "may" in
6 this situation. The person has no obligation to do any of
7 that.

8 CHAIRPERSON HILL: Certainly. And just for my
9 clarity as well as for Mr. Hart whenever he may be
10 administering a hearing is that it's only for the people that
11 have signed up before. It's not for anyone who maybe have
12 had some other kind of technology issue like watching or
13 something. It's just for someone who was actually involved
14 in the hearing in some particular capacity, correct?

15 MR. RITTING: Yes. I mean, that was the idea.
16 I would add that if the Board if it wanted to reopen the
17 hearing because there was some issue they could do that. But
18 that's not the situation here.

19 CHAIRPERSON HILL: Yes. If something were to
20 happen -- anyway, we can always reopen it and deal with
21 something if something gets submitted and somebody wants us
22 to reopen. So I have the clarity that I needed. Okay. So,
23 Ms. Keita, once again thank you so much. And we'll
24 deliberate next week. Again, it's not something that you
25 would need to participate in but you're welcome to watch.

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1 Okay?

2 MS. KEITA: Thank you.

3 CHAIRPERSON HILL: Thank you. Bye bye. All
4 right, so Mr. Moy, you can go ahead and call our next case
5 when you get a moment.

6 MR. MOY: Thank you, Mr. Chairman. Before I do
7 that I just want to add for the transcript, Mr. Chairman.
8 Because so far this mystery name keeps coming up and I like
9 people identified for the transcript. And that name Robert
10 Reed, he is a BZA staff member. So I just wanted that known
11 for the record.

12 CHAIRPERSON HILL: Okay, thank you.

13 MR. MOY: So, the next application before the
14 Board is Application No. 20224 of Brittney Etheridge. And
15 this is captioned and advertised for special exceptions under
16 Subtitle F Section 5201 lot occupancy requirements of
17 Subtitle F Section 304.1, and from the rear yard requirements
18 of Subtitle F Section 305.1, to construct a second-story rear
19 addition to an existing attached principal dwelling unit.
20 RA-1 zone at 407 51st Street SE (Square 5318, Lot 164).

21 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
22 Moy. I'm trying to pull up this case. Let's wait for
23 everybody to join us.

24 MR. YOUNG: The agent for this application is
25 calling in so I don't believe you will see their video. But

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1 they should be able to speak.

2 (Simultaneous speaking.)

3 CHAIRPERSON HILL: Okay, could you please
4 introduce yourself for the record?

5 MS. ETHERIDGE: Yes. My name is Brittney
6 Etheridge and I am the homeowner at 407 51st Street SE,
7 Washington, DC.

8 CHAIRPERSON HILL: Great. Ms. Etheridge, were you
9 able to watch any of the previous hearings by any chance?

10 MS. ETHERIDGE: Yes, and I just wanted to say
11 excuse the background noise. I have a 5-year-old that is
12 playing in the other room.

13 CHAIRPERSON HILL: That's all right, Ms.
14 Etheridge. We've all been on Zoom calls for the past months
15 and months. If it's only one 5-year-old, that's not bad.
16 All right. Let's see. Okay.

17 So in terms of the preliminary issues, in terms
18 of the notices we did have the Office of Zoning, the letters
19 from the 200 footers in exhibit 36. The Office of Zoning has
20 sent out letters to parties in exhibit 37. There is an
21 affidavit of posting for exhibit 31 and an affidavit of
22 maintenance from exhibit 34.

23 Ms. Etheridge, I guess you have posted and you
24 have notice for this hearing, correct?

25 MS. ETHERIDGE: Yes, I have. I worked with Mr.

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1 Robert Reed and he sent over some of the language as well as
2 the date to be posted. And it's currently still posted.

3 CHAIRPERSON HILL: Okay, great. So I actually can
4 see everybody right now. Does the Board have any concerns
5 concerning posting? I do not. Everyone just nod no, that
6 would be great, or yes. Okay, everyone is saying no so that
7 would mean that no one has any issues with the posting.

8 So, Ms. Etheridge, I have the clock on at 15
9 minutes but I will let you know because you can't see it if
10 there's any issues with the time. If you wouldn't mind, go
11 ahead and just kind of walk us through your application and
12 why you believe that you're meeting the criteria -- the
13 standard for which we should grant it. And you can begin
14 whenever you like.

15 MS. ETHERIDGE: Sure. So I initially started out
16 to include a deck on the back of my home primarily because
17 my son is getting older in age and my house currently faces
18 -- the back of my house faces a public alley. And we're
19 right at the mouth of an alley so a lot of the traffic that
20 we see is coming down that way. So he doesn't have an area
21 to go outside and play safely without me having to worry
22 about him running into the street.

23 So, the current percentage that is permitted is
24 40 percent. And what I'm proposing is to go to 61 percent.
25 Currently with everything with my house the way it's

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1 structured I'm at 53 percent occupancy. And the proposal
2 would take me to that 61 percent.

3 I am also seeking a special exemption for the 20
4 feet that are required. Existing I have 17 feet, and I'm
5 just proposing to add 7 feet onto that. So currently the
6 house was already built with a door or a deck opening, a
7 sliding deck. There's a light switch there. There's an
8 outlet there and everything, but I just don't have the actual
9 deck.

10 Other neighbors in the community have done the
11 same, created additions onto their decks. I did inform the
12 homeowners association. They do actually have an application
13 process before we can actually apply with the city. So they
14 approved that and that approval is also included within the
15 package.

16 I did also speak with my ANC commissioner for 7E
17 T.N. Tate. She also submitted a letter of support as well.
18 I spoke with my neighbors and submitted the plans for them
19 as well. And as of yet I haven't gotten back any negative
20 response in terms of the plans. And that's pretty much all
21 I have.

22 CHAIRPERSON HILL: Great. Ms. Etheridge, in terms
23 of the ANC, we did get a letter or email from your SMD. Did
24 you -- and I'm just curious, did you actually present to the
25 ANC?

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1 MS. ETHERIDGE: No, I did not present to the ANC
2 itself. I presented the plans to Ms. Tate herself.

3 CHAIRPERSON HILL: That's your SMD.

4 MS. ETHERIDGE: Yes.

5 CHAIRPERSON HILL: And she didn't think that you
6 needed to present in front of the ANC?

7 MS. ETHERIDGE: I'm not sure. I spoke with her
8 and I just kind of asked for her guidance on what I was
9 seeking in terms of the requirement for the ANC support. And
10 she told me that there were other members in the community
11 that had done the same and that she would review my plans and
12 based upon that she would choose whether or not to submit a
13 letter of support.

14 CHAIRPERSON HILL: Okay. Okay. Does the Board
15 have any questions for the applicant? I'm going to go around
16 the Board and start with you, Mr. May.

17 COMMISSIONER MAY: I don't have any questions, but
18 I have an observation which is that the SMD member really
19 shouldn't be making that kind of a decision. When you submit
20 it you should be submitting it to the full ANC. Certainly
21 you can seek the advice of the SMD member. But the
22 obligation is to all of the ANC.

23 I don't see a real big problem with this given
24 what you're asking for and the fact that these decks exist
25 in other places. I think that -- what happened with the SMD

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1 representative wasn't exactly the way it normally should
2 happen.

3 (Simultaneous speaking.)

4 MR. BASSETT: So, this is Daniel Bassett, OAG.
5 Just to provide a little bit more information about what
6 happened with the ANC. The letter says that the ANC SMD
7 member did not believe that a full board vote was necessary
8 and she was supporting it.

9 I think under the regs that doesn't count as
10 something that the BZA would give great weight to. The ANC
11 is not required to submit a report and therefore it seems
12 like the practice of this ANC is to not submit a report in
13 this kind of scenario. You are absolutely correct that the
14 ANC member saying that she doesn't need a full board vote
15 isn't accurate, but I don't think that the ANC member's
16 report needs to be given great weight, or a new report needs
17 to be submitted.

18 COMMISSIONER MAY: Thanks for clarifying that.
19 Yes, I agree, it does not meet the requirements for great
20 weight. In this circumstance I don't think that it's a real
21 issue.

22 MR. BASSETT: Yes.

23 CHAIRPERSON HILL: Mr. Hart, do you have any
24 questions?

25 VICE CHAIRPERSON HART: No, I do not. Thanks.

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1 CHAIRPERSON HILL: Ms. John, do you have any
2 questions?

3 MEMBER JOHN: I have no questions.

4 CHAIRPERSON HILL: Okay. I'm going to go ahead
5 and turn to the Office of Planning.

6 MR. MORDFIN: Good morning, this is Stephen
7 Mordfin and the Office of Planning continues to support this
8 application and stands on the record but is available for any
9 questions. Thank you.

10 CHAIRPERSON HILL: Okay. Does anybody have any
11 questions for witness number 17, Mr. Mordfin? No? All
12 right. Ms. Etheridge, do you have any questions for the
13 Office of Planning?

14 MS. ETHERIDGE: No, I do not.

15 CHAIRPERSON HILL: All right. Let's see. So in
16 the public testimony -- no, I don't have anybody signed up
17 24 hours in advance for either public testimony or either in
18 favor or in opposition. And let's see. Okay. I guess
19 that's it.

20 Ms. Etheridge, do you have anything you'd like to
21 add at the end of the hearing here?

22 MS. ETHERIDGE: No. I'd just like to again thank
23 you guys for your time and thank you for providing this
24 service electronically. And thank Mr. Reed for his help on
25 the submission of this application.

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1 CHAIRPERSON HILL: Okay, great. Thank you. All
2 right. So as I mentioned before we're going to go ahead and
3 put this on for decision and deliberation unless the Board
4 has anything else they'd like to add. I can see everybody
5 so if you do please raise your hand. Mr. Hart?

6 VICE CHAIRPERSON HART: Did you close the record?

7 CHAIRPERSON HILL: I have not yet.

8 VICE CHAIRPERSON HART: Okay.

9 CHAIRPERSON HILL: Did you want something? I was
10 going to close the record.

11 VICE CHAIRPERSON HART: I just, I was -- never
12 mind. I do not need anything else.

13 CHAIRPERSON HILL: Okay. All right. And Mr.
14 Mordfin, I'm teasing you because you look like you're in the
15 witness protection program.

16 MR. MORDFIN: I can't get the -- right. What can
17 I say.

18 (Laughter.)

19 CHAIRPERSON HILL: Ms. John, do you have any
20 questions?

21 MEMBER JOHN: No questions, Mr. Chair.

22 CHAIRPERSON HILL: Okay. All right. Let's see,
23 that's it. Okay, well, Ms. Etheridge, thank you so much.
24 You're not needed for the deliberations next week, but you're
25 welcome to login and watch.

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1 MS. ETHERIDGE: Thank you.

2 CHAIRPERSON HILL: Thank you. Have a good day.

3 MS. ETHERIDGE: You too. Bye bye.

4 CHAIRPERSON HILL: Thank you. Bye bye. All
5 right, Mr. Moy, you can call the next when you get the
6 chance.

7 MR. MOY: Thank you, Mr. Chairman. So that would
8 be Case Application No. 20229 of David and Grace Kelly. And
9 this application is as amended for special exception under
10 the penthouse requirements Subtitle C Section 1500.4, and
11 under Subtitle C Section 1504.1 from the penthouse setback
12 requirements Subtitle C Section 1502.1(c)(1)(A) and
13 1502.1(c)(5), and the penthouse wall requirements Subtitle
14 C Section 1500.9, to construct a penthouse and guard rails
15 on top of the third floor addition to an existing attached
16 principal dwelling unit. RF-1 zone at 906 11th Street NE
17 (Square 957, Lot 20).

18 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
19 Moy. Let's see, who did have here. Is it Ms. Verbeke?

20 MS. VERBEKE: It's Verbeke.

21 CHAIRPERSON HILL: Verbeke. So, Ms. Verbeke,
22 could you please introduce yourself for the record?

23 MS. VERBEKE: My name is Jennifer Verbeke. I'm
24 with MCDStudio. I'm the architect on the project
25 representing David and Grace Kelly.

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1 CHAIRPERSON HILL: Okay. And let's see. So you
2 do have something in the record that shows that you can
3 represent them, correct, Ms. Verbeke?

4 MS. VERBEKE: Yes, I do.

5 CHAIRPERSON HILL: Okay. All right. In order to
6 for the Board, in terms of notice the Office of Zoning sent
7 out letters to the 200 footers which is in exhibit 43. The
8 Office of Zoning sent out letters to parties which are in
9 exhibit 44. The posting and maintenance. There is an
10 affidavit of posting and maintenance and I guess there was
11 a waiver. Did you ask for the waiver, Ms. Verbeke, in terms
12 of the posting and maintenance or no?

13 MS. VERBEKE: I submitted an additional letter
14 that was suggested to me by a Mrs. Kira Mailer (phonetic)
15 from the Office of Zoning. That was just writing that we
16 tried to keep the sign on the house for the whole time, but
17 it was a futile battle between paint and tape. And so the
18 sign was removed on March 31, but it was re-put up on May 22.
19 And there is a photo in the record that shows that.

20 CHAIRPERSON HILL: And that was of today's date
21 then, correct?

22 MS. VERBEKE: Yes, yes. And the May 22 posting
23 shows the June 3 hearing date.

24 CHAIRPERSON HILL: Okay. All right, I don't have
25 any issues with the notice. Does the Board? And I can see

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1 everybody right now. Do you want to nod yes or no if anybody
2 has any issues with the notice? No. No. No. Okay, I don't
3 see anybody, notice anybody saying yes.

4 So, Ms. Verbeke, if you want to go ahead and walk
5 us through your client's application, what they're trying to
6 do and why you believe they're meeting the standard for us
7 to grant the relief requested. I have 15 minutes on the
8 clock but I'll let you know -- well anyway, you can see the
9 clock I suppose. And you can begin whenever you like.

10 MS. VERBEKE: Okay. I also have some visuals that
11 I sent to Paul Young, but I've been watching some of these
12 this morning. It doesn't appear that anybody is doing that.
13 All of the visuals are in the record already. So if you have
14 that, if convenient --

15 (Simultaneous speaking.)

16 CHAIRPERSON HILL: Verbeke?

17 MS. VERBEKE: Verbeke.

18 CHAIRPERSON HILL: How do you say it again? I'm
19 sorry.

20 MS. VERBEKE: Just Verbeke. It's easier -- yes.

21 CHAIRPERSON HILL: Verbeke. Ms. Verbeke, they're
22 actually up on the screen right now if you can see them.
23 It's nice for us because I'm trying to learn how to do this
24 right now anyway. And so if you want to go ahead and give
25 your presentation that would be wonderful. Thank you.

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1 MS. VERBEKE: Sure. So, as Mr. Moy noted we are
2 here requesting a special exception pursuant to permit a
3 penthouse and one that does not conform with side building
4 wall and open court setbacks. And one that does not have an
5 enclosing wall of uniform or equal height as measured from
6 the roof level.

7 We are also requesting a special exception to
8 permit a guard rail that does not conform with the side
9 building wall setbacks.

10 The Kellys purchased this two-story plus cellar
11 18 foot wide rowhome in 2014. It is the blue house that's
12 up on your screen. The home had been recently renovated in
13 2014 when they purchased it and it had a large roof deck with
14 access via an exterior metal spiral staircase and catwalk.
15 If you could go to the next slide, please.

16 That is the current exterior where you can see the
17 edge of the roof deck and the current access to the roof deck
18 which is a spiral metal staircase and a catwalk. Next slide,
19 please.

20 That is the view of the current access to this
21 roof deck. Next slide, please.

22 This is a view of all five of the rowhomes that
23 are in this area. What we are proposing to do with this
24 project is to add a third story to this home and put a roof
25 deck with a penthouse access on top of that. The third story

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1 is not subject to BZA -- the third floor does not require a
2 BZA hearing. It is allowed by right.

3 But there is precedent in the area as you can see
4 from this photo. The end unit already has the third floor
5 addition plus the roof deck and there is a penthouse that you
6 can see on the next picture, please. Can you go down a
7 little bit? That's a view of the corner unit. And the next
8 slide, please.

9 And there's a view of the penthouse that is on the
10 corner unit. Next slide.

11 That is a view of another roof deck that's above
12 the third story of a house that is visible from this area.
13 Next slide, please.

14 If you could zoom out a little. So as I said our
15 proposal is to add the third story with a penthouse to a roof
16 deck. This is to accommodate their growing family, one of
17 whom is due any day now. They are outgrowing the house and
18 they need the space, but they do love the roof deck that they
19 have currently.

20 So what we are proposing is to put a similar roof
21 deck on the top of this current house so that would extend
22 the staircase which seems to be in compliance with zoning
23 regulations. Rather than extend that staircase an additional
24 9 feet which would make it about 37 feet tall we are
25 proposing the safer route which would be an interior

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1 penthouse staircase.

2 The penthouse that we are proposing only houses
3 the staircase. It is less than 10 feet tall which is what
4 the special exception requirements are for a penthouse in
5 this area.

6 We do not believe that it would harm any of the
7 intent of the existing zoning regulations as there is
8 precedent in the area and in fact attached to this row of
9 homes there is precedent for something similar to this. So
10 it would be in harmony with the purpose and intent of the
11 code, and it would not adversely affect the use of the
12 neighboring property on either side as it's really not much
13 different from what they currently have.

14 We have spoken with the ANC and we have full
15 approval from them. We have spoken with both sides of the
16 neighbors and we have no objections from either of them. In
17 working with the Office of Planning they made suggestions
18 from an original submission that we had done for the
19 penthouse where we had also enclosed mechanical units inside
20 of that for easier access.

21 We have since removed that and the penthouse is
22 solely housing the stairs now and a little landing so that
23 you can get up to the roof deck. Given the width of the
24 existing townhouse and code requirements it would be
25 impossible to fit a staircase and if required head clearance

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1 and insulation requirements within the 18 foot wide
2 penthouse.

3 In addition, on the roof deck itself what we are
4 requesting is relief from the side yard setbacks which would
5 make the roof deck essentially a small alleyway in the middle
6 and would be cost prohibitive. There would be no cost
7 benefit to doing that versus doing this size deck.

8 We've actually improved the look of the visibility
9 of the roof deck by pulling it back from the rear so it would
10 not be as visible from the alley. If you can go two slides
11 down, please.

12 So you can see in this on the right elevation
13 which is the side elevation you can see that's the side of
14 the penthouse. We have canted it so that it is as minimal
15 as it can be while still allowing head clearance. And you
16 can see that the roof deck itself is pulled back from both
17 the front property line and the rear property line.

18 And one more slide forward, please. We've also
19 done studies that show the existing house is at the top and
20 the proposed house is at the bottom to show you how the
21 visibility would be not greatly impacted and in fact improved
22 from the rear. Are there any questions?

23 CHAIRPERSON HILL: Thank you very much. Does
24 anybody have any questions for the applicant? I'm going to
25 go around the horn again. Mr. May?

1 COMMISSIONER MAY: Yes, I do.

2 MS. VERBEKE: Okay.

3 COMMISSIONER MAY: Small questions, but questions.
4 So, I'm scrolling through my notes here. So, there's a guard
5 rail that's at the front. Yes, we can see it right here in
6 this section.

7 MS. VERBEKE: Yes.

8 COMMISSIONER MAY: And that does not seem to meet
9 the setback requirements, the 1 to 1 setback requirements
10 that I think we have.

11 MS. VERBEKE: So, it's a little deceptive in that
12 the -- how we treated the third floor is we've put what's
13 called a mansard roof on the front so that it will look like
14 we put a roof on top of this house as opposed to extending
15 the --

16 COMMISSIONER MAY: Right.

17 MS. VERBEKE: So the front wall of the house is
18 actually right behind the bay and with the straight line that
19 you can see a little more clearly on the existing drawing.
20 And so we are set 5 foot 4 and a half back from there which
21 is within the 1 to 1 requirements. But I do realize from the
22 lower view we're not 1 to 1 from the edge of the roof. We
23 are 1 to 1 from the edge of the property.

24 (Simultaneous speaking.)

25 COMMISSIONER MAY: So I don't -- I don't know if

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1 the zoning regulations very specifically address this, but
2 the very clear intention of the zoning regulations are that
3 any kind of rail or other structure be set back from the edge
4 of the roof upon which this structure is resting. So the
5 rail, if it's 42 inches plus a foot or whatever for the
6 structure, so it's a little over 5 foot tall it should be 5
7 feet back from the top edge of the mansard in my view. Now,
8 I'll ask the Office of Planning if they agree with that. But
9 the whole point is for it to be not visible at a 45 degree
10 angle. And this is very clear. It's almost visible from the
11 sidewalk in front of the house. Obviously not over the
12 dormer, but through the rest of the roof. So I think it
13 should be set back farther.

14 The second question I have is can you bring up the
15 actual section through the --

16 MS. VERBEKE: It's the next slide, please.

17 COMMISSIONER MAY: Okay. So I'm really curious.
18 Why do you have so much head room on the stairway? The roof
19 directly above the stairs that's going to go all the way to
20 the roof. Why is there so much head room there?

21 MS. VERBEKE: So the stairs are a U shape and then
22 the leg. So they're kind of a six if you will. What you're
23 seeing right now is cut through the section of the leg which
24 has pretty minimal head height there. And then the stairs
25 in this view go back towards the property line and make a U

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1 shape down. So while we could technically lower the height
2 on the one side, the lowest side of the stair, it was getting
3 very complicated structurally to post down to support this
4 roof. So this was the compromise that we made in terms of
5 keeping the structural cost down while also maintaining the
6 required head clearance as you come around the landing and
7 then over.

8 COMMISSIONER MAY: So it's basically a cost issue
9 in having to do with how you frame it.

10 (Simultaneous speaking.)

11 MS. VERBEKE: Yes. So that particular area -- it
12 would also mean that the roof would be even more slanted and
13 might be -- is not as simple.

14 COMMISSIONER MAY: Yes. I can appreciate this is
15 more complicated because you have a winder stair and then you
16 have to make a hard right kind of halfway up the second
17 flight.

18 MS. VERBEKE: I will say that this is
19 substantially shorter than the original that was proposed,
20 and that was in working with the Office of Planning to get
21 to a point with something that they could throw support
22 behind. So this has been lowered, the peak of this.

23 COMMISSIONER MAY: I saw the earlier drawings.
24 I know it's lowered. I was just trying to see if it could
25 go lower than it is. So I'll give up on that.

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1 Then the next question is you have a call out that
2 seems to indicate that all of that roof is an EPDM roof. Is
3 that right?

4 MS. VERBEKE: Yes. It was proposed to be that
5 way. If there is issue with that it can be discussed. The
6 rear of the roof has to be an EPDM roof because -- or a
7 membrane roof because of the slope.

8 COMMISSIONER MAY: Yes. No, and I completely
9 understand that. I'm just thinking that the cladding of the
10 penthouse, since that is going to be potentially visible.
11 And I'm particularly concerned about the most steeply sloped
12 section of it which if it's EPDM and it's visible from across
13 the street you're going to see this big white box there all
14 the time. And it would recede more if it were at the very
15 least a darker color. I don't know if you could paint it,
16 but if you could use a different kind of siding or roofing
17 on it.

18 MS. VERBEKE: For the EPDM is generally a black
19 or a dark grey color.

20 COMMISSIONER MAY: Okay. I always thought it was
21 white.

22 MS. VERBEKE: That's TPO.

23 COMMISSIONER MAY: Oh, got it. So, yes. I mean,
24 a dark color is fine.

25 MS. VERBEKE: Okay.

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1 COMMISSIONER MAY: All right. That's it for my
2 questions till we get to the Office of Planning.

3 CHAIRPERSON HILL: Okay. Mr. Hart?

4 VICE CHAIRPERSON HART: I think the only question
5 that I had was Mr. May just brought up about the front
6 setback for the railing on the front of the house. He is
7 correct that it should be at a 1 to 1 setback from the roof
8 that's adjacent to the railing itself. So, that's it.

9 CHAIRPERSON HILL: Okay, Ms. John? Ms. John, I'm
10 sorry, you're on mute.

11 MEMBER JOHN: So, I was looking at the OP's chart
12 on page 3. So there is a request for guard rail setbacks
13 from the sides or the rear of the building. So do I
14 understand the discussion about rear guard rails was for the
15 front of the building?

16 MS. VERBEKE: I believe that the -- and the Office
17 of Planning can speak to this specifically, but I believe
18 that the relief on the rear was near the court and not the
19 front.

20 MEMBER JOHN: So I'm trying to clarify Mr. May's
21 discussion. So perhaps you can address that in terms of what
22 the OP report is saying.

23 (Simultaneous speaking.)

24 MEMBER JOHN: Go ahead.

25 CHAIRPERSON HILL: We can ask the Office of

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1 Planning. I thought Mr. May was speaking to the railing on
2 the front of the building.

3 MEMBER JOHN: That's what I'm asking clarification
4 of. I may have missed it.

5 COMMISSIONER MAY: My only question had to do with
6 the railing at the front.

7 MEMBER JOHN: Okay, thank you. That answers it.
8 Sorry.

9 CHAIRPERSON HILL: No, that's all right. So I'm
10 going to turn to the Office of Planning. I guess there's
11 some questions about the railing. Could I hear first from
12 the Office of Planning?

13 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and
14 members of the BZA. Jonathan Kirschenbaum with the Office
15 of Planning. OP worked closely with the applicant and
16 commends the applicant for revising the design and bulk of
17 the proposed penthouse to provide for a more conforming
18 solution that would be less initially intrusive.

19 We recommend approval of the special exception
20 relief to constructing a penthouse stair enclosure and rests
21 on -- well, I guess we're not quite resting on the record
22 because there's questions to be addressed. So please let me
23 know if you have any questions you would like me to answer
24 at this time. Thank you.

25 CHAIRPERSON HILL: Okay, great. Thank you. Mr.

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1 Kirschenbaum, also lovely to see you. So glad that you're
2 also well.

3 MR. KIRSCHENBAUM: Nice to see you as well. I
4 have been -- can't go to the Smith (phonetic) anymore so I
5 can't see you on the sidewalk.

6 CHAIRPERSON HILL: Yes. There you go.
7 Unfortunately it's boarded up right now. But let's see.
8 Does the Board have questions for the Office of Planning?
9 If so, Mr. Hart? I'm sorry, Mr. May.

10 COMMISSIONER MAY: Yes, so same question I asked
11 of the applicant. My reading of the zoning regulations and
12 what I'm seeing in the drawings is that -- indicates that the
13 rail at the front of the house should be set back further
14 than it is.

15 MR. KIRSCHENBAUM: Right. So Subtitle C Chapter
16 15 under 1502.1 states that guard rails have to be set back
17 1 to 1 from the edge of the roof. We didn't question that
18 in this case because -- well, because the applicant
19 originally had received a referral from the ZA's office
20 stating that the only guard rail relief was for the side
21 setbacks and not for the front.

22 So, that's -- so we've reviewed this application
23 based on that and the referral that the applicant received
24 from the Zoning Administrator's office. But reading the
25 regulations it does need to be -- a guard rail does need to

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1 be set back 1 to 1 from the edge of the roof and depending
2 on what the Board wants. I mean, this can be followed up
3 with the ZA's office, but this is how -- their determination
4 was that no front setback was required.

5 (Simultaneous speaking.)

6 MR. KIRSCHENBAUM: -- setback relief was required.

7 COMMISSIONER MAY: Sorry. No setback -- you think
8 that the Zoning Administrator thinks that this is okay.

9 MR. KIRSCHENBAUM: Correct.

10 COMMISSIONER MAY: Yes. I have been known to
11 disagree with the Zoning Administrator. I mean, maybe they
12 were paying attention to this and this is their studied
13 opinion of it.

14 Even if it is I think they're wrong. Because it's
15 -- the whole point has to do with the visibility of that
16 rail. And even if there's a mansard roof there when there
17 are pitches, changes to the pitch of the roof and things like
18 that it has to be set back at that -- from that point, from
19 the top of that mansard piece, I believe.

20 And maybe that needs to be clarified in the zoning
21 regulations, but it's pretty clear to me that that's what it
22 should be. So I think the applicant has the option of either
23 pushing it back. I guess they could request relief. I
24 personally would not support that relief because again I
25 think it's too visible from the street.

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1 MR. KIRSCHENBAUM: Sure. What you described is
2 what obviously the intention of the zoning regs are and I
3 believe that's the way they read. I would ask the -- if you
4 look at the section that's on the screen right now it does
5 almost look from this section that the front guard rail does
6 comply with the 1 to 1 setback.

7 COMMISSIONER MAY: The section is cut through the
8 dormer.

9 MR. KIRSCHENBAUM: It's cut through the dormer.
10 Okay.

11 MS. VERBEKE: The plan we had originally was set
12 back from the edge of the roof which we took to mean the
13 mansard roof. So we are set back from the edge of the
14 mansard roof. However, I hear your concerns. It's just not
15 how we read it originally. If that's something that we need
16 to amend that could be something that we could. But it's
17 also not in the original letter from the Zoning
18 Administrator.

19 MR. KIRSCHENBAUM: So I'll just add that we
20 reviewed the plans based on this proposal. We support the
21 proposal as is. If the BZA wants us to follow up with the
22 Zoning Administrator's office we can also do that, but we
23 fully support the way the project is currently designed and
24 proposed. Thank you.

25 CHAIRPERSON HILL: Ms. Verbeke. Verbeke.

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1 MS. VERBEKE: That's correct.

2 CHAIRPERSON HILL: Verbeke. Okay. Ms. Verbeke,
3 what does it do to you guys if you push it back to the 1 to
4 1 from where Commissioner May is speaking of? I can't tell
5 what it does.

6 MS. VERBEKE: So, essentially if we push it back
7 -- if you were to go up, I think, to page 9 in the PDF I can
8 show you on the plan. Sorry, 8. So, essentially on the
9 penthouse roof plan which is the furthest right-most plan the
10 line, the darker line in the middle, that's where we have the
11 roof deck currently.

12 To push it back it would have to be back to a
13 point where it would make the space in front of the penthouse
14 unusable. So if we were to push it back we would probably
15 just make the railing go into the side of the proposed
16 penthouse and then it would be in excess of what the
17 restrictions are in terms of the 1 to 1 setback. Because
18 otherwise we would have -- put a 2 foot wide alleyway.

19 CHAIRPERSON HILL: And do you know -- now that
20 this has been brought up I don't necessarily know whether
21 there is enough support for you to get relief from the 1 to
22 1. Do you know if your client's program is necessarily that
23 much affected if you push it back to where you're speaking
24 of?

25 MS. VERBEKE: I think if you were to still have

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1 the roof deck in the rear which would be the more useful
2 portion of the roof deck in terms of what you'd actually use
3 it for, if everything else were to be in favor I think he
4 could probably be convinced of that, though obviously we came
5 to you today with what we had originally proposed because
6 that's what we originally wanted.

7 CHAIRPERSON HILL: And even if you pushed it back
8 to the 1 to 1 there would be like some weird little sliver
9 there right in front of the -- I mean, I don't know whether
10 your client would want that or not. Maybe they would. Who
11 knows.

12 So, let me go on down the line here. Mr. May, is
13 that it for you?

14 COMMISSIONER MAY: Yes, that's it for me. That's
15 the one issue that I have.

16 CHAIRPERSON HILL: Okay. Mr. Hart?

17 VICE CHAIRPERSON HART: I have the same concern
18 about that front setback for that railing. So I'm not going
19 to continue with that discussion. We'll see where we are.
20 I don't have any further questions though.

21 CHAIRPERSON HILL: Okay. Ms. John?

22 MEMBER JOHN: I have no further questions, or no
23 questions.

24 CHAIRPERSON HILL: Okay. Ms. Verbeke, do you have
25 any questions for the Office of Planning?

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1 MS. VERBEKE: I think my question is more for the
2 Board.

3 CHAIRPERSON HILL: Sure. So what we would need
4 to do, Ms. Verbeke, I think at this point. It seems as
5 though you would need to probably submit something into --
6 well, I guess what I'm hearing from the Board is that they
7 believe, we believe that you need the 1 to 1 setback relief
8 whether or not the Zoning Administrator believes that or not.

9 And so if you wanted to go ahead and re-submit
10 drawings that either did the 1 to 1 on the railing or went
11 past that I think we could go ahead and deliberate on this
12 either next week or the week after depending upon when you
13 think you might be able to submit drawings. You understand
14 what I'm asking, Ms. Verbeke?

15 MS. VERBEKE: Yes. So you are asking -- just to
16 clarify, you're asking for us to address the front setback
17 from the edge of the roof at the rear and not the mansard
18 roof.

19 CHAIRPERSON HILL: Yes. So you could go back to
20 your client and as I understand it the options are either you
21 could try to get a special exception from that 1 to 1
22 setback. I mean, I don't know whether you have support for
23 it or not right now. But at least -- and then you could push
24 it back 1 to 1 and do whatever that does. Or you can bring
25 it back all the way to the edge of that penthouse. Whatever

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1 you and your client determine. Do you think you'd be able
2 to work through this whole process by next week, or maybe
3 even one more -- does one more week do anything to your
4 program? If we didn't get back to deliberate on this until
5 the 17th.

6 MS. VERBEKE: I know that they're a little antsy
7 to get going given circumstances that absolutely no one could
8 control. Now everyone is a little on edge. I am confident
9 that I could get an answer from him on drawings uploaded to
10 IZIS by Friday if that would work for the Board.

11 CHAIRPERSON HILL: Okay. I think that would work
12 for me.

13 (Simultaneous speaking.)

14 MR. YOUNG: I just wanted to interrupt for a
15 second. Mr. Kelly was brought in and I believe that he
16 wanted to make a statement. So I don't know if you wanted
17 to call on him.

18 CHAIRPERSON HILL: Sure. Give me one second.
19 Thank you, Mr. Young. Where do I see that? Participants.
20 Okay, gotcha. All right, let me just finish up with this
21 real quick and then we can bring in Mr. Kelly.

22 Does the Board have anything else to add on that
23 in terms of the comments thus far? No?

24 MEMBER JOHN: No.

25 CHAIRPERSON HILL: All right. Mr. Kelly, if you

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1 want, Paul, bring in Mr. Kelly.

2 VICE CHAIRPERSON HART: Mr. Chairman, one
3 question.

4 CHAIRPERSON HILL: Sure.

5 VICE CHAIRPERSON HART: Do we need to have some
6 information from the Office of Planning if there are new
7 drawings that are submitted to us?

8 CHAIRPERSON HILL: I guess we can see. Well,
9 let's get through this, but that's a good question. Let's
10 get through this first. Let's see if we can get Mr. Kelly
11 in here.

12 MR. KELLY: Hello.

13 CHAIRPERSON HILL: Hi, Mr. Kelly. Can you hear
14 me?

15 MR. KELLY: Yes, I can hear you.

16 CHAIRPERSON HILL: Okay. I don't think I can see
17 you. I don't know if that's intentional or not. Can other
18 people see Mr. Kelly?

19 MR. KELLY: I don't have my camera on.

20 CHAIRPERSON HILL: That's fine. That's fine. I
21 just wanted to make sure it wasn't me. And actually this
22 brings up a different thing which is Mr. Ritting or OAG, do
23 you know -- I know that there was something in terms of when
24 people sign up as to whether or not they took the oath in
25 terms of when they were testifying and/or presenting

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1 information, right. There's something about electronically
2 taking the oath in the new regulation, correct?

3 MR. RITTING: Yes, the emergency rules say that
4 when you sign up to testify in advance you also have to sign
5 an oath at the same time.

6 CHAIRPERSON HILL: So, is there like a box or
7 something you click? Is that what -- okay. So Mr. Kelly,
8 do you know if you've clicked that box?

9 MR. KELLY: Yes, I did.

10 CHAIRPERSON HILL: Okay, all right. This is
11 great. I've made this oath thing before. This is
12 incredible. Now there's a box that checks whether or not
13 you're lying. Okay.

14 MR. KELLY: I don't necessarily have any
15 information specific to share. I think Jennifer has done a
16 great job in providing all the information that we have. I
17 think the only statement that I wanted to make was given the
18 circumstances of COVID, the size of our houses, et cetera,
19 has completely highlighted the need to maximize as much space
20 as we possibly can both indoors and outdoors.

21 So it is discouraging to hear that while we
22 believe that the guard rail wouldn't be visible necessarily
23 from the street given the way that the house is designed, to
24 hear that we would lose that space.

25 I think Jennifer has been working very, very

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1 closely with several offices to make sure that all parts of
2 this design were up to snuff so to speak. So, that's the
3 only statement that I'd like to make. I'm sure that I'll
4 work with Jennifer after this to figure out what we can do.

5 CHAIRPERSON HILL: Okay. And Mr. Kelly, I'm
6 sorry. I neglected to do this. Could you introduce yourself
7 for the record, please?

8 MR. KELLY: Sure. My name is David Kelly. I am
9 one of the owners of 906 11th Street NE. My wife is also an
10 owner.

11 CHAIRPERSON HILL: Okay, great. Yes, Mr. Kelly,
12 I'm sorry. I understand what you're saying and I think that
13 again I would kind of agree. We've done this now quite a bit
14 in terms of the 1 to 1 setback. And I would also be in
15 agreement with what Commissioner May brought forward.

16 But I think that it is what's -- the regulation
17 before us. So I would again suggest you go ahead and work
18 with Ms. Verbeke and then Ms. Verbeke, if you want to -- and
19 I'll ask the Board if they have any questions of Mr. Kelly
20 in a moment.

21 But Ms. Verbeke, if you would go ahead and work
22 with your client to try to get drawings to us on Friday. And
23 what I'm going to ask the Board is if there's anything that
24 they think is not the way I'm trying to lead this forward.
25 If you think there's another alternative please speak up.

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1 But at this point I guess Ms. Verbeke would submit new
2 drawings by Friday that would either clarify the 1 to 1
3 setback of the front railing -- yes, clarify the 1 to 1
4 setback of the front railing.

5 Mr. May, do you have anything to add?

6 COMMISSIONER MAY: I do not.

7 CHAIRPERSON HILL: Mr. Hart, do you have anything
8 to add?

9 VICE CHAIRPERSON HART: No, I'm good. Thanks.

10 CHAIRPERSON HILL: Ms. John?

11 MEMBER JOHN: Nothing to add, Mr. Chairman.

12 CHAIRPERSON HILL: Okay. All right. So Ms.
13 Verbeke, go ahead and work with your client and get us some
14 new drawings by Friday. And then we'll go ahead and
15 deliberate on this on Tuesday, June 10.

16 MR. RITTING: May I interject, Mr. Hill?

17 CHAIRPERSON HILL: Certainly.

18 MR. RITTING: You need to build in time for the
19 ANC to respond to the new drawings because they're a party.
20 So push back the hearing date at least seven days to allow
21 them to respond to the new petition from the applicant.

22 CHAIRPERSON HILL: Okay. Now, I guess -- I can
23 see Mr. May has a face there. We just did this again, or
24 were trying to do it again. There's somebody coming back to
25 us at the end of the day here about a similar thing, right.

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1 And so the ANC has already signed off on this particular
2 design. And that now what the Board is saying is that the
3 1 to 1 setback is necessary. The railing is even going to
4 be back farther now. I don't see it changing anything in
5 terms of what the ANC would have had before.

6 And the applicant has now -- and basically I'm
7 also saying that due to COVID and the additional time. These
8 are extenuating circumstances that due to the additional time
9 that has already taken place I don't understand -- or we
10 could maybe reach out to the ANC on Friday. Mr. Moy, you
11 could reach out to the ANC when the drawings come in and see
12 if the ANC has any additional comments by our hearing date.
13 Would that satisfy OAG?

14 COMMISSIONER MAY: Mr. Chairman, let me speak up
15 here a little bit. It is not uncommon for projects to come
16 before the BZA and wind up being tweaked. And we don't go
17 back to the BZA every time they get tweaked. And in this
18 circumstance there is nothing here that is increasing
19 necessary relief or would even -- I mean this is something
20 that the applicant could do on their own even after an
21 approval I think without any further review by the BZA
22 because it's not creating a circumstance where relief is
23 needed. Right? I mean, that's like saying they're going to
24 make some other change that is completely code compliant and
25 zoning compliant and therefore wouldn't need any further

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1 review.

2 So I don't see any reason why we have to go back
3 or have to hold out for an opinion by the ANC in any way,
4 shape, or form. I think that if the applicant is going to
5 modify the deck to reduce what we see as a need for relief
6 I think that we can take it up very promptly.

7 CHAIRPERSON HILL: Okay. OAG, I'm just kind of
8 following along with the Board here as to what we're kind of
9 leaning for. But you can chime in again if you want. Ms.
10 John, did you have any comments about that?

11 MEMBER JOHN: I generally agree with Commissioner
12 May's comments that we are -- that the applicant would be
13 reducing the relief required by pushing the guard rail back
14 if that would be the applicant's decision.

15 CHAIRPERSON HILL: Mr. Hart?

16 VICE CHAIRPERSON HART: I don't have anything to
17 add.

18 CHAIRPERSON HILL: Okay. All right. Mr. Ritting,
19 I'm not going to get you on the record here for anything else
20 I guess unless you think that you need to add anything?

21 MR. RITTING: I just wanted to respond to what Mr.
22 May said. What I think I'm hearing is that although you
23 acknowledge that the Board's rules and the Administrative
24 Procedure Act require all parties to have a chance to comment
25 on submissions you think that because the project is changing

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1 in a way that's reducing the need for relief there is no risk
2 or no harm to the -- because of the fact that they're not
3 technically complying with that requirement. Is that
4 accurate?

5 MEMBER JOHN: I would say that's accurate for me.

6 COMMISSIONER MAY: Yes. I mean, I would agree.
7 I understand the Administrative Procedures Act. But again,
8 we don't always go back to the ANC every time there is some
9 small tweak to an application that happens as a result of the
10 Board's review.

11 I mean, usually we have the ANC present, or a
12 representative of the ANC present and so they can opine on
13 it on the spot. But it is inconceivable that the ANC would
14 have any objection whatsoever to this change.

15 MR. MOY: Mr. Chairman, if this might be helpful,
16 Mr. Chairman. In the final sense of it when an order is
17 issued the order is sent to all the parties which includes
18 the ANC. So, if for some rhyme or reason ANC does have
19 difficulty with the Board's decision they can file for
20 reconsideration. That's a last resort.

21 CHAIRPERSON HILL: Okay, all right. I'm sticking
22 with the original plan. Ms. Verbeke, if you could go ahead
23 and submit your drawings by Friday. Mr. Moy, if you can
24 reach out to the ANC on Friday, Mr. Moy, and just let them
25 know about these plans. And then we'll go ahead and make the

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1 decision on Wednesday.

2 MR. MOY: Okay. I'll follow up, Mr. Chairman.

3 CHAIRPERSON HILL: Okay, great. All right. Mr.
4 Kelly, can you still hear us?

5 MR. KELLY: Yes, I can.

6 CHAIRPERSON HILL: Nobody's actually related to
7 Grace Kelly, right?

8 MR. KELLY: My wife's name is Grace Kelly, so.
9 But no.

10 CHAIRPERSON HILL: Right. It's Philadelphia, Mr.
11 Ritting, is that what you said? Philadelphia.

12 MR. KELLY: Yes, my grandmother was a big fan of
13 Grace Kelly.

14 CHAIRPERSON HILL: But it's Philadelphia they're
15 from. So the father of Grace Kelly is from Philadelphia.
16 He was a famous athlete apparently. Okay, all right, that's
17 it. And again, if anybody wants to watch certainly when we
18 have deliberations, but we don't take any witness testimony.
19 So we'll go ahead and decide this on 6/10 and Ms. Verbeke,
20 please give us what we need by Friday. Okay?

21 MS. VERBEKE: Thank you.

22 CHAIRPERSON HILL: Thank you. All right. Before
23 we call our next case -- bye bye. Before you call our next
24 case, Mr. Moy, let me take a look at what we've got left
25 here. And I'm just kind of speaking with I guess my fellow

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1 Board members. Even though not everyone is with us right
2 now. We have a new commissioner coming in on the second to
3 last case, and then the last case. And there are one, two,
4 three cases before Mr. Turnbull joins us.

5 I'm just trying to understand when we might break
6 for lunch and how everybody feels. I mean, do you want to
7 go another -- we'll go maybe another case and see where we
8 are? Or do you want to try to make it through three cases?
9 I'm just trying to figure out what you guys want to do.

10 COMMISSIONER MAY: I'll go either way.

11 MEMBER JOHN: I'll go for one more case.

12 CHAIRPERSON HILL: Okay, great. I'm also leaning
13 towards the one more case. I'm getting really hungry. So,
14 okay. So, Mr. Moy, why don't you go ahead and call our next
15 case and then we'll go ahead and break for lunch.

16 MR. MOY: Thank you, Mr. Chairman. So that would
17 be Case Application No. 20241 of Jerry Thomas as amended for
18 special exception under the MU-Use Group E requirements.
19 This is of Subtitle U Section 513.1(m). This would allow an
20 animal boarding use to an existing mixed-use building, MU-5
21 zone at 907 Barry Place NW (Square 2882, Lot 1041).

22 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
23 Moy. I was just grabbing the cases. I heard all of that.
24 Let's see. Do we have the applicant with us?

25 MR. HENSLEY: Yes.

1 CHAIRPERSON HILL: Okay. Is it Mr. Hensley?

2 MR. HENSLEY: Yes.

3 CHAIRPERSON HILL: Okay. Is that -- also is it
4 Mr. Berbeo?

5 MR. BEIBLE: It's Mr. Beible, Ryan Beible. I'm
6 here.

7 CHAIRPERSON HILL: Beible. Okay. Mr. Hensley,
8 could you please introduce yourself first?

9 MR. HENSLEY: Yes. My name is Jacob Hensley. I'm
10 an owner of District Dogs. We are opening our third location
11 at 907 Barry Place NW, DC. We currently operate two
12 locations, one in Navy Yard and one in Parkview. And we're
13 requesting a grant of special exception. And I'm going to
14 turn it over to Ryan Beible to talk more about the project
15 and to answer questions.

16 CHAIRPERSON HILL: Okay, great. Mr. Beible, could
17 you please introduce yourself for the record?

18 MR. BEIBLE: Yes. My name is Ryan Beible and my
19 address is 42687 Leaflet Lane in Chantilly, Virginia. And
20 I am the development construction consultant/owner's rep for
21 Jacob and District Dogs.

22 CHAIRPERSON HILL: Okay, great. Let's see now.
23 All right, Mr. Beible. Give me one second to think here.
24 And now I'm just kind of looking at the Board here because
25 someone -- this is interesting, Mr. Moy. There's a chat that

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1 goes on that kind of like pops up things which is something
2 we might have to figure out later. In other words the chat
3 should probably go to you, Mr. Moy. I am going to answer
4 this question. We are going to probably break for lunch.
5 We'll probably come back I would imagine like at 1:30 because
6 I don't think we're going to need a whole lot of -- this is
7 going to go on for however long this goes on and then we'll
8 come back at like 1:30. Does that sound good with the rest
9 of the Board? I'm just curious, Ms. John, Mr. Moy, Mr. Hart?
10 Is that fine? Peter May, Mr. May. Okay, great.

11 All right so after this case we'll come back after
12 lunch at 1:30. Okay? All right. So Mr. Beible, if you
13 could -- did you say Beible?

14 MR. BEIBLE: Yes, it's Beible. And I'm happy to
15 start talking, but do you need to cover notice first?

16 CHAIRPERSON HILL: Yes, I'm going to get to that.
17 Thank you so much.

18 MR. BEIBLE: Oh, sorry. I've been listening since
19 9:30 so I'm well versed now in the process.

20 CHAIRPERSON HILL: Right. That's good. If you
21 would take over for me you're most certainly welcome to. Do
22 you -- how do I pronounce your name again?

23 MR. BEIBLE: Beible.

24 CHAIRPERSON HILL: Okay. Okay, great. So, as far
25 as the notice again, the letters -- everybody is helping.

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1 The letters have gone out from the Office of Zoning to the
2 200 footers, people that are in 200 feet of the property.
3 That's in exhibit 39.

4 We also have the Office of Zoning letters for
5 parties. In terms of the posting and maintenance Mr. Beible
6 or Mr. Hensley, did you guys post for this hearing?

7 MR. HENSLEY: Yes. Robert Reed sent the paperwork
8 update, the WebEx information and dates and I posted a
9 photograph of the updated exhibits. That was on 5/21.

10 CHAIRPERSON HILL: You posted on 5/21?

11 MR. HENSLEY: I posted the updated information.
12 I got an email from Robert Reed about the WebEx.

13 CHAIRPERSON HILL: Okay. All right.

14 MR. HENSLEY: The original posting was on 3/15.

15 CHAIRPERSON HILL: Okay.

16 MEMBER JOHN: Mr. Chairman, I think exhibit 38
17 might be helpful here. I see a white --

18 MR. HENSLEY: Yes.

19 MEMBER JOHN: -- posting thing.

20 CHAIRPERSON HILL: Okay. Okay. All right. I
21 don't have any issues concerning the notice. Does anyone
22 else on the Board? You can either nod yes or no.

23 MEMBER JOHN: No.

24 CHAIRPERSON HILL: Everyone is nodding no. Okay,
25 right. All right. So Mr. Beible, if you want to go ahead

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1 and walk us through your application in terms of what you're
2 trying to achieve and why you believe you are meeting the
3 standard for us to grant your application. And you can begin
4 whenever you like.

5 MR. BEIBLE: Sure. As Jacob alluded to he's
6 looking to open a third location at 907 Barry Place NW. It's
7 currently a building that houses ground floor retail along
8 Sherman Avenue and then there are residences, apartments
9 above, I believe about five stories.

10 With the same level that houses retail, all vacant
11 right now, the rest of that level is a parking garage. So
12 behind this retail space is the parking garage. It is
13 located in the MU-5 zone which means it falls under use group
14 E.

15 And as defined District Dogs is animal boarding.
16 It has grooming, but it has no animal sales and no animal
17 care. Under the zoning regs it actually allows animal
18 boarding as a matter of right if you meet seven conditions.
19 District Dogs meets six.

20 Basically the exterior wall of District Dogs plan
21 north is the lot line, and north of that wall is a part of
22 the Howard University plan. However, the underlying zone is
23 R which means we don't meet the fact that we're outside of
24 25 feet of a residential district which puts us into needing
25 to seek a special exception.

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1 Currently, and it's not applicable at all, that
2 property to the north which is Howard University's is a
3 surface parking lot. So we are seeking relief under U
4 513.1(m). And in order to obtain a special exception we need
5 to meet eight conditions.

6 The first one is the use should take place
7 entirely within an enclosed building which we meet. The
8 second one is the space is designed and constructed to
9 mitigate noise and limit negative impacts. We have a heavy
10 sound attenuation on the exterior walls of the space. One
11 wall is the -- well, two of the walls are exterior walls.
12 One is shared with another retail tenant, currently vacant,
13 and then the rear wall of the space is shared with the
14 parking garage.

15 And as far as the structure above I think it's an
16 8 or a 9 inch concrete slab and then we'll have vibration
17 isolated drop drywall ceiling to mitigate any noise that's
18 traveling above.

19 The third condition is the windows and the doors
20 shall be kept closed at all times. The only operable window
21 or door is the single storefront door leading out to Sherman
22 Avenue. So that will remain closed at all times except for
23 people needing to get in and out.

24 No external yard. There is no external yard.
25 Animal waste to be placed and disposed of at least weekly.

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1 And District Dogs gets theirs picked up daily. Controlling
2 odors. So the HVAC system is a pretty high-tech one that has
3 about 10 to 15 air changes per hour and the return air for
4 the dog areas is not shared with the non-dog areas. And the
5 system is completely standalone to District Dogs.

6 The seventh one has to do with floor finish
7 material and wall finish material. All dog areas have a
8 waterproof padded flooring system and about 5 feet, 4 to 5
9 feet of FRP panels along the walls as well as floor drains.

10 And the last one is no exterior facilities or
11 external yards. And again, everything with District Dogs is
12 inside the space. I think that concludes what I wanted to
13 share.

14 CHAIRPERSON HILL: Okay, great. All right, Mr.
15 Beible. Let's see. Do the Board members have any questions?
16 I'll start with you, Mr. May.

17 COMMISSIONER MAY: I have no questions.

18 CHAIRPERSON HILL: Mr. Hart?

19 VICE CHAIRPERSON HART: Just one question. This
20 portion of the building was intended to be retail, correct?

21 MR. BEIBLE: Correct. There's about I think 9,000
22 square feet of retail total there. And this is one of the
23 four suites that is retail.

24 VICE CHAIRPERSON HART: Okay, thank you.

25 CHAIRPERSON HILL: Ms. John?

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1 MEMBER JOHN: No questions from me, Mr. Chairman.

2 CHAIRPERSON HILL: All right. I'm going to go
3 ahead and turn to the Office of Planning, please.

4 MS. MYERS: For the record Crystal Myers for the
5 Office of Planning. The Office of Planning is recommending
6 approval of this case and stands on the record of the staff
7 report.

8 CHAIRPERSON HILL: Okay, great. Does the Board
9 have any questions for the Office of Planning? Mr. May?

10 COMMISSIONER MAY: No, no comment.

11 CHAIRPERSON HILL: Mr. Hart?

12 VICE CHAIRPERSON HART: No, I do not.

13 CHAIRPERSON HILL: Ms. John?

14 MEMBER JOHN: No questions.

15 CHAIRPERSON HILL: Mr. Beible, do you have any
16 questions for the Office of Planning?

17 MR. BEIBLE: I do not. I just would like to thank
18 Crystal and also Robert Reed who was very great to work with
19 and very helpful throughout this process.

20 CHAIRPERSON HILL: Great. Wonderful. Mr.
21 Hensley, do you have any questions for the Office of
22 Planning?

23 MR. HENSLEY: No, I do not.

24 CHAIRPERSON HILL: Okay. Let me see here. So,
25 for this property I don't see anyone. So no one signed up

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1 for public testimony either in favor or against, and the ANC
2 also did not sign up for any kind of public testimony so I
3 don't see anyone there.

4 Let's see. Does the Board have any final
5 questions for the applicant? I apologize, I'm going to go
6 around because I just can't see anybody. Mr. May, do you
7 have any follow-up questions?

8 COMMISSIONER MAY: I do not.

9 CHAIRPERSON HILL: Mr. Hart?

10 VICE CHAIRPERSON HART: No, I do not.

11 CHAIRPERSON HILL: Ms. John?

12 MEMBER JOHN: No questions, Mr. Chairman.

13 CHAIRPERSON HILL: Mr. Beible and Mr. Hensley, do
14 you have any final comments for the record?

15 MR. BEIBLE: No, thank you.

16 CHAIRPERSON HILL: Okay. All right. Let's see.
17 I don't have any questions. What I'd like to do then, Mr.
18 Moy, is if we could put this on for deliberation for June 10.

19 MR. MOY: Yes, sir. Done. It's on the schedule.

20 CHAIRPERSON HILL: Great. And let's see. And as
21 I mentioned before, gentlemen, you don't have to come. We
22 don't take public testimony on that particular day during
23 deliberations so that's not necessary. Mr. Hensley, I'm a
24 small business owner myself. How have things been going for
25 you? Are you guys okay?

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1 MR. HENSLEY: We're okay. I've had some restless
2 nights and I spent nights in my stores just to feel better.
3 I'm doing okay with that and COVID has not been a big deal
4 with us. We've remained open. So it's been helpful because
5 we're essential. But it's still a rough time.

6 CHAIRPERSON HILL: Sure. Well, you hang in there,
7 okay?

8 MR. HENSLEY: Thank you.

9 CHAIRPERSON HILL: All right. Okay. So we're
10 going to go ahead and break for lunch I believe, unless
11 somebody has anything else. And we'll come back at 1:30.
12 Okay? All right. I'm closing the hearing. For the record
13 again I'm closing the hearing on this case. Okay, thank you.
14 Bye bye.

15 (Whereupon, the above-entitled matter went off the
16 record at 12:43 p.m. and resumed at 1:35 p.m.)

17 CHAIRPERSON HILL: Okay, so you can go ahead and
18 call our next case whenever you get a chance, Mr. Moy.

19 MR. MOY: Thank you, Mr. Chairman. So, the Board
20 is back in session and the time is at or about 1:35. And the
21 next case before the Board is Application No. 20242 of IDI
22 Water Street LLC. Captioned and advertised for a special
23 exception under Subtitle C Section 710.3 from the parking lot
24 location requirements of Subtitle C Section 710.2(a), and
25 pursuant to Subtitle X Chapter 10, for variances from the

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1 driveway width requirement Subtitle C Section 711.6(a),
2 minimum dimensions for full-sized parking spaces and aisles
3 Subtitle C Section 712.5, and from the minimum dimensions for
4 compact parking spaces and aisles Subtitle C Section 712.6.
5 This would construct a seven-story residential building in
6 the MU-13 zone at 3401-3403 Water Street NW (Square 1183, Lot
7 813).

8 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
9 Moy. All right, so I see that there are a bunch of people
10 trying to join us and unfortunately again I don't have a lot
11 of video with a lot of people I think and that is possibly
12 due to my limitations on the computer that I have.

13 Who is going to be presenting first if you could
14 please speak up?

15 MS. LOGAN: Hi, this is Jen Logan with Goulston
16 & Storrs. So we'll just be giving a brief opening statement
17 and then I'll be followed by Nicole Gerke who's a
18 representative of the applicant.

19 CHAIRPERSON HILL: Okay. And you guys, I
20 apologize. For some reason again I can't see the video. And
21 so Ms. Logan -- or I guess now you've just kind of popped up.
22 If you wouldn't mind just going one by one and naming your
23 team members here. And then if they could introduce
24 themselves for the record and then we'll circle back around
25 to you if that would work for you.

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1 MS. LOGAN: Sure. So we also have John Epting
2 from Goulston & Storrs, again counsel to the applicant. I
3 mentioned Nicole, and then we also have, I think that they're
4 on, John Cecchi and Carlos Cecchi also of IDI Group, the
5 applicant. We also have Erwin Andres and Katie Wagner with
6 Gorove Slade, and Eric Colbert and Megan Mitchell from Eric
7 Colbert & Associates.

8 Nicole is really going to give the testimony, but
9 we have the other team members here available for questions
10 if needed.

11 CHAIRPERSON HILL: Okay. All right, so then --
12 okay. That's fine. I wish I could -- again, it's so
13 difficult when you can't see their faces, but it's not
14 working for me. Let's first do one thing in terms of the
15 preliminary matters.

16 So in order to the notice requirements. So the
17 Office of Zoning did send out its letters to the people that
18 are within 200 feet and that's in exhibit 37. Then the
19 Office of Zoning also sent out letters to parties which is
20 in exhibit 38.

21 We don't seem to have, Ms. Logan, any notice of
22 posting or maintenance. Is that correct and if so why?

23 MS. LOGAN: Yes. We had originally posted the
24 property for the hearing date of April 1. So we posted the
25 property back in March. And I think the affidavit is in the

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1 record. It's exhibit 32.

2 But as far as updating for the new hearing date
3 we were unable to get to the property to post the updated
4 date. The old notice is still posted on the property, but
5 we weren't able to access the posting materials because of
6 the stay at home order, or able to get any notary to sign any
7 affidavit for any updated posting. So if you look in the
8 record we've also submitted a waiver request for those
9 updated posting requirements which is exhibit 36.

10 CHAIRPERSON HILL: Okay. I see the waiver
11 request. I guess -- okay. Well, does the Board have any
12 issues concerning the notice requirement? Mr. May, I'll
13 start with you. Or I guess you guys can just nod or raise
14 your hand if you have any comment you wanted to make.

15 COMMISSIONER MAY: Does that mean you can see us
16 now?

17 CHAIRPERSON HILL: I can see -- Mr. May, I can see
18 the Board members.

19 COMMISSIONER MAY: So I am a little bit concerned
20 although I guess if you were not able to post the property
21 that means that other people weren't likely going to be
22 around there to see the posting anyway.

23 I don't know. I have mixed feelings about whether
24 we proceed in this circumstance. We've had many other cases
25 today where somebody did manage to get the property posted.

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1 I don't know whether that's because they were -- well, they
2 weren't all just homeowners. In some cases they were
3 homeowners who would just go outside their home and post it,
4 but there are other properties where the applicant managed
5 to post it even if they weren't resident there.

6 So I don't know. I'm interested in hearing what
7 the rest of the Board has to say.

8 CHAIRPERSON HILL: Mr. Hart.

9 VICE CHAIRPERSON HART: I was just curious if, Ms.
10 Logan, if you could describe if you reached out to the ANC
11 after receiving the notice from the Office of Zoning that the
12 hearing was -- the virtual hearing was going to occur. And
13 if you have reached out to them what conversations have you
14 had with them?

15 (Simultaneous speaking.)

16 MS. LOGAN: Sorry, I was muted. The ANC had
17 already sort of submitted their report into the record in
18 support. We've been in touch with the ANC for other
19 permitting processes so we're in pretty frequent
20 communication with them. But at the time of the updated
21 hearing they were already sort of on the record as a part of
22 the project.

23 MR. EPTING: And this is John Epting with Goulston
24 & Storrs. In response to Mr. May's comments. So, we've been
25 in contact with the Office of Zoning about posting all along.

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1 The posting requirements are that you post prior to the
2 hearing which is what we did. We found out on May 18 in the
3 afternoon that we were supposed to re-post the next day.

4 So, what I first was going to do is go into the
5 office. Our office is closed. That's where our posting
6 materials are. And I was willing to do that on the Tuesday.
7 But then the banks weren't open so there's no notaries
8 available, and our notaries are in southern Maryland. And
9 even though the City Council has passed legislation to allow
10 e-notaries DC has not allowed us to do that yet.

11 So even if I could have posted I couldn't have had
12 it notarized. So I made the decision, and we discussed it,
13 to file as we're saying that we're asking for a waiver. The
14 property had been posted. This property has also been
15 through OGB processes for six or seven months beforehand so
16 there's been plenty of notice.

17 In any other situation we have always posted.
18 We've always met deadlines but this is a serious matter. It
19 required going to the office, trying to find a notary and
20 that's why we filed our waiver request.

21 COMMISSIONER MAY: Well, you know, I think it
22 would have been easier to understand not being able to
23 notarize because there's a very clear reason why it couldn't
24 be notarized. And in terms of re-posting the property,
25 wasn't the notice already there?

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1 MR. EPTING: The notice is there, yes.

2 COMMISSIONER MAY: Yes. And so all you really had
3 to do was tape on the new date which is what other people
4 have been doing. I understand the predicament you're in.
5 It's just that we've been through a string of these. This
6 is the eighth case we've had today and -- or ninth case we're
7 doing today and eight out of nine managed to at least get
8 them posted properly. Granted again I know some of them it
9 was a lot more convenient for them, but I'm -- it's too bad
10 that it's not an easy decision in this moment as it might
11 have been if it had at least been posted.

12 And I do understand that it's been through OGB.
13 I think the ANC is probably more relevant because the fact
14 that there may be zoning relief related to a case doesn't
15 come up at OGB. I was there for some of the OGB
16 presentations and it didn't come up. I didn't even know it
17 was going to come for BZA relief until I got the case.

18 CHAIRPERSON HILL: Okay.

19 COMMISSIONER MAY: I mean, I do think that there's
20 widespread understanding that the case is happening. It's
21 just the question of whether people know that the case is
22 happening today, right? And I think that's the issue.

23 MS. GERKE: If I can speak? This is Nicole with
24 the IDI Group, the applicant. I had been in touch with Lisa
25 Palmer of the ANC 2E group prior to this. I had kept her

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1 informed about when our new hearing was coming up which was
2 today. She's also involved in a couple of other items that
3 we'll have for some virtual hearings later in the month. So
4 I did inform her that we had a new date of June 3.

5 They had also reviewed the case back before we
6 were coming I think in April, either late March or late
7 April. They had reviewed and given approval for the
8 variances that we're asking for today.

9 CHAIRPERSON HILL: Okay. Can you guys hear me?
10 Okay. So, I mean, I'll let Mr. Hart and Ms. John -- I mean,
11 we kind of looked at this a little bit. And again, my
12 thoughts I suppose is it's disappointing -- well, not
13 disappointing. I do think that it was posted. I think that
14 given the circumstances.

15 And what the applicant has put forward in their
16 waiver it's understandable. Or not understandable. That the
17 fact that this is -- everybody, the parking is all within the
18 building itself and the current footprint of the building
19 that I am as not as concerned about the additional posting
20 for this hearing today.

21 But I will let Mr. Hart chime in. But I would
22 agree with Commissioner May in his overall concept that
23 applies to this. Mr. Hart, do you have anything to add?

24 VICE CHAIRPERSON HART: No. I think they answered
25 the question I had regarding the ANC. I appreciate that

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1 information. And that's it.

2 CHAIRPERSON HILL: Ms. John?

3 MEMBER JOHN: I appreciate the information on the
4 efforts that were taken to stay in touch with the ANC. I
5 notice there are updated drawings and so my only question
6 would be whether or not the ANC also weighed in on those
7 updated drawings. And I'm not sure what the difference is
8 between the original drawings that the ANC reviewed and
9 submitted approval for and the second set of drawings. So
10 that would enter into my consideration.

11 CHAIRPERSON HILL: Ms. Logan, are you able to
12 answer that question, or someone on your team is?

13 MS. LOGAN: Sure. We did provide the ANC with
14 electronic copies of the updated drawings. I would say the
15 changes were really just sort of minor corrections in some
16 of the development, but the areas of relief haven't changed
17 at all. Sort of parking counts were corrected, things like
18 that. So it wasn't anything material really to weigh in on.

19 MEMBER JOHN: Okay, thank you.

20 CHAIRPERSON HILL: Okay. Mr. May, do you have
21 anything further to add?

22 COMMISSIONER MAY: Yes, I do. So, I guess I'm
23 okay to go ahead with this because the project is well known
24 to the people in the neighborhood. But I just hope that
25 there are not repeats of this as the Board moves forward

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1 because I think there are ways to get the updated dates
2 posted on properties.

3 And again, it's disappointing that the -- I mean
4 this is the first case of the day where we've had actual
5 zoning professionals working on it and you didn't manage to
6 get the new date posted. It's a disappointment. But I don't
7 have any problem with going ahead knowing that it is a well-
8 publicized project.

9 CHAIRPERSON HILL: Okay. All right, then I'm
10 going to go ahead and just by consensus because I can't see
11 everybody grant the waiver that's requested unless anyone has
12 an issue. I'll give it a minute. Okay.

13 I am actually going to try to log out and log back
14 in because I'm just not able to see too many of you. So, let
15 me try to log out. I'll log back in.

16 VICE CHAIRPERSON HART: Mr. Chairman, which folks
17 -- I can only see the Board, Ms. Gerke, Ms. Logan and Mr. --
18 well, Andres. The rest of them are not displaying their
19 pictures or their video. So it's just the Board that you
20 should be able to really see right now and the few folks that
21 I mentioned. Ms. Logan and Ms. Gerke are the only ones that
22 are visible.

23 CHAIRPERSON HILL: Okay. I appreciate that. I
24 mean for me you guys are even jumping in and out now. And
25 so I'm just going to -- I'll come right back in. And so just

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1 give me a minute.

2 Can you guys hear me? Okay. Okay. All right.
3 Ms. Logan, you said that Ms. Gerke was going to be
4 presenting?

5 MS. LOGAN: That's right.

6 CHAIRPERSON HILL: Okay. All right. So we did
7 the waiver. Ms. Gerke, if you can go ahead and walk us
8 through the application and what your client is trying to do
9 and also why you believe you meet the standards for us to
10 grant the relief requested. There is a timer. However, I'll
11 just kind of point it out if we get anywhere near that. And
12 you can begin whenever you like.

13 MS. GERKE: Okay. There was a presentation that
14 we had submitted. I don't know if Paul is able to bring it
15 up. There we go. Great. Okay. Is everybody getting a lot
16 of feedback?

17 CHAIRPERSON HILL: Ms. Gerke, I don't know. You
18 seem to break up a little bit. Maybe if you speak slowly it
19 will be helpful. I don't know.

20 MS. GERKE: Okay. Okay, my name is Nicole Gerke.
21 I work with IDI Water Street, the owner of the property. The
22 property is located in Georgetown and it contains an existing
23 two-story concrete and brick commercial retail space that
24 originally housed the Crystal Ice Company.

25 It is zoned as MU-13 allowing condominium,

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1 apartment, or hotel usage. If you could go to the next
2 slide, please.

3 While this allowed zoning classification with this
4 being condominium and apartment, IDI Water Street, a
5 multifamily condominium developer in DC, Maryland and
6 Virginia for over 45 years purchased the property in
7 September 2019. Next slide.

8 IDI intends to redevelop the property by adding
9 five floors to accommodate 54 luxury condominiums with 42
10 parking spaces located on the first two floors. A retail
11 space will be included on the first floor at the prominent
12 corner of Water and 34th Streets. The project has received
13 approval from OGB and the Commission of Fine Arts. Next
14 slide.

15 The property is located across the street from the
16 Georgetown Waterfront Park and Potomac River to the south,
17 and benefits from an extremely desirable location in the
18 affluent and thriving Georgetown sub-market.

19 Backing to the C&O Canal Towpath and adjacent to
20 the Capital Crescent Trail on the north the property sits
21 immediately off of K Street, Water Street, below the
22 Whitehurst Freeway. The Key Bridge bounds the property to
23 the west. The location gives condominium owners highly
24 convenient access to both superior area amenities and major
25 transportation arteries of the region. Additionally,

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1 redevelopment of this property as residential is consistent
2 with the future K/Water Street development proposed by DDOT
3 to enliven and improve this underutilized area of the
4 Georgetown waterfront. Next slide, please.

5 Our application to the Board of Zoning Adjustment
6 is requesting relief for variance from three zoning
7 requirements. The first is Subtitle C 710.2 requiring 20
8 foot setbacks for parking that abut public streets. The
9 second is Subtitle C 711.6(a) requiring two-way driveways
10 must be at least 20 foot wide, and finally Subtitle 712.5 to
11 712.6 requiring 20 foot wide interior two-way drive aisles.

12 As shown on sheet 5 of this presentation or sheet
13 10 of our submission our first relief request pertains to
14 Subtitle C 710.2 which states parking spaces must be set back
15 at least 20 feet from all lot lines that abut public streets
16 unless the surface of the parking spaces is at least 10 foot
17 below grade. Next slide, please.

18 It is not practical or feasible to provide a 20
19 foot setback from public streets within the existing
20 footprint as the building facade is on the property line on
21 Water Street and 34th Street. Additionally, the property is
22 unusually narrow with a minimum width of approximately 40
23 foot 22 inches at its narrowest point which limits the area
24 available to accommodate parking if a 20 foot setback is
25 enforced.

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1 Below grade parking is not feasible as the site
2 cannot be reasonably excavated due to the bedrock encountered
3 immediately below grade and the necessity of maintaining
4 support of the historic structure in the event of excavation
5 as dictated by OGB and the Commission of Fine Arts.

6 The narrow building footprint also impacts the
7 ability to install ramps to connect to below grade parking
8 levels. The property is also located in the 100 year flood
9 plain which limits the ability to locate parking below grade.

10 The combination of the narrowness of the site, the
11 location in the flood plain, the footprint of the historic
12 structure and the bedrock below grade makes it impractical
13 to locate the parking spaces either below grade or 20 foot
14 from the lot lines.

15 The ability to have parking spaces contained
16 within the footprint furnishes reasonable and convenient
17 parking facilities for occupants and guests as there is no
18 residential only on-street parking in this area. Next slide.

19 The next two requests are related and will be
20 discussed together as indicated on sheet 7 and 8 of our
21 presentation and sheets 10 and 11 of the submission.
22 Subtitle C 711.6(a) states a two-way drive aisle must be at
23 least 20 foot wide.

24 There are two proposed drive aisles into the
25 building. The first driveway is 19 foot wide, two-way

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1 opening on Water Street which is a 1 foot reduction from the
2 requirement. Next slide. The second driveway is a 14 foot
3 wide two-way driveway onto 34th Street which is a 6 foot
4 reduction.

5 Subtitle C 712.5 and 712.6 requires the 20 foot
6 interior two-way drive aisle widths. Due to existing
7 historic columns interior aisle widths are between 16 foot
8 on the first floor and 16'2 on the second floor which is
9 approximately 4 foot narrower than the required width of
10 two-way drive aisles.

11 Our request for these variance to these standards
12 are due to exceptional conditions or situations supported by
13 several factors. First, OGB required the retention of the
14 facade of the historic structure which precludes enlarging
15 exterior openings such as at the driveways.

16 The exterior of the building is also impacted by
17 the support columns for the elevated Whitehurst Freeway which
18 are within the building footprint at the west end and
19 directly adjacent to the facade at the east end. Widening
20 the driveways to require 20 foot width would impact the
21 historic facade which is in violation of the OGB directive
22 and is again precluded by the location of the Whitehurst
23 support columns.

24 Next, OGB required preserving as much of the
25 historic interior structure as possible which includes

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1 retaining the existing interior columns. Implementing 20
2 foot wide two-way drive aisles would require demolition of
3 the interior columns and maintaining -- in order to maintain
4 the drive aisle widths of 16 foot to 16'2.

5 In requesting these variances there is no
6 substantial detriment to public good and no impairment to the
7 zone plan. Under Section 2117.8(c) of the 1958 zoning
8 regulations the required driveway width for two-way
9 circulation was at 14 feet.

10 The parking is for residents of the project only
11 so narrowed drive aisle width will not impact neighboring
12 residents or motorists outside of the project. Also,
13 residents will be assigned their spaces so they will be
14 familiar with the garage and not have to circulate or hunt
15 for spaces. The size and type of parking spaces will all
16 comply with zoning requirements.

17 Finally, a DDOT report was submitted to the Board
18 for review. IDI has addressed the comments pertaining to the
19 requirements of the dedicated delivery space which was added
20 on the first level for parking off of Water Street and will
21 comply with all the recommended TDM measures. Next slide.

22 I wanted to thank you for the opportunity to
23 present our project and I will turn it over to Jennifer for
24 any closing remarks.

25 MS. LOGAN: Thanks, Nicole. I just want to add

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1 in addition to those areas of relief the applicant is also
2 requesting flexibility just to modify any design of the
3 building in response to any follow-up comments from OGB or
4 the CFA obviously assuming that they don't require any
5 additional areas of relief. And with that we're all
6 available for questions.

7 CHAIRPERSON HILL: Okay. Paul, can you drop the
8 slide presentation just so I can try to see everybody?
9 Thanks. All right. Mr. May, do you have any questions for
10 the applicant?

11 COMMISSIONER MAY: Yes. So I heard Ms. Gerke say
12 that the applicant has agreed to all of the TDM conditions
13 that DDOT had requested. Is that right?

14 MS. GERKE: Yes, that is correct.

15 COMMISSIONER MAY: Do we have that -- is that
16 written in an exhibit that we have on the record already?
17 I couldn't find it.

18 MS. GERKE: I believe it is. Jennifer, do you --

19 CHAIRPERSON HILL: It may be exhibit 33. I'm not
20 sure.

21 COMMISSIONER MAY: All right, I'll look for that.
22 It would be nice to have it on paper.

23 (Simultaneous speaking.)

24 CHAIRPERSON HILL: If you could confirm that, Ms.
25 Logan.

1 MS. LOGAN: Sorry, I was having trouble unmuting.
2 Yes, the DDOT report is at exhibit 33.

3 COMMISSIONER MAY: I saw the DDOT report. I was
4 looking for the applicant's agreement to those.

5 MS. LOGAN: We didn't have it in writing. Some
6 of the changes that they requested are actually reflected on
7 the updated plans themselves which was additional bike
8 parking, a designation for delivery space.

9 COMMISSIONER MAY: Right. All right. So, I mean
10 I guess we can ensure that the TDM is adhered to by including
11 that as a condition of the order.

12 MS. LOGAN: Yes, that's fine. I just want to note
13 that we, in our cover letter of the plans we sort of state
14 that the plans are updated in response to DDOT's comments.
15 But we don't actually go through each of the TDM measures and
16 say that we comply.

17 COMMISSIONER MAY: Right, yes. That was the
18 statement I was looking for and I couldn't find. So, I have
19 one other question. It's not related to the relief. I was
20 just trying to figure out the drawings and how the building
21 height measuring point was established. Because it looks
22 like it's in the second floor and I'm not seeing how that
23 aligns with an existing elevation or the way I would
24 understand measuring points to be measured. But I don't do
25 that every day so obviously you could explain it to me.

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1 MR. EPTING: This is John Epting, Mr. May. In the
2 MU-13 zone you can measure from a platform. So just like the
3 adjacent building to the east which I think is 3307 Water
4 Street we measured from a spot we determined with the Zoning
5 Administrator at the entrance to the building, and then a
6 straight -- from there.

7 COMMISSIONER MAY: I'm sorry, you're getting
8 garbled by maybe somebody else's microphones. If somebody
9 else could mute and you could repeat that, please.

10 MR. EPTING: This is John Epting. In the MU-13
11 zone you can measure from the terrace and the height is 60
12 feet. So we met with the Zoning Administrator. Similar to
13 3307 Water Street just to the east of us we established a
14 terrace line which is at the top of 34th Street where the
15 entrance to the building would be. And you go up 60 feet
16 from there.

17 COMMISSIONER MAY: Okay. All right. I was just
18 curious about that. I'll have to check that because --

19 MR. EPTING: It's very unusual.

20 COMMISSIONER MAY: It's very unusual and I've been
21 involved in many building height measuring point discussions
22 going back 20 years I think and I do not recall that.

23 MR. EPTING: This is the only zone I know of that
24 has that terrace feature.

25 COMMISSIONER MAY: Yes, that's very interesting.

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1 All right, thank you. That's it for my questions.

2 VICE CHAIRPERSON HART: I didn't have any
3 questions.

4 CHAIRPERSON HILL: That's all right. My computer
5 is lagging. So Ms. John?

6 MEMBER JOHN: So my question goes to the need to
7 retain the interior columns. And that's aside from what OGB
8 recommended. Why from an architectural point of view is it
9 necessary to retain the interior columns?

10 MS. GERKE: I'm going to repeat the question. You
11 were questioning the need to retain the interior columns?

12 MEMBER JOHN: That's correct. To accommodate the
13 parking. In several places there is a reference to OGB's
14 recommendation. Since we're not required to give great
15 weight to the OGB my question is why is there a need to
16 retain those interior columns apart from OGB --

17 MR. EPTING: This is John Epting again. So
18 basically OGB working with the DC Historic Preservation
19 Office required us to maintain as much of the integrity of
20 the existing structure as we could. We could not do more
21 demolition than they allowed. So those are historic columns.
22 Just like we can't take down the existing walls. They wanted
23 as much existing fabric to be retained as possible. So
24 that's what we were mandated to do and that's what we're
25 trying to do here. Because we can't tear the columns down

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1 the aisle widths are not wide enough.

2 MEMBER JOHN: Okay. Thank you for the answer.

3 MR. EPTING: You're welcome.

4 CHAIRPERSON HILL: Okay. Mr. Epting, I'm going
5 to follow up now because I continue to be curious. You're
6 saying those internal columns that are the reason why you are
7 here are not necessary for your project?

8 MR. EPTING: I think they're a nice feature for
9 the project, but in order for them to remain you squeeze the
10 aisle widths. I think they'll look nice within the project.
11 It shows how the structure was for over 100 years so I think
12 that's a nice feature. I think most historic preservation
13 bodies want you to keep as much fabric as you can as opposed
14 to doing just complete gut jobs of interior fabric. So in
15 order to do that we're leaving the columns, and by leaving
16 the columns it makes the aisle widths too narrow.

17 CHAIRPERSON HILL: I see, right. And I'm just
18 having a chance -- the columns go through your project up to
19 what floor?

20 MR. EPTING: It's the two levels of the existing
21 building.

22 CHAIRPERSON HILL: Right.

23 (Simultaneous speaking.)

24 MR. EPTING: -- that interior fabric has remained
25 the way it is today basically.

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1 CHAIRPERSON HILL: I understand. And I'm just
2 saying though that the units above -- the new building does
3 not have the columns.

4 MR. EPTING: That's all new construction.

5 CHAIRPERSON HILL: All right. Okay. Okay. All
6 right. Let's see. I think, does anyone else from the Board?
7 All right. Could I go ahead and turn to the Office of
8 Planning?

9 MR. MORDFIN: Good afternoon, Chair and members
10 of the Board. I'm Stephen Mordfin. And the Office of
11 Planning supports this application both for the variances due
12 to the uniqueness of the property because it is an historic
13 property, and also for the special exception for the location
14 of the parking spaces because of the uniqueness of the size
15 of the building. It's narrow enough that it would make it
16 difficult for the applicant to provide the 20 foot setback
17 from the edges of the building. So therefore the Office of
18 Planning recommends approval of this application and is
19 available for any questions. Thank you.

20 CHAIRPERSON HILL: All right. Does anyone have
21 any questions for the Office of Planning? I'll start with
22 you, Mr. May.

23 COMMISSIONER MAY: No questions.

24 CHAIRPERSON HILL: Mr. Hart?

25 VICE CHAIRPERSON HART: No, I do not. Thank you.

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1 CHAIRPERSON HILL: Ms. John?

2 MEMBER JOHN: No questions.

3 CHAIRPERSON HILL: Mr. Hart, may I ask you a
4 question? Can you see people? You're the only person I can
5 see right now.

6 VICE CHAIRPERSON HART: Yes. Well, I can see all
7 the Board members. And Ms. Gerke, Mr. Moy, and Mr. Mordfin,
8 and Mr. Ritting.

9 CHAIRPERSON HILL: Okay. All right. I'll go
10 ahead. I keep talking to my IT people here that something
11 is going on with my laptop. I'm flying blind. I can see me
12 so that's it. And I can see you, Mr. Hart and Mr. Moy. You
13 guys are just so fantastic to look at.

14 Okay, I'm going to go ahead -- let's see. Ms.
15 Gerke or Ms. Logan, do you have any questions for the Office
16 of Planning?

17 MS. LOGAN: No, we don't.

18 MS. GERKE: I do not.

19 CHAIRPERSON HILL: Okay, thanks. Let me see the
20 list here. I don't see anyone that has signed up unless I'm
21 wrong. So nobody has signed up for public testimony either
22 for -- either or in opposition and the ANC has not. So we
23 didn't have anything more from that.

24 I didn't have a lot of questions I guess about
25 this particular project. I mean, and what you're trying to

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1 do. I think that what Ms. John mentioned was interesting in
2 terms of the columns there that I just kind of learned a
3 little bit more about. So unless the Board doesn't have
4 anything else. And I'll just give a minute for anyone to
5 pipe up. Okay.

6 Then I'll go ahead and Mr. Moy, if we can go ahead
7 and set this for deliberation on June 10.

8 MR. MOY: Yes, sir. This would be for June 10,
9 next week.

10 CHAIRPERSON HILL: All right. I'm going to close
11 the hearing unless the applicant has anything further they'd
12 like to add?

13 MS. LOGAN: No, thank you.

14 MS. GERKE: No, thank you.

15 CHAIRPERSON HILL: Okay. All right. Well, it
16 would have been nice to see some of you but I didn't, so you
17 guys have a nice day. I do not know why I'm having such a
18 difficult time with this.

19 MR. MOY: No offense, Mr. Chairman, but afterwards
20 -- no offense to your IT guys, but I can have our own IT guys
21 talk to your IT guys.

22 CHAIRPERSON HILL: Okay. Let's see. I don't know
23 why it's not -- it just doesn't make any sense to me. Let
24 me see if I can do something else.

25 VICE CHAIRPERSON HART: Yes, I'm the IT in my home

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1 office.

2 CHAIRPERSON HILL: Yes. You're at least doing
3 better than me. I mean, I have IT and I won't name names.

4 MEMBER JOHN: Mr. Hill, are you using an iPad or
5 a laptop?

6 CHAIRPERSON HILL: No, I've got a Surface. Now
7 you guys are all back on again with me. I wanted to cut out
8 and try again but I don't know. Maybe there was just -- I
9 don't know. All right. Okay, Mr. Moy, you can call the next
10 case.

11 MR. MOY: Okay. Thank you, Mr. Chairman. So that
12 would be Case Application No. 20244 of 1777 Bond Street
13 Equities LLC and Columbia Road of DC LLC. This is an
14 application for special exception under Subtitle C Section
15 703.2, from the minimum parking requirements of Subtitle C
16 Section 701.5. This would construct a 40 new residential
17 units and ground level retail addition to an existing
18 mixed-use building, MU-5A zone at 1776-1777 Columbia Road NW
19 (Square 2580, Lot 522).

20 CHAIRPERSON HILL: Sorry, go on. Before we get
21 into any of this, Mr. Ritting, can you -- so OAG, can you
22 guys remind me. I know the previous case that we just had
23 there was some discussion about the TDM plan at DDOT. If you
24 can just remind me again about that during our OAG call next
25 week prior to our meeting. I just want to make sure that we

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1 kind of speak about that more directly during our
2 deliberations.

3 MR. MOY: Mr. Chairman?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: If you're ready for this I just want to
6 remind you that there are preliminary matters with regards
7 to exhibits 38, 39 and 40 in the case record.

8 CHAIRPERSON HILL: Okay. Give me one moment,
9 everyone, so I can pull this up. All right. So, let's see.
10 If everybody could just mute their microphone unless they're
11 speaking. Mr. Beznos, Mr. McKinney, thank you. Again, just
12 to let you guys know I can't see anyone necessarily so I'm
13 just going to go by name here and see how we proceed.

14 The first thing that we're going to talk about is
15 the notice. And as I understand it thus far, and I'll get
16 around -- I know there's someone who has -- and I don't know
17 if that person is with us or not yet. I'm trying to figure
18 it out. I think we do have one person that wanted to speak
19 in opposition to the notice. Or there's I guess a motion to
20 -- I don't know if it's a motion or not, but a motion to
21 postpone. And I will get to everybody so just again give me
22 a minute.

23 The first items are a few items where the Office
24 of Zoning did send out the letters to the 200 -- people in
25 200 feet in exhibit 33. There is the Office of Zoning

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1 letters to parties in exhibit 40. There seems to be
2 affidavits of posting and notice, but there seems to be some
3 issue with that.

4 I guess -- now, I do recognize some of the names
5 here. Could someone first just speak up as to who is the
6 applicant or who is representing the applicant?

7 VICE CHAIRPERSON HART: We can't hear you, Ms.
8 Moldenhauer. No, we can't hear you at all. I can see your
9 mouth moving but we can't hear you. Sure.

10 MR. DEBEAR: While Meredith gets that figured out
11 I will jump in. Eric DeBear, Cozen O'Connor on behalf of
12 Bond Street Equities and Columbia Road of DC LLC.

13 VICE CHAIRPERSON HART: Thank you.

14 CHAIRPERSON HILL: All right, Mr. DeBear, thank
15 you. So, Ms. Moldenhauer I assume is trying to get online.
16 And then Mr. DeBear, do you know who is else with you?

17 MR. DEBEAR: Yes. So we have our two
18 representatives of our client, Matt Wexler and Sam Beznos.
19 And then we have the architectural team from Bonstra Haresign
20 and it's Wade McKinney and Bill Bonstra and their associate
21 Michael Spinelli.

22 CHAIRPERSON HILL: Okay. Give me one second. So
23 Wexler and Beznos. Who else did you say is with you?

24 MR. DEBEAR: Those are the clients. Those are the
25 owners. And then Bonstra Haresign would be Wade McKinney,

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1 William Bonstra, and Michael Spinelli.

2 MS. MOLDENHAUER: Can the Board hear me now?

3 MR. DEBEAR: Yes.

4 CHAIRPERSON HILL: Okay. Give me one second, Ms.
5 Moldenhauer. So McKinney, Bonstra, and you mentioned another
6 name.

7 MR. DEBEAR: Spinelli.

8 CHAIRPERSON HILL: Spinelli. Okay.

9 MR. DEBEAR: And Mr. McKinney will be the primary
10 architect speaking today if needed. And Mr. Beznos and Mr.
11 Wexler are also available to speak, whether it's on this
12 issue of notice or anything else.

13 CHAIRPERSON HILL: Okay. All right. Well, first
14 of all I guess now there was -- and either Ms. Moldenhauer
15 or Mr. DeBear, whoever is going to speak to this, can you
16 speak about the posting and the notice? Who would like to
17 speak to that?

18 MS. MOLDENHAUER: Absolutely. Good afternoon,
19 Board Member Hill. I'm hoping everyone can hear me if I get
20 a head nod? Great. Thank you. I apologize for the
21 technical challenges earlier.

22 On behalf of the applicant we did provide all of
23 the required notice and the Office of Zoning did as Chairman
24 Hill mentioned mail the required 200 foot notice both at the
25 beginning of the hearing case at exhibit 25 initially, and

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1 then again in their second filing of that notice more
2 recently for the virtual hearing.

3 The applicant attended multiple ANC meetings even
4 before the application was filed in January. They attended
5 a meeting. And then they also attended a February meeting,
6 a March meeting at which they received full ANC support.

7 We also re-posted the property. The property was
8 posted prior to the hearing, the April 1 initial hearing with
9 the large yellow placard that was referenced in our filing
10 and exhibit.

11 We also then re-posted the property with the
12 virtual hearing date of today which was also provided in an
13 affidavit that is in the record.

14 MR. DEBEAR: And I personally made that update so
15 I can certainly speak to it if need be.

16 CHAIRPERSON HILL: How long ago did you guys post
17 the updated -- Mr. Hart, I'll get to you in one second. How
18 long ago did you post the updated hearing date?

19 MR. DEBEAR: I believe that was on May 27 we
20 posted the updated hearing date.

21 CHAIRPERSON HILL: Mr. Hart, you had a question.

22 VICE CHAIRPERSON HART: Yes. The only point that
23 I would make is that in the affidavit of posting exhibit 37A
24 actually includes a photo of the posting, but the actual
25 hearing date on that photo is April 1. It's not the most

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1 recent one. And I'm assuming that there is -- that that may
2 have -- well, I'm not assuming anything. There may be
3 another photograph that actually shows the more current date
4 which is today's date. And I don't know if that was
5 erroneously added to that exhibit, or not. Still one thing
6 that I found was a little bit off on the affidavit of posting
7 that's exhibit 37A.

8 MR. DEBEAR: That's a good question, Board Member
9 Hart. I did update -- when I updated the virtual hearing
10 information I updated -- and I do have photographs on my
11 phone. Generally it's not custom that we file them with an
12 affidavit of maintenance, but I'm happy to do so if the Board
13 needs that. But I can attest that I updated the poster with
14 the virtual hearing information including today's date.

15 VICE CHAIRPERSON HART: Thank you. I just wanted
16 to make sure that we were aware of the two different -- of
17 the exhibit that shows the previous date. That's all. Thank
18 you.

19 CHAIRPERSON HILL: But Mr. DeBear, you're saying
20 you posted that, the updated date, a week ago, correct?

21 MR. DEBEAR: Yes. I believe we were requested by
22 the Office of Zoning five or six days before that and I got
23 out there frankly after just coordinating with the client.
24 I got out there on the 27th.

25 CHAIRPERSON HILL: Okay. All right. Let's see.

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1 So, Mr. Moy and/or Paul. And this is kind of -- again, we're
2 going through this. Since this virtual meeting it's a little
3 bit different than the hearing room. I'm trying to figure
4 out if there were -- somebody if you could mute your
5 microphone. I'm sorry.

6 There were some things in the record in terms of
7 I guess it wasn't necessarily a motion, but opposition that
8 they didn't have enough time. And it looks like Suzanne
9 Allen, Meg Staines, Thomas Sweigel. And I don't know if, Mr.
10 Young, if any of those people are somewhere in the waiting
11 area. Do you know?

12 MR. YOUNG: I do not see. Can you repeat the
13 names?

14 CHAIRPERSON HILL: Sure. Let's see. We've got
15 Suzanne Allen, Meg Staines, Thomas Sweigel.

16 MR. YOUNG: I don't see any of them.

17 CHAIRPERSON HILL: Okay. All right. In terms of
18 what the notice, I mean I think that they've already gone
19 through the ANC with this project. I mean, I'm not clear as
20 to the discrepancy with the notice in some of the letters in
21 opposition meaning that they did I guess know about this
22 hearing in order to submit the letters in opposition. It's
23 unclear to me as to what time they're asking for or as to why
24 they wanted further time before this hearing.

25 So the fact that the applicant has gone ahead and

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1 has posted the new date as well as gone through with the ANC
2 already, as well as the delay that this has gone through due
3 to COVID, meaning we would have been here before. I don't
4 necessarily have any issues with the posting requirements.
5 I'm going to ask Mr. May if you have any concerns?

6 COMMISSIONER MAY: Well, in this circumstance what
7 we've heard today on the posting of the property is better
8 than some things that we've heard today about posting of
9 properties. Still not great. I guess I'm a little curious.
10 Why did it not -- the date not get updated until the 27th?
11 Because we've heard other people say that they got notice of
12 the revised hearing date as early as even two weeks before
13 that.

14 MS. MOLDENHAUER: Hi, Commissioner May. Let me
15 address that. One, I want to make sure that the Board is
16 aware the large placard was up as of March 17. So the
17 community in regards to any of these individuals that sent
18 these letters were able to walk by the property and see the
19 poster was up.

20 COMMISSIONER MAY: I understand that. My question
21 is just about updating the date on that notice.

22 MS. MOLDENHAUER: So, when we did receive the
23 information we got that over to our client. We then went to
24 the property and we needed to get a new orange poster because
25 the one from March had been temporarily taken down just given

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1 the time period. So we needed to then go to our office.
2 Eric DeBear personally went to our office building downtown.
3 We're obviously all quarantined and working from home.

4 He obtained a copy of it. We then posted the
5 property as soon as possible. We believe that the standards
6 are that obviously the community is aware of the case and we
7 did everything possible to get this posted as quickly as
8 possible.

9 COMMISSIONER MAY: Okay. So when did you actually
10 receive notice of the revised hearing date?

11 MS. MOLDENHAUER: I don't have that on my email
12 at the moment. I can pull it up. We received it sometime
13 at the end of, what was that, the 21st, 22nd. And then by
14 the time we went to the property once we then had to go back
15 and go to the property a second time. So we had to return
16 to the property twice as well as coordinate with going into
17 an office that was closed.

18 COMMISSIONER MAY: Right. Understood. That's the
19 sort of information I'm trying to understand is what the
20 complications were again because we heard from another case
21 today that the notice had been received a couple of weeks
22 sooner than when you actually got your updated poster posted.
23 But now I understand a little bit more about why.

24 Mr. Chairman, I'm not -- I guess I'm not too
25 concerned about the posters on the front of it. Again, given

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1 that it's already been through the ANC there has been some
2 notification of it. And certainly we have to be confident
3 that if there were -- that letters did go out to the people
4 who live within 200 feet. I mean, I looked through that list
5 pretty carefully and saw that at least two out of the three
6 who had sent letters, sent emails with concerns about the
7 posting according to that, the mailing labels that we have,
8 those people did receive, or there were at least labels for
9 those people when those letters went out.

10 So I'm -- you never want to hear at the last
11 minute that people didn't hear anything about it, but I think
12 it is probably safe to proceed because they have by now heard
13 about it because the letters did go out and the property was
14 posted, if not perfectly, for an extended period. I guess
15 I'm okay. A long way of saying I'm okay.

16 CHAIRPERSON HILL: Yes. Okay. Well, I'm
17 disappointed that none of these people that are saying that
18 they didn't have enough notice are around. I mean, Mr. Moy,
19 you did reach out to some of these people, correct?

20 MR. MOY: Yes, sir. The staff did reach out. And
21 I also want to confirm what Peter May just said for the
22 record because both Margaret Staines and Suzanne Allen,
23 exhibits 39 and exhibit 40, they are listed on the 200 foot
24 property list. Their names and address are listed. And as
25 you know, as the Board is aware, our office depends on these

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1 listing of property owners within 200 feet. We get those
2 listings from the DC Office of Tax and Revenue.

3 CHAIRPERSON HILL: Okay. Mr. Hart, do you have
4 any comments?

5 VICE CHAIRPERSON HART: No, nothing more than what
6 has been said already. I'd also checked the list and noted
7 -- the 200 footer list and noted that two of the three people
8 were actually on that list. I'm not exactly sure why they
9 did not -- why we have them on the list, but they are --
10 noted that they had not actually been aware of the project
11 prior to I guess a couple of weeks ago.

12 But I'm fine with moving forward with this. As
13 we've said we've heard from the ANC and we've had at least
14 some notice on the building for a period of time, for
15 actually two periods of time. So, I'm actually okay with
16 moving forward with the case today.

17 CHAIRPERSON HILL: Ms. John?

18 MEMBER JOHN: I'm fine with moving forward based
19 on what everyone else has said. I would just add that I
20 noticed the applicant received the notice from the Office of
21 Zoning, or it was mailed on the 22nd. And the posting was
22 done according to the affidavit on May 27. So that's only
23 five days. And I'm prepared to accept that.

24 CHAIRPERSON HILL: Okay. All right. So in that
25 case Ms. Moldenhauer, Mr. DeBear. And again, I can't see

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1 anybody so can you guys let me know which one of you is going
2 to be presenting?

3 MS. MOLDENHAUER: Good afternoon, Chairman Hill.
4 I will be presenting.

5 CHAIRPERSON HILL: Okay. If you could just go
6 ahead and walk us through your client's application as to
7 what they're trying to do and how you're meeting the standard
8 with which we can grant the relief requested. And you can
9 begin whenever you like.

10 MS. MOLDENHAUER: Sure. I believe Mr. Young has
11 a copy of our PowerPoint presentation.

12 CHAIRPERSON HILL: You okay, Ms. Moldenhauer? Can
13 you see that?

14 MS. MOLDENHAUER: I can. Do I have control?

15 CHAIRPERSON HILL: Unfortunately I think you just
16 have to ask Mr. Young to advance the slide.

17 MS. MOLDENHAUER: So if you could advance the
18 slide, please. So the property is located in the MU-5 zone.
19 You can see it is a large parcel. Next slide.

20 This is just an aerial of the property. Next
21 slide. The project is an addition to an existing mixed-use
22 building that consists of up to 40 residential units,
23 existing ground floor retail, and 3 parking spaces. The
24 existing building has 80 residential units with 7,430 square
25 feet of ground floor retail and 28 ground floor parking

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1 spaces.

2 The addition of the new 40 residential units and
3 retail is all by right except for the request that we are
4 here today for which is parking relief. Next slide.

5 You can see the existing structure which is
6 currently built. The addition would be to the right of this
7 image over top of the existing retail that is there. Next
8 slide.

9 As I indicated earlier the applicant and its
10 representatives did extensive community outreach. They went
11 to the ANC and presented before the ANC in January, in
12 February, and then in March. They received ANC 1C's
13 unanimous support. The application has Office of Planning
14 support as well at exhibit 31 and DDOT letter of no objection
15 at exhibit 32. Next slide.

16 Here you can see on this image the site plan. In
17 gray on your left is the existing building. In the red
18 hashed lines is the portion of the addition that is part of
19 the relief being requested today. Next slide. Sorry,
20 actually on that slide still you can see parking on the rear
21 of that portion of the property along the alley. Next slide.

22 This is below grade storage and bicycle parking
23 that complies with the requirements. Next slide. This is
24 the ground floor with ground floor retail. And again I'm
25 pointing out the rear parking that is along the rear of the

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1 property. Next slide.

2 The residential units that will be added to the
3 front L of the building. Next slide. The floor plan is
4 consistent from third floor to sixth floor. Next slide.

5 And then the penthouse is provided with all of the
6 required setbacks with a green roof existing for proposed
7 roof. Next slide.

8 Here you can see the existing portion of the south
9 face of the building to the left and the right portion of the
10 building would be the new construction addition. Next slide.

11 We are here today to request special exception
12 relief pursuant to Subtitle C 701.5 for a total of 49 parking
13 spaces required. Eighteen spaces would be required for the
14 new portion of the addition, 12 spaces for the residential
15 units and 6 spaces for the retail. Thirty-one spaces for the
16 existing building are provided. Thus we're asking for
17 special exception relief. Next slide.

18 Relief is harmonious with the zoning regulations.
19 The project is a compatible mixed-use development with ground
20 floor retail. Also the project provides amenities such as
21 the retail which encourages the walkability and is also
22 located in a transit-rich public transit location. This also
23 is obviously in a neighborhood that provides a variety of
24 amenities including local grocery stores, pharmacies,
25 restaurants, and bars. And decreases the need for the use

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1 of parking and cars. Next slide.

2 Relief will not adversely affect neighboring
3 properties. There is no objection to the relief by DDOT as
4 referenced previously. The project intends to attract
5 residents and customers that can walk and can utilize the
6 benefits of the close proximity of the business district and
7 the close proximity of the Adams Morgan neighborhood.
8 Excellent access to public transit including bus routes and
9 Metro lines that are close by. The project would be entitled
10 to the transit reduction due to the proximity of the bus
11 line. But the curbside parking is eligible for RPP.

12 The existing building has 28 parking spaces that
13 can be used by residents and customers of the project. And
14 the existing building has been open now for two years and
15 that parking is not fully utilized which is very important.
16 So the need to build more parking when the current building's
17 parking is not being fully utilized is part of the rationale
18 and reasons for the relief being requested. Next slide.

19 The project meets the special conditions under
20 Subtitle C 703.2(a). The use and structure is particularly
21 well serviced by mass transit. We just discussed that. And
22 here is a listing of the local proximity to both bus lines,
23 Metro lines as well as Capitol Bikeshares and Zip cars.

24 Section (b) land use and transportation
25 characteristics of a neighborhood minimize the need for the

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1 required spaces. As discussed as well this is along the rich
2 community of Adams Morgan which provides all the services and
3 the need for parking is thus reduced. Next slide.

4 Reduction in parking is the amount the applicant
5 is requesting is physically unable to be provided or -- and
6 is proportionate to the reduction in the parking demand. The
7 project here provides three parking spaces and a loading
8 berth at the rear of the addition of the building, but is
9 unable to provide the physical requirements for the
10 additional parking and so that satisfies the requirements.
11 Next slide.

12 This goes to a question I think the chairman
13 mentioned earlier. The DDOT report included some
14 transportation demand management plan. And so we had worked
15 with DDOT on that and are agreeable to all of their
16 transportation demand management requests. And so I believe
17 that's also in the record in our pre-hearing statement as
18 well as part of this PowerPoint presentation. I won't read
19 through all of them, but these are the TDM measures requested
20 by DDOT that we are agreeable to. Next slide.

21 And they continue onto this next slide. Again
22 these are the word for word TDM measures requested by DDOT
23 that the applicant has agreed to. Next slide.

24 And based on that we are available for any
25 questions the Board may have. And we believe that we satisfy

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1 the special exception standard. I will just note in response
2 to the comments that we received from the three individuals
3 in the record, none of them specifically submitted any
4 factual basis for objecting to the special exception relief
5 or for the parking concerns despite the fact that this case
6 was well publicized and that the applicant attended many ANC
7 meetings as well as this was posted on the Adams Morgan
8 listserv and other programs. So if there were substantive
9 issues that were raised by them I would have addressed them,
10 but because they did not specifically address any concerns
11 with the parking relief being requested I simply want to note
12 that for the record and be available for questions. Thank
13 you.

14 CHAIRPERSON HILL: Ms. Moldenhauer, in terms of
15 the DDOT conditions. And I know that you said that your
16 client was agreeable to all of them. I do -- just to make
17 sure, these are all the ones that are in exhibit 32? Is that
18 correct?

19 MS. MOLDENHAUER: Yes, that is correct.

20 CHAIRPERSON HILL: Okay. All right. So, your
21 client is in agreement with all of the conditions put forth
22 from DDOT in exhibit 32, correct?

23 MS. MOLDENHAUER: Correct. We reviewed those in
24 detail with our client and those are also copied in our
25 PowerPoint presentation and our pre-hearing statement as TDMS

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1 that the client agrees to and the applicant agrees to.

2 CHAIRPERSON HILL: Okay. Does the Board have any
3 questions? I'm going to start with you, Mr. May.

4 COMMISSIONER MAY: Yes. So, I mean this is a
5 minor point, but I'm a little puzzled. How do you all
6 measure what the distance is to Metro? Because it's not --
7 nothing is a half a mile by foot.

8 MS. MOLDENHAUER: The legal standard is as we have
9 confirmed. I know you said earlier with the Zoning
10 Administrator. It is as the crow flies.

11 COMMISSIONER MAY: As the crow flies.

12 MS. MOLDENHAUER: As the crow flies. So we go
13 onto Google and we drop the point and we measure it that way.
14 We also sometimes use the Office of Zoning website. But I
15 know we've had some challenges with that measuring tool
16 sometimes. It's as the crow flies.

17 COMMISSIONER MAY: Okay. Well, that's helpful to
18 know because it's more like three quarters of a mile than
19 half a mile as a person would actually travel.

20 There was one comment that was in one of the
21 letters of objection that I mean, again, doesn't really go
22 to the relief per se, but I'm curious about it and maybe you
23 want to speak to it which is that when the original building
24 or the new building was -- sorry, not this proposal, but the
25 first addition to that building, the other apartment

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1 structure was built that it was poorly built and that it
2 caused impacts on the neighbors as a result, flooding and
3 things like that. Do you want to talk to any of that?

4 MS. MOLDENHAUER: I can respond to that. One, as
5 you mentioned and I would just note for the record that those
6 are not issues that are germane to the BZA relief. But to
7 respond and make sure the Board is aware that our client is
8 aware of those challenges, those challenges were directly
9 related to a Verizon issue that occurred in the alley that
10 had to do with DDOT.

11 They worked with both the neighbors and the
12 community to address that. But it was something that had to
13 get resolved with Verizon and DDOT. And so it was something
14 that obviously occurred after the construction but was not
15 related to the GC or their work directly. But they did work
16 and we have -- I have discussed with my clients obviously
17 after receiving those letters that they communicated via
18 email with abutting property owners and worked to get that
19 resolved.

20 COMMISSIONER MAY: So, whatever the problem was
21 with the flooding and such, that's been resolved now?

22 MS. MOLDENHAUER: To my understanding, yes. And
23 I can ask one of my clients to respond specifically to that.

24 (Simultaneous speaking.)

25 MR. WEXLER: Yes, this is Matt Wexler. I don't

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1 know if you can hear me, Commissioner May.

2 COMMISSIONER MAY: Yes.

3 MR. WEXLER: But the problem was corrected later
4 by DDOT. And as counsel mentioned, this was a construction
5 issue completely unrelated to the construction of our
6 project. This was a repaving of an alley that DDOT did in
7 coordination with Verizon through a third party contractor.

8 COMMISSIONER MAY: Oh. So it had nothing to do
9 with your project at all.

10 MR. WEXLER: That's right. It had nothing to do
11 with our construction. And the problem impacted our building
12 as well as the neighbor's building. And we worked to solve
13 that problem collaboratively.

14 COMMISSIONER MAY: Good. Well, that's
15 encouraging. Again, not specifically related to the relief
16 that's requested, but it's never good having evidence in the
17 record indicating that an applicant is not being a good
18 citizen in their projects. So I'm glad to have that matter
19 cleared up. That's it for my questions, Mr. Chairman.

20 CHAIRPERSON HILL: Okay. Mr. Hart?

21 VICE CHAIRPERSON HART: Yes. This is for Ms.
22 Moldenhauer. And Ms. Moldenhauer, it reminds me of being in
23 an airplane when I hear you talk. It sounds like a pilot
24 over the intercom telling me that we're about to reach our
25 destination. But anyhow.

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1 MS. MOLDENHAUER: Please buckle your seatbelts.

2 VICE CHAIRPERSON HART: I feel like you're about
3 to say that. We're traveling at 35,000 feet. So, the only
4 question I had was you said that there was existing parking
5 that's not being utilized currently. How much was that again
6 did you say?

7 MS. MOLDENHAUER: So, the project -- sorry, if I
8 can go to one of the other slides -- currently has 38 parking
9 spaces. And the building is fully occupied with residential
10 tenants, but the parking is not currently fully utilized.
11 The specific numbers I don't know, but my client can answer
12 the specific percentage that is not being utilized.

13 VICE CHAIRPERSON HART: I was just curious. It's
14 not a big thing. I was just more curious as to how much was
15 not being utilized.

16 MR. WEXLER: Sure. It's Matt Wexler. I can speak
17 to that just for a moment. I don't have the number,
18 Commissioners, as of today, but as of a couple of weeks ago
19 and also as of before the original hearing date of April 1
20 it was in the high twenties to low thirties of the 38
21 available parking spaces.

22 VICE CHAIRPERSON HART: So it was somewhere north
23 of 50, maybe less than 70 percent.

24 MR. WEXLER: That sounds about right.

25 VICE CHAIRPERSON HART: Just curious. Thank you.

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1 MR. WEXLER: Sure.

2 VICE CHAIRPERSON HART: No other questions.

3 CHAIRPERSON HILL: Thank you, Mr. Hart. Ms. John?

4 VICE CHAIRPERSON HART: I can't hear anything.

5 MEMBER JOHN: I have no questions. I had
6 difficulty unmuting. But I have no questions.

7 CHAIRPERSON HILL: Okay. Thank you, Ms. John.
8 All right. Let's see. Can I go ahead -- and actually I just
9 wanted to speak to this other thing I guess in terms of the
10 issues, or not issues, the letters that were put forth in
11 terms of the notice.

12 I guess as I had mentioned and just wanted to kind
13 of clarify that it seems as though they were contesting the
14 fact that they didn't receive the notice to the first
15 hearing. But they did receive notice to the second hearing
16 which is this hearing. So just wanted to kind of clarify.
17 Just wanted to make sure that we spoke to that and that the
18 public has been given the availability to come forward even
19 at this hearing.

20 All right. With that I'm going to turn to the
21 Office of Planning.

22 MR. JESICK: Thank you, Mr. Chairman and members
23 of the Board. My name is Matt Jesick. The Office of
24 Planning can rest on the record in support of the
25 application. But I'd be happy to take any questions. Thank

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1 you.

2 CHAIRPERSON HILL: Okay, great. And Mr. Jesick,
3 I actually can see you right now. So I'm going to say hi to
4 everybody from the Office of Planning every time I see you.
5 So nice to see you, Mr. Jesick.

6 MR. JESICK: You too, Mr. Hill.

7 CHAIRPERSON HILL: All right. Let's see. Does
8 the Board have any questions for the Office of Planning,
9 beginning with you, Mr. May?

10 COMMISSIONER MAY: No.

11 CHAIRPERSON HILL: Mr. Hart?

12 VICE CHAIRPERSON HART: No, I do not.

13 CHAIRPERSON HILL: Ms. John?

14 MEMBER JOHN: No, I have no questions.

15 CHAIRPERSON HILL: Mr. Young, could you pull down
16 the slide presentation for me?

17 MR. YOUNG: Sorry, can you repeat that?

18 CHAIRPERSON HILL: Yes, could you just get rid of
19 the slide presentation so that I can at least have a shot at
20 seeing more people? Okay, great. Thank you. Ms.
21 Moldenhauer, Mr. DeBear, do you guys have any questions for
22 the Office of Planning?

23 MS. MOLDENHAUER: No questions for the Office of
24 Planning.

25 CHAIRPERSON HILL: Okay. So I'm looking --

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1 MS. MOLDENHAUER: Thank you.

2 CHAIRPERSON HILL: You're welcome. I'm looking
3 up here at my sheet and I don't see anyone who has signed up
4 to speak either in favor or in opposition or the ANC for this
5 public testimony. So, I don't actually have any further
6 questions. The questions that I had again were just
7 pertaining to DDOT and the TDM plan and whether or not the
8 applicant and the property owner were --

9 MS. MOLDENHAUER: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MS. MOLDENHAUER: I believe potentially
12 Commissioner Jasper Bowles may be on the phone from the ANC.
13 I'm not sure.

14 MEMBER JOHN: Yes, yes. I did see that.

15 CHAIRPERSON HILL: Okay. Where do you see that?

16 MEMBER JOHN: A little note popped up.

17 CHAIRPERSON HILL: Okay, give me one second then,
18 please. Oh. No, okay. Let's see. So, there's a
19 commissioner that is trying to speak. Paul, can you let that
20 person in?

21 MR. YOUNG: Yes. Who is it?

22 CHAIRPERSON HILL: I'm trying to see if I can
23 figure it out.

24 MR. YOUNG: Japer Bowles? Okay.

25 CHAIRPERSON HILL: I don't see the chat even.

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1 MR. YOUNG: I see him.

2 CHAIRPERSON HILL: Commissioner Bowles, can you
3 hear me?

4 MR. BOWLES: Hi, greetings. My name is Japer
5 Bowles, commissioner for 1C07. And yes, so I have worked
6 with the applicants for over six, seven-ish months. It was
7 hot whenever we started discussing this last year. So yes,
8 there's definitely been notice.

9 I have -- I think a lot of the concern about
10 notice from the few individuals, they have those concerns
11 regularly of not feeling like they've been communicated
12 appropriately. I've reached out to those folks as well as
13 neighbors on both sides of both residences and I feel like
14 everybody is in favor of this.

15 Essentially they don't want more people coming
16 through the alley. It's parallel to Lanier. A lot of folks
17 are excited that once construction is up it won't be an
18 extended construction period because they won't have to
19 continue to dig to build an additional parking lot.

20 And then for numerous reasons a lot of residents
21 voiced support just for environmental. We don't want to
22 encourage people and developers in commercial spaces to have
23 more parking space when we are such a walkable neighborhood.
24 So, for numerous reasons I'm in support of this.

25 I know previously to this building being developed

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1 people were in opposition because it didn't quite fit the way
2 that the neighborhood looks, but I think that that's overdone
3 as well. So I'm excited that this will hopefully speed along
4 the process and get more housing options for people in Adams
5 Morgan. It's greatly needed. So, thank you. And I'm
6 willing to take any questions as well.

7 CHAIRPERSON HILL: Okay, Commissioner Bowles,
8 thank you so much for joining us. Mr. May, do you have any
9 questions for the commissioner?

10 COMMISSIONER MAY: I do not.

11 CHAIRPERSON HILL: Mr. Hart? I saw you shake your
12 head. Ms. John, do you have any?

13 MEMBER JOHN: No, I have no questions.

14 CHAIRPERSON HILL: All right. Does the applicant
15 have any questions for the commissioner?

16 MR. WEXLER: No, thank you.

17 MR. BOWLES: Thanks for your time, everyone, and
18 thanks for what you do. I appreciate it.

19 CHAIRPERSON HILL: Thank you. You too,
20 Commissioner. All right. So, okay. All right, great. I
21 don't have any further questions for the applicant and unless
22 the Board does I will go ahead and close this hearing. Does
23 the applicant have anything they'd like to add at the end?

24 MS. MOLDENHAUER: No. Thank you so much for your
25 time and it's great to participate in the first virtual

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1 hearing.

2 MR. WEXLER: Yes, I want to thank you for having
3 this virtual hearing. And I mean that sincerely. I think
4 this is awesome that the Board was able to make this happen
5 for the community.

6 CHAIRPERSON HILL: That's kind of you to say.
7 Maybe by the next time I'll be able to see some of you when
8 you're talking. So, okay. Let's see. Then Mr. Moy, if you
9 could go ahead and just put this on for decision next
10 Wednesday, June 10 I believe it was we're going for, right?

11 MR. MOY: Yes, sir. It's done.

12 CHAIRPERSON HILL: Okay. All right. Well, thank
13 you guys very much. I'm closing the hearing officially and
14 we'll deliberate on June 10.

15 MS. MOLDENHAUER: Thank you.

16 MR. WEXLER: Thanks.

17 CHAIRPERSON HILL: Okay. So Mr. Ritting, I again
18 -- and Mr. May. I guess I'm talking to my Board members now.
19 There was -- and I guess I'm kind of asking a question I
20 suppose that we can talk about later. I forget, two cases
21 ago there was something about flexibility for that. And I
22 think it was the Water Street. And I don't know if we
23 necessarily spoke too much to that. And maybe -- so Mr.
24 Ritting, I don't want to have a discussion about it now with
25 the Board. What I'm asking though is if, Mr. Ritting, during

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1 our OAG call if you could remind me again. I think it was
2 the Water Street. There was some flexibility that was asked
3 for and I just wanted to also continue to understand what
4 that was.

5 MR. RITTING: Yes, it was related to comments from
6 the Old Georgetown Board and perhaps other reviewing
7 agencies, some flexibility to respond to their comments.
8 I'll look at the transcript and confirm exactly what it was
9 and then, yes, I'll note it for our discussion for the next
10 meeting.

11 CHAIRPERSON HILL: Okay. And again, this is kind
12 of a weird thing, this virtual thing. But we have had -- as
13 a Board we often have had discussions concerning flexibility.
14 However, I think that this being kind of this, again, virtual
15 space it might not have been as apparent to all of us to kind
16 of discuss it a little bit. So anyway, just a matter to
17 note, okay? All right. Mr. Moy, if you could please call
18 up the next case. Wait, wait, wait. Mr. May? We're
19 bringing back another case.

20 MR. MOY: Yes.

21 COMMISSIONER MAY: We're bringing back Berry.

22 CHAIRPERSON HILL: Yes.

23 COMMISSIONER MAY: Is that right?

24 MR. MOY: That's correct.

25 COMMISSIONER MAY: Okay, good.

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1 MR. MOY: Hang on, Mr. May. You can't leave.

2 COMMISSIONER MAY: Oh no, I don't want to leave.
3 I just wanted to make sure that you weren't rolling into Mike
4 Turnbull's case.

5 MR. MOY: So again for the transcript this is part
6 two, I guess, to Case Application No. 20223 of Bernard Berry.
7 I'm not going to read the case again, but this is a
8 continuation.

9 (Simultaneous speaking.)

10 CHAIRPERSON HILL: Okay, let me see who Paul lets
11 in.

12 MR. MOY: And of course the OP planner is aware.
13 So that should be Stephen Mordfin, Mr. Chairman.

14 CHAIRPERSON HILL: Right. It's Mr. Mordfin and
15 Mr. Teran.

16 MR. YOUNG: Mr. Teran should be on the line and
17 he should be able to speak.

18 MR. TERAN: Yes, I am here and I did speak to Mr.
19 Mordfin and he said he wasn't sure he would be able to make
20 it back.

21 MR. MORDFIN: No, I am back. I am here.

22 MR. TERAN: Okay, great.

23 CHAIRPERSON HILL: All right, Mr. Mordfin. Could
24 you please tell us how -- what happened with your discussion
25 with the applicant?

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1 MR. MORDFIN: Yes. So I discussed with the
2 applicant. I also emailed the Zoning Administrator. But
3 what we talked about was, okay, so the applicant does have
4 a permit to have built those railings whether or not they
5 conform or not. And what we don't know is if the Zoning
6 Administrator thought that they did conform which is why they
7 issued the permit, or if they issued it in error. So, I did
8 ask the Zoning Administrator. I haven't heard back. I sent
9 an email this afternoon.

10 And the other thing I asked the applicant about
11 is what if they continue building but rather build only
12 what's requested in this application which is in the back
13 which is to increase the lot occupancy, but if there's an
14 issue with the railings, if they stop all construction with
15 the railings and don't provide any access to the roof because
16 you don't have the railings on the roof and you've got a
17 safety hazard.

18 And then if they have to come back and obtain
19 relief for those railings at that time the Board would decide
20 whether or not to approve that. And the applicant would be
21 taking a chance that the Board would not approve it while
22 still continuing to build what's on the roof with the
23 exception of what does not conform.

24 CHAIRPERSON HILL: So then Mr. Mordfin, what plans
25 would the Board be approving?

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1 MR. MORDFIN: They would be approving for what was
2 requested under the 5201 to increase the lot occupancy, the
3 portion in the back. The railings were not part of this
4 application because they already had building permits to do
5 that, whether they should have been issued or not.

6 So, what the applicant is doing -- and also the
7 access to the roof because they've got that spiral staircase
8 in the back that goes up to the roof which would create a
9 safety hazard if you don't have the railing.

10 CHAIRPERSON HILL: Mr. Mordfin, I'm just trying
11 to understand. Would we need new drawings to approve just
12 what you're saying concerning the lot occupancy?

13 MR. MORDFIN: New drawings that didn't show the
14 access --

15 (Simultaneous speaking.)

16 MR. MORDFIN: I hadn't thought about that. Maybe
17 new drawings so that you would know the extent that they
18 would build -- assuming you approved it, how much they could
19 build until and unless they came back again requesting the
20 additional relief if that's what the Zoning Administrator's
21 office determines is necessary.

22 So, you would need new drawings so you would know
23 what you were approving, you would know just what the
24 applicant is not going to build at this point so that there's
25 not a violation, not just of the zoning, but just a safety

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1 violation of building access to a roof with no protection.

2 CHAIRPERSON HILL: Mr. Hart, you seemed to raise
3 your hand.

4 VICE CHAIRPERSON HART: Yes. I just was wondering
5 if we were to move forward could we in the order describe
6 that we are not including the rooftop as part of this
7 decision? It is only looking at the rear of the building.

8 MR. MORDFIN: Only looking at the rear of the
9 building and not any rooftop. Actually you could add that
10 to the order.

11 VICE CHAIRPERSON HART: It's messy, but it is, you
12 know, it's a possibility.

13 MR. MORDFIN: It's what I could think about. I'm
14 not sure how well it would work. But that was an idea that
15 we -- that I discussed with the applicant.

16 CHAIRPERSON HILL: Mr. Teran, can you hear me?

17 MR. TERAN: Yes.

18 CHAIRPERSON HILL: Are you the architect?

19 MR. TERAN: Yes.

20 CHAIRPERSON HILL: Is it difficult to get us plans
21 that would show us what we're approving, meaning that you're
22 not going to put the railing to the roof deck on the plans
23 that we're going to approve this next week and therefore you
24 could go ahead and do the rear lot occupancy work that you're
25 trying to get accomplished?

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1 MR. TERAN: Yes. It's not that hard. I mean, I
2 think I'd be showing what's existing which is -- there is,
3 in the front of the property there is a parapet wall that are
4 -- there's about 8 feet that's 4 feet high and it kind of
5 wraps around the bay window another 10 feet that's 2 feet
6 high. That's all built wood siding with waterproofing with
7 a cap. And all the base railing for the structure is already
8 built as well.

9 So I mean, am I including that to show the
10 existing condition? Or none of it even though it's already
11 been approved and we were building in good faith. So I'm not
12 --

13 CHAIRPERSON HILL: I understand what you're
14 saying. I don't know, I'm trying to talk this through with
15 you as well. I mean, we are not approving something that is
16 necessarily already there right now. And so I just don't
17 want to get kind of in that -- we oftentimes are always
18 looking for the drawings that we want to see as to what we're
19 basically approving. So I would say that I would want to see
20 it without the railing, just the stuff that we're actually
21 approving.

22 MR. TERAN: Well, what about what's already built
23 even if that's non-conforming?

24 COMMISSIONER MAY: Mr. Chairman?

25 CHAIRPERSON HILL: Yes.

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1 COMMISSIONER MAY: Could it be as simple as Mr.
2 Teran drawing a box or a bubble around the area of the
3 project that is subject to this relief? So that we don't
4 communicate to anybody that we looked at the railing or
5 granted relief for the railing if that becomes an issue.

6 I mean, I think it is an issue and if I were the
7 owner I would want to have it resolved once and for all with
8 the Zoning Administrator. But if Mr. Teran acting on behalf
9 of the owner wants to take the chance because it was
10 previously approved, I don't know.

11 I mean, I trust that Mr. Mordfin is going to
12 discuss this thoroughly with the Zoning Administrator. And
13 you could get an adverse ruling out of that as a result. But
14 certainly if they want to proceed at risk, draw a red box
15 around it to say this is what has been considered for relief
16 by the Board.

17 CHAIRPERSON HILL: Mr. Teran, do you understand?

18 MR. TERAN: Yes, and that is completely doable.
19 Our biggest concern is we have to wait. If we do find out
20 this week that we are required for special relief we probably
21 won't be able to get back in front of you until September.
22 And so we don't want to wait that long just for the guard
23 rail. By then we could have the rest of the addition done.

24 COMMISSIONER MAY: I think that's the whole point
25 of having this discussion now because if you discover in the

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1 next few days that in fact you need that relief you can amend
2 this application and we can take it up faster than you would
3 otherwise be able to take it up.

4 MR. TERAN: But don't we have to go in front of
5 the ANC first and they hold their meetings I think the first
6 -- yesterday. I think their next one is either July 2 or 3.

7 COMMISSIONER MAY: So it might be July, but it
8 wouldn't be fall. Regardless, if you wind up not being able
9 to build that it will take longer if you have to come back
10 and file another application.

11 MR. TERAN: We understand that.

12 COMMISSIONER MAY: Okay.

13 CHAIRPERSON HILL: Ms. John?

14 MEMBER JOHN: I was going to say that this case
15 is sort of similar to one we had earlier where the relief
16 would be less in a way because the drawing depicts guard
17 rails that don't comply. And so the applicant would be
18 bringing them into compliance. And I don't know if we need
19 to go back to the ANC to have them approve the new drawings.
20 Those are just my thoughts.

21 (Simultaneous speaking.)

22 COMMISSIONER MAY: I do think they need to go back
23 to the ANC because it's adding new relief.

24 MEMBER JOHN: Oh, that's right. It's not in their

25 --

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1 MR. MORDFIN: The other way around.

2 MEMBER JOHN: Yes. It was not in the
3 self-certification so they would be adding relief. You're
4 right.

5 MR. YOUNG: Mr. Hill? The homeowner is trying to
6 put a word in. I didn't know if you wanted to --

7 CHAIRPERSON HILL: Yes, I understand. I just got
8 that note. Let me let him speak in one second. I just want
9 to, right, to Board Member John again that we -- right, it's
10 additional relief. Because now I'm just kind of talking it
11 through myself, right.

12 And so Mr. Teran as well as -- I know that Mr.
13 Berry is about to speak. I mean again, we're just trying to
14 get you so that you can keep on moving forward, right, which
15 is what you had wanted to do.

16 And so you at least understand, Mr. Teran, what
17 we're looking for. If you can get it to us by Friday then
18 we can still make this up for vote on next Wednesday. Do you
19 understand what we need from you by Friday?

20 MR. TERAN: Yes. I'll draw that red box around
21 all the sheets of the plans showing only areas that would be
22 approved on Wednesday. It will not include any part of the
23 railings.

24 CHAIRPERSON HILL: Got it. Okay. And now, Mr.
25 Young, do you want to put on Mr. Berry?

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1 MEMBER JOHN: Mr. Chairman, before you do that
2 though if we're adding relief then don't we have to go back
3 to the ANC? I think that's where we ended up. I just want
4 to be clear.

5 CHAIRPERSON HILL: What I understood what we're
6 speaking to is we're discussing the relief that we're able
7 to approve now which is the lot occupancy. And when they ask
8 for the 1 to 1 setback for the railing if that is necessary
9 that's additional relief that would come back before us
10 possibly for an amended application which would be something
11 that would happen more quickly than if they were trying to
12 do this from the beginning. Does that make sense again?

13 MEMBER JOHN: Yes.

14 CHAIRPERSON HILL: Okay. Mr. Berry, are you
15 there?

16 MR. BERRY: I am. Can you hear me?

17 CHAIRPERSON HILL: Yes. Mr. Berry, could you
18 introduce yourself for the record, please?

19 MR. BERRY: Yes. My name is Bernard Berry. I
20 live at 509 O Street NW, Washington, DC.

21 CHAIRPERSON HILL: Okay. Mr. Berry, and I
22 apologize for this because I'm trying to figure this stuff
23 out. Was there something that you checked off that said that
24 you're under oath?

25 MR. BERRY: I don't know where I would have

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1 checked something off.

2 (Simultaneous speaking.)

3 MR. BERRY: I mean, I sent my stuff in 24 hours
4 prior. I'm on the list. But I don't know what you mean
5 otherwise.

6 CHAIRPERSON HILL: Okay, that's all right. If you
7 sent your stuff in 24 hours prior then you checked off the
8 box that you're under oath. And so you're under oath. And
9 then Mr. Moy, just so you know you might want to have that
10 -- I mean, I don't know how you -- I guess they just have to
11 say yes, but you might have to -- not that you don't have
12 that oath memorized by now, or even I might have it
13 memorized. If we need to swear somebody in over the phone,
14 if we're going to end up doing that again.

15 So Mr. Berry, you had something you'd like to add
16 to the discussion?

17 MR. BERRY: Yes. I mean, I came in front of the
18 Board, I don't know, seven months ago when we were originally
19 looking for -- this is special exception so we were looking
20 for a variance there. I ended up withdrawing my application
21 halfway through based on our conversation.

22 And now that I have a building I'm looking for a
23 special exception. This didn't come up before. These are
24 the same Board members I'm sure. I recognize some of you.
25 I don't recognize everyone because I only saw you once. But

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1 I'm sure these are the same Board members from last year and
2 this didn't come up then.

3 And now I'm supposed to be heard as a lot of
4 people were in March and after raising a lot of heck online
5 we're being heard today and now it comes up. I knew my pool
6 was going to come up, you know what I mean? Even though
7 that's not part of this conversation.

8 CHAIRPERSON HILL: Hey Mr. Berry?

9 MR. BERRY: Yes.

10 CHAIRPERSON HILL: I'm just going to interrupt you
11 real quick. This is coming up because of the 1 to 1 setback
12 for the railing. And so we're trying to move forward. I
13 mean, I remember you and your case. You were here before us
14 for a variance. And again, we don't remember all aspects of
15 all different types of architectural plans that are coming
16 before us.

17 Right now what we're trying to do is make sure
18 that you can move forward. It's not something that the Board
19 would have approved or not approved, the determining of the
20 1 to 1 setback for the railing. That's something that -- the
21 architect will be able to speak more clearly to it, but
22 that's not something that is necessarily -- that's not
23 something that's all our fault in terms of like why you're
24 here before us.

25 So, I still think everything is going to probably

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1 move forward the way that you think. We're trying to help
2 it move forward as quickly as possible.

3 MR. BERRY: Yes. No, I understand that. For the
4 same reason I knew to pull my variance application last time
5 I'm very hesitant, I'm actually basically not willing to get
6 involved in a -- well, let's add this to it and then maybe
7 the ANC has to hear it because there's at least a 95 percent
8 chance the ANC is going to have to hear this and it would go
9 into next month. And I heard someone say well, it might be
10 next month, but it's not six months from now.

11 Well, you know, I've been waiting like nine months
12 to get in front of this Board for this purpose. I've been
13 waiting seven months since I was here last time. My waiting
14 time is over. I just want my decision on whether or not I
15 can get my special exception and so I can build that.

16 And then I'll deal -- it seems like I'm going to
17 have to deal with this separately or at a different time as
18 far as whoever in DCRA or BZA or Office of Planning said hey,
19 you can build this, Mr. Berry. You tore down the old house.
20 You got a new home. You can build this. We know you built
21 it, but now we might go back and make you move it. And by
22 the way if you move it it's in the middle of the pool that
23 you spent \$400,000 on and now what we're going to do -- it's
24 like I don't want to get caught up in all that. Somebody
25 screwed up --

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1 CHAIRPERSON HILL: Hey Mr. Berry? We're trying
2 to help you out. I'm trying to help you out. And so I'm
3 letting you know if you want -- this is not up to me. These
4 are regulations that I'm just trying to follow along with.
5 And you need a 1 to 1 setback for your railing. And so
6 what's happening right now is -- I can hear your frustration
7 and this has been a very long bunch of months for everybody.

8 And so I'm just letting you know that it seems as
9 though the architect, your architect has spoken with the
10 Office of Planning which we've now gone out of our way for
11 today to make sure that you can at least move forward with
12 what you need to move forward on. And I know that your
13 architect will be able to explain this to you a little bit
14 better. And it's also kind of the end of the day for us.
15 I mean, we've been doing this now for six, seven hours.

16 MR. BERRY: I've been sitting here listening.

17 CHAIRPERSON HILL: I understand. Just letting you
18 know that I think your architect understands what we need by
19 Friday. You're going to go ahead and be able to move forward
20 on what is before us right now in terms of the work. And
21 then we're going to keep this application open so that if you
22 need to -- well, not application open. If you need to amend
23 it because there is something that I can't say yes or no to
24 right now which is this 1 to 1 setback for your railing.

25 The ANC has already approved what is in front of

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1 you meaning that railing the way it is so I don't necessarily
2 see there's going to be a bunch -- I mean, I can't speak for
3 the ANC. I can't say there's necessarily going to be a bunch
4 of harm to that.

5 You do have something that has already been
6 approved and so therefore you've been put in -- I forget the
7 legal word for it. You're vested or whatever it is with this
8 railing. So I mean, I think we're trying to help you get to
9 the next spot.

10 MR. BERRY: I understand that. I guess I'm a
11 little bit kind of -- the thing I'm caught up in is if
12 wasn't here for this special exception this wouldn't being
13 brought up. This is what I don't want to have happen and
14 I'll put this weight on you all because you're all the
15 professionals of this Board is if this has to go to the ANC
16 next month I just don't want me being held up on being able
17 to build my special exception because that's going to take
18 months to build.

19 So, that's what's most important to me more than
20 anything else that we're discussing right now is being able
21 to do that. So, as long as that's something that can get
22 approved or declined whatever you all decide next week,
23 hopefully approved, and we can deal with this. It can remain
24 -- I don't know what the verbiage is, if you all can decide
25 that and this can still remain open while it goes in front

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1 of the ANC next month and we can deal it with then. Or if
2 this remaining open, the 1 to 1 issue, if that remains open
3 if that means that the special exception can't be approved
4 which means I can't get a permit that says that I can start
5 that work. So that is by far my biggest concern.

6 CHAIRPERSON HILL: I understand. So, if you --
7 go ahead and speak with your architect. He can help you
8 clarify. Mr. Teran, are you on the phone?

9 MR. TERAN: Yes, I'm still here.

10 CHAIRPERSON HILL: Okay. So, you go ahead and
11 give us what we need by Friday and we'll go ahead and vote
12 on that next week. And then you're going to have to figure
13 out what you're going to do with the Office of Planning and
14 the railing.

15 MR. TERAN: Yes.

16 (Simultaneous speaking.)

17 MR. TERAN: Yes.

18 CHAIRPERSON HILL: Okay. All right, great. All
19 right, Mr. Berry. Well, I'm sorry about all this but do you
20 have anything else to add?

21 MR. BERRY: So, if we update the plans to not show
22 what we've built with the 1 to 1 with the 4 foot wall now
23 does that mean that I'm then kind of legally saying hey you
24 know what, I'm okay with this not being approved? Like am
25 I putting myself into more of a bind by submitting it that

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1 way as opposed to just submitting it the way it's approved
2 and just dealing with the back of the house?

3 CHAIRPERSON HILL: I mean, Mr. Mordfin, I don't
4 know if you can speak to any of that, or I don't know who
5 wants to speak to that. I believe that they're going to be
6 able to move forward with the work they need to move forward
7 on right now. The 1 to 1 setback of the railing is still
8 going to be as an issue.

9 MR. TERAN: My understanding just for the plan was
10 I'm leaving everything as is. I'm just drawing a red box, a
11 rectangle around what -- the area that will be decided on
12 next week. I'm not touching anything else.

13 CHAIRPERSON HILL: That's what I understand. Mr.
14 Mordfin, can you speak to any of that?

15 MR. MORDFIN: Yes. The idea with that idea was
16 that they would be able to build what was a part of this
17 application which is the rear addition and that wouldn't be
18 a problem. The only issue is what was from that other
19 permit, if there was a permit issued in error and how to
20 rectify it if necessary. So -- when we get back information.

21 So they won't be able to continue -- well, I guess
22 they could. They have a permit. But they need to get
23 permission to build that railing the way they have proposed
24 it. But that's not what you would be approving. You'd only
25 be approving that building addition at the rear of the

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1 structure. And that's why you requested the architect draw
2 a circle around what is a part of this application only so
3 that you're not approving that railing that does not conform
4 until we find out more information from the Zoning
5 Administrator on that.

6 CHAIRPERSON HILL: I got it. Mr. Berry, can you
7 hear me?

8 MR. BERRY: Yes.

9 CHAIRPERSON HILL: So, Mr. Berry -- and I don't
10 know what to tell you either, right. If you can see me, if
11 you're watching, if you can see my face.

12 MR. BERRY: Yes.

13 CHAIRPERSON HILL: -- be able to build the back
14 the way you think you're going to be able to build it, but
15 you won't be able to access your pool until that railing gets
16 done. So, you're at least able to move forward. And then
17 I don't know what to tell you about the railing yet.

18 MR. BERRY: Okay.

19 CHAIRPERSON HILL: Okay? Other than the ANC has
20 already approved it, you already have permits for it and the
21 Zoning Administrator I guess has already approved it. I
22 mean, you know. And you've already built it, it seems like.
23 I think you're already there.

24 MR. BERRY: I am, yeah.

25 CHAIRPERSON HILL: And so now you're going to at

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1 least get to be able to start to build the rear of the house
2 if we go ahead and approve this next week.

3 MR. BERRY: Okay.

4 CHAIRPERSON HILL: Okay?

5 MR. BERRY: Thank you.

6 CHAIRPERSON HILL: And you're going to get that
7 to us by Friday?

8 MR. TERAN: Yes, definitely. I'll try tonight.

9 CHAIRPERSON HILL: Okay. All right. Does the
10 Board have any other questions for Mr. Teran? Ms. John?

11 MEMBER JOHN: Just a quick question.

12 CHAIRPERSON HILL: Sure.

13 MEMBER JOHN: What has been built? Because the
14 architect or someone just mentioned a 4-foot wall. What has
15 been built?

16 MR. TERAN: So, on the rooftop basically
17 everything that is the stud framing with the siding has gone
18 up to the roof. The base of the glass guard rails is in.
19 The pool I believe is coming I think it's on the 14th or the
20 17th possibly which is why we haven't installed the glass
21 guard rails yet. But once the pool comes in, in theory we
22 wanted to have the glass guard rails go in the next day, but
23 we'll hold off on that now.

24 But it's basically just the pool has to go in and
25 then just the decking on top of the roof. Everything else

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1 is already done.

2 MEMBER JOHN: Okay.

3 CHAIRPERSON HILL: Okay. And Mr. Ritting, OAG.
4 Again, I'm just trying to remember the legal term of this.
5 It's not vested. What is it when somebody builds something
6 because they got permitted and then they had to -- it's
7 called something. There's a legal term.

8 (Simultaneous speaking.)

9 CHAIRPERSON HILL: Reliance?

10 COMMISSIONER MAY: Reliance? What is it, Jake?

11 MR. RITTING: Oh. You're talking about equitable
12 estoppel.

13 CHAIRPERSON HILL: Yes. See, I'm not an attorney.

14 MR. RITTING: Here's my take on the situation, and
15 it's very brief. The applicant by showing the railing has
16 provided more information than you need to approve this
17 special exception that they applied for. If they remove that
18 railing from their plans you are no longer in the
19 uncomfortable position of implicitly approving something that
20 may violate the zoning regulations. You don't need to know
21 that at this point to approve their application in front of
22 you. So what you're asking the applicant to do is provide
23 new drawings that don't show the railing so you're not
24 implicitly doing that.

25 There is still some risk to the applicant that

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1 somebody at DCRA will catch this and find that it's a
2 problem. You're giving them an opportunity to fix that now.
3 It's up to them whether they want to do that or not. They
4 could opt to take that risk and file the plans that you asked
5 for that just don't show the other parts of the building
6 other than the part that they're asking the special
7 exception. And then you can move on.

8 CHAIRPERSON HILL: Okay, that doesn't help me.
9 So anyway, so Mr. Berry, estoppel is all I was kind of
10 getting at. And Mr. Teran, you understand what we need,
11 right?

12 MR. TERAN: Yes, I've got it.

13 CHAIRPERSON HILL: Okay. Right. So let's just
14 get through the next step. Mr. Berry, I certainly hope you
15 get your pool very soon. And I think it looks like, again,
16 I said it the last time, it looks like a great design to me.

17 Okay. Does the applicant have anything else to
18 add?

19 MR. BERRY: I do not.

20 MR. TERAN: No. Thank you. Thank you for taking
21 the hearing and getting us on the schedule. Appreciate it.

22 CHAIRPERSON HILL: So, Mr. Moy, we're going to get
23 that information from Mr. Teran on Friday and then we're
24 going to put this forward on the docket for decision on the
25 10th.

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1 MR. MOY: Yes, sir. I have that noted for the
2 record.

3 CHAIRPERSON HILL: Okay. I'm closing the hearing
4 except for that information requested and we'll have a
5 decision on the 10th. So thank you very much for the
6 applicant.

7 MR. TERAN: Thank you.

8 CHAIRPERSON HILL: Okay. Now, Mr. May, you're no
9 longer with us, correct?

10 COMMISSIONER MAY: Well, I'm with you at this
11 second, but I'm leaving now.

12 CHAIRPERSON HILL: Okay. Well, it's been an
13 absolute pleasure being here with you for the first portion
14 of this virtual hearing. And we will see you whenever the
15 next time is.

16 COMMISSIONER MAY: All right. That will be next
17 week, right?

18 CHAIRPERSON HILL: Oh yes. You could do absentee,
19 but I guess --

20 COMMISSIONER MAY: Yes, we'll see. We'll see.

21 CHAIRPERSON HILL: I guess people aren't still
22 going anywhere so you might as well.

23 COMMISSIONER MAY: Well, I mean I have a
24 theoretical conflict next week, but I'll somehow split that
25 baby.

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1 CHAIRPERSON HILL: Okay. All right. Let's go
2 ahead and take just three minutes here while we get Mr.
3 Turnbull on the line. Okay? All right, I'll be right back
4 myself.

5 (Whereupon, the above-entitled matter went off the
6 record at 3:28 p.m. and resumed at 3:35 p.m.)

7 VICE CHAIRPERSON HART: All right. Mr. Moy, I
8 think we can reopen the hearing. And we just lost Mr.
9 Turnbull.

10 COMMISSIONER TURNBULL: I'm sorry. I need to go.

11 VICE CHAIRPERSON HART: No. That's okay.

12 MR. MOY: Okay. Very good. So, next is a
13 continued hearing of Application 20196 of Sonia Ahmed and
14 Farzaam Esmaeilian, as amended for special exceptions under
15 Subtitle D, Section 5201 from the lot occupancy requirements
16 of Subtitle D, Section 304.1, rear yard requirements,
17 Subtitle D, Section 306.2. This would replace the rear deck
18 addition to an existing attached principal dwelling unit in
19 the R-3 Zone. This is at 220 Ascot Place, Northeast, Square
20 3557, Lot 69.

21 And this was physically heard, I'll put it that
22 way, back on February the 12th. And, of course, it had been
23 scheduled for a continued hearing, which would have been
24 March 25th. Mr. Vice Chair.

25 VICE CHAIRPERSON HART: Yes. Thank you very much.

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1 And Mr. Young, if you could bring the -- allow the folks into
2 our hearing. I'm not even sure who the representatives are.

3 I'm sorry?

4 MS. AHMED: Hi. This is Sonia here. Sonia Ahmed.

5 VICE CHAIRPERSON HART: Hi. Sorry, I don't see
6 you in here. And I know we have a list of folks that are
7 participating and I just hadn't looked on the list yet. So,
8 welcome.

9 MS. AHMED: Thank you.

10 VICE CHAIRPERSON HART: To our virtual hearing.
11 It is some getting used to, I know.

12 MS. AHMED: I've been watching. So, getting used
13 to it.

14 VICE CHAIRPERSON HART: How long have you been
15 watching?

16 MS. AHMED: Since 9:30 a.m.

17 VICE CHAIRPERSON HART: Oh, wow. You've been
18 watching it all day. So you know where we -- how we've been
19 kind of doing this.

20 This is a continued hearing, as the Secretary
21 said. And we were really looking at a few responses and a
22 little bit more kind of discretion. If you could kind of
23 update us where we are now, or where you are now, that would
24 be helpful. Actually, if you could also introduce yourself
25 for the record, as well.

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1 MS. AHMED: Sure. So, I'm Sonia Ahmed, the owner
2 of 220 Ascot Place, Northeast. And I first do want to thank
3 the Board, the Zoning Department, for organizing this virtual
4 hearing and continuing this process for me, and also Pete for
5 attending.

6 And so at this time I'd like to summarize the
7 steps taken after the first in-person Zoning Board hearing,
8 like you said, on February 12th (telephonic interference)
9 special exception to build a rear deck on the first floor.

10 We took the recommendations of the Board after the
11 hearing to discuss the concerns with our neighbor, as well
12 as taking the case to the ANC Board for approval.

13 We have had a meeting with our neighbor, Robert
14 Rikard, who opposed the original design when we met in
15 person, that's from 222 Ascot Place, to discuss the concerns
16 and walk through the concerns with our contractor and
17 structural engineer.

18 The concerns of the deck being too close to the
19 property lines, we heard them. We worked with him on that.
20 The deck was originally 3.5 inches away from his property
21 line. We changed that to 12 inches away from the property
22 line. So, a full foot.

23 We changed the design of the deck railings from
24 horizontal slats to vertical thin inner railings as shown in
25 the pictures that I sent. And thank you, Mr. Young, for

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1 sending those. This will allow for a line of sight through
2 the proposed deck, which was the concern from the neighbor.
3 The height of the deck is up to code, as well, at 3.6 feet.

4 We also are planning to remove the old chainlink
5 fence on both sides, adding a wooden horizontal style fence,
6 which was agreed upon, as well. We had the architect revise
7 all the plans with these changes. Sent them to our neighbors
8 by email. And we have the correspondence, as well, uploaded.

9 We ensured Robert that the retaining wall between
10 the properties would be repaired if they were damaged during
11 construction. And we have a letter from our vendor stating
12 this, which he has also uploaded in the application.

13 And I do want to note that Robert did, as of
14 today, email affirming to upload an agreement of these items,
15 which has been reflected in the case record.

16 An additional letter of support we also got from
17 224 Ascot Place, totaling five letters of support from the
18 surrounding neighbors. We attended and presented this case
19 to the ANC board hearing, which was also virtual, and
20 received unanimous approval for the deck.

21 In a couple of photos provided, you will see that
22 all the homes in the neighborhood have decks of different
23 sizes. A house two doors down has a deck, ten foot, and
24 similar decks around the adjacent streets have the same
25 architectural look we're going for as well on the deck.

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1 And, lastly, from the Office of Planning report,
2 Steve Cochran stated the impact would not likely be greater
3 than any other neighborhood decks. So, we are in line with
4 everything that's around the neighborhood. We have worked
5 with the neighbor on this issue. We have opened a line of
6 communication. I spoke -- I emailed with him earlier this
7 morning. He said that he cannot join, but wishes us luck,
8 and has provided all the necessary documentation and
9 agreements in writing to the case.

10 Thank you.

11 VICE CHAIRPERSON HART: Well, thank you very much.
12 You've been busy.

13 MS. AHMED: Definitely.

14 VICE CHAIRPERSON HART: Well, it's very helpful
15 to hear all of that. And I appreciate the very thorough
16 walking through of where you are, have been since we last had
17 you before us for a hearing.

18 I do not have any -- actually, I just had one
19 question. You said that the party opposition, the next door
20 neighbor, had submitted an agreement as of today or
21 yesterday?

22 MS. AHMED: I saw the date as of today in the
23 exhibit section.

24 VICE CHAIRPERSON HART: Okay.

25 MS. AHMED: Yeah. Because I think he was supposed

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1 to join and he couldn't. And he submitted it in writing.

2 VICE CHAIRPERSON HART: I see it now. And is he
3 withdrawing his opposition?

4 MS. AHMED: He didn't say that in writing, but he
5 did send an agreement. So, I assume that that is the same
6 thing. Does he need to say that he's taking it off?

7 MR. YOUNG: I received a message that he was
8 unable to speak because of an emergency.

9 VICE CHAIRPERSON HART: Yeah. That's what I was
10 told.

11 (Simultaneous speaking.)

12 VICE CHAIRPERSON HART: Thank you, Mr. Young.
13 Yeah. I just wanted to make sure that we -- make sure that
14 I understood that more clearly.

15 And I thought I had this in here. Did -- there
16 was a -- I'm trying to remember if he was actually a party
17 in opposition.

18 MS. AHMED: I believe Kyra (phonetic) said that
19 he signed up for --

20 VICE CHAIRPERSON HART: To oppose.

21 MS. AHMED: No. He just signed up to testify, I
22 think it was. She didn't say that he opposed or was for it.
23 But --

24 MR. YOUNG: Our notes are saying that he
25 registered as undeclared.

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1 MS. AHMED: Undeclared. That's the word. Yeah.

2 VICE CHAIRPERSON HART: Well, actually what I was
3 trying to really focus on was whether or not he was a party
4 or not. I think he is not a party. He is somebody that
5 spoke that was declared about it. But he was a neighbor.
6 Which is fine.

7 MEMBER JOHN: I don't think he's a party. I'm
8 looking through these --

9 VICE CHAIRPERSON HART: Okay. That's fine.

10 MEMBER JOHN: -- to see if there was anything
11 filed. But I don't see anything.

12 VICE CHAIRPERSON HART: I thought there was. And
13 that's why I was asking whether or not there was a withdrawal
14 of his opposition status. But you don't need that, because
15 he was not an actual party.

16 Ms. Ahmed, this is more of a procedural thing.
17 And I'm just trying to understand it more clearly. And I
18 think I do now. So, thank you very much for the information
19 that you've provided.

20 Do my Board members have any other questions for
21 the applicant?

22 COMMISSIONER TURNBULL: No, I don't have any other
23 questions per se. It looks like the Exhibit is 70A, or 76A,
24 is a statement from Mr. Rikard with a listing. It's dated
25 June 1st, but I think it's entered into IZIS on June 3rd.

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1 It's got his name. And it says applicants of -- and then it
2 just says agreement/modification of construction at 220 Ascot
3 Place, Northeast, deck/fence. To DCR -- I'm not sure I
4 understand the total intent of this. To DCRA Board of
5 Zoning, Case Number 20196.

6 I don't know whether he's saying that he agrees
7 to these four things. It's just a listing saying this is
8 what I want. This is what they're going to do. I believe,
9 if I am -- it's a very bad copy. It's gray. It's like --

10 VICE CHAIRPERSON HART: Yeah.

11 COMMISSIONER TURNBULL: I don't know what he did
12 to copy it, but it's a very -- my understanding is that these
13 are the four things that he wanted. This is supposedly what
14 the applicant is going to do to rectify or allow him to go
15 along with this, to agree to doing the deck.

16 CHAIRPERSON HILL: I agree. Board Member John?

17 MEMBER JOHN: When I first looked at this, I
18 thought it was an agreement. But I noticed it's not signed
19 by the applicant, which is comforting, because the first item
20 is that the property will not be used as a rental property,
21 but as a primary residence. And I was curious as to why the
22 applicant would agree to that condition. It says that --

23 MS. AHMED: I am --

24 MEMBER JOHN: Go ahead.

25 MS. AHMED: I am not sure why that was added. He

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1 did bring it up as a question to me when we were walking
2 through. I don't understand where he might have thought that
3 we're using it as a rental property, because we have only
4 been using it as a primary residence. We don't have any
5 other addresses.

6 You know, I mean, he said that we own something
7 in Maryland, which I don't. I don't know where he's getting
8 that information from. But we are not using it as a rental
9 property. It is solely for us and we are the only residents
10 there.

11 MEMBER JOHN: But you did not agree to that
12 provision?

13 MS. AHMED: He -- I don't actually know why he
14 added it. But, no, I did not agree to that.

15 MEMBER JOHN: Okay. That's what I would need to
16 know. It seems to me that the other three conditions, or
17 requests, you have already agreed to.

18 MS. AHMED: Yes. And also, just one point, I
19 don't see why, if we were to use this as a primary residence
20 or a rental, why this would affect this case for a deck
21 installation. But I just wanted to make sure that is known
22 as well.

23 MEMBER JOHN: Okay.

24 VICE CHAIRPERSON HART: And, Ms. Ahmed, it is an
25 agreement between you -- it is an agreement that is outside

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1 of the Board's purview. It is just put into our -- in for
2 the record here. But it is not something that we can
3 necessarily use. It is just something that we have -- we
4 just understand that there are certain things that have been
5 agreed to, and understanding that first one is not necessary
6 one that you agreed to. But, just letting you understand how
7 we view this. It is a document that is helping us -- that
8 just understands -- helps us understand that there's been
9 some conversation between you and your neighbor about the
10 project that is before us.

11 I didn't have any other questions on this. And
12 I don't know if Mr. Turnbull has any.

13 COMMISSIONER TURNBULL: Well, the only thing,
14 which just from a technical standpoint, we -- the ZA has
15 found this as lot occupancy at 65.9 percent. That letter,
16 which is attached to the ZA's letter, says that the lot
17 occupancy is 46 percent existing. That's also repeated in
18 the Office of Planning report, at 46 percent, which it sounds
19 like that can't be right. But -- someone's got to clarify
20 that.

21 VICE CHAIRPERSON HART: We are getting ready to
22 do that, because the Office of Planning report was the next
23 thing I was going to go to.

24 COMMISSIONER TURNBULL: Okay. Okay.

25 VICE CHAIRPERSON HART: So, it looks like Mr.

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1 Cochran has joined us.

2 MR. COCHRAN: Yes. If you'll give me a chance to
3 pull up the original report.

4 VICE CHAIRPERSON HART: Sure.

5 MR. COCHRAN: So, excuse me. For the record, I'm
6 Steve Cochran with the Office of Planning, and speaking to
7 this case.

8 Let's see. Sorry, I was working on a Zoning
9 Commission case while waiting and I've got to go back in my
10 files.

11 VICE CHAIRPERSON HART: What, you're doing other
12 work?

13 MR. COCHRAN: I know it. It's shocking. I mean,
14 really, I ran out of popcorn, so I had to do something.

15 (Laughter.)

16 MR. COCHRAN: This might take a while. I mean,
17 did you have a specific question about our report? Or what
18 --

19 VICE CHAIRPERSON HART: Well, the only question
20 was, Commissioner Turnbull just asked, that there's this kind
21 of curious -- or at least number that doesn't look like it
22 is correct with regard to lot occupancy. And it's the
23 existing number, which is 46 percent, seems really low, in
24 that they are going from 46 percent to 62 percent. That
25 seems like it's a really big change for adding a deck.

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1 MR. COCHRAN: Well, let's see. It is a small lot.
2 It's roughly an 1100 square foot lot. We don't -- we
3 usually, unless there's a reason to question it, we typically
4 say that the figures for the existing situation are based on
5 what the applicant has submitted. So, that's the case here.
6 Presumably, it isn't going any bigger than 62 percent.

7 VICE CHAIRPERSON HART: Yes.

8 MR. COCHRAN: Which is still a special exception.
9 So, while this is interesting, it's not necessarily relevant
10 to the case.

11 VICE CHAIRPERSON HART: Understood. It was just
12 the question. And Commissioner Turnbull can chime in.

13 COMMISSIONER TURNBULL: Yeah, Mr. Cochran, I was
14 just going back over the ZA's report. And they list the
15 total occupancy as 65.9 existing. So I was just curious.
16 And they're saying maximum allowed 60 provided by -- proposed
17 goes to 85.9. So I'm just curious as to -- now, you're
18 right. The letter that is attached to the ZA also says --
19 it does say 46 percent. The ZA has got 65.9. So I'm just
20 curious how they would have got there.

21 MR. COCHRAN: Well, if it goes over 70 percent,
22 obviously, it can't be a special exception. I think it would
23 be, at this point, good to ask the applicant that question.

24 COMMISSIONER TURNBULL: Okay.

25 MR. COCHRAN: I'll look at the plat in the

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1 meantime.

2 MEMBER JOHN: So, there's a ZA letter January 30,
3 2020, that lists the lot occupancy at 65.9 percent existing.
4 Maximum allowed 60 and provided by construction, 62.6
5 percent. So, there might have been a previous application.

6 MS. AHMED: Yes. So, we did -- we didn't actually
7 receive a revised OP report, to Mr. Cochran's point that, you
8 know, it's any more -- or any less than 70 percent we don't
9 need it. But we did have a proposed deck of 12 feet in depth
10 and wider than what, obviously, we decided on. So, we went
11 a little lower all around the deck. Which, I mean, the 65
12 percent is actually higher than what it is in the end.

13 MR. COCHRAN: Excuse me, but I'm looking back at
14 a PowerPoint I gave internally to the office. And I don't
15 know whether I made a significant mistake or whether the
16 conditions have changed, but it shows, on that, existing lot
17 occupancy, 65.9 percent. And the proposal I've got has it
18 at 85.9 percent. And that there I indicated in our internal
19 review that an area variance was requested.

20 MEMBER JOHN: So that must be an error, because
21 in the chart -- maybe it's just in the chart. Let's see if
22 it's anywhere else.

23 VICE CHAIRPERSON HART: Well, it sounds like there
24 were two different proposals that were -- that the Applicant
25 was, I think, thinking of. And I think that they're looking

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1 at this as being a different proposal than what you saw
2 earlier, Mr. Cochran.

3 MR. COCHRAN: I certainly had conversations with
4 the applicant explaining to them the difficulty we might have
5 in considering that the variance tests had been met.

6 VICE CHAIRPERSON HART: Yeah.

7 MR. COCHRAN: That perhaps a special exception
8 would be easier for the Board to consider.

9 MEMBER JOHN: So, I think that, based on the ZA's
10 chart, which lists the occupancy at 65.9, I would be
11 comfortable with that number. Because, as you say, it's
12 still within the special exception limits. So, it's just the
13 chart in your report that has is at 46 percent existing.

14 MR. COCHRAN: Yeah. If you need me to update the
15 report for the record, before next weekend, or before rather,
16 next Wednesday, I'd be happy to.

17 MEMBER JOHN: I'm fine with it, because
18 (telephonic interference).

19 MR. COCHRAN: Okay.

20 VICE CHAIRPERSON HART: Yeah, I don't need to have
21 that. I don't think that it was just a moving target that
22 we were looking at, I think, with the different designs. And
23 so we have the information from the Zoning Administrator in
24 one of the exhibits -- excuse me, in one of the exhibits.
25 And we understand where we are with it, that they're actually

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1 looking at 62.6 percent would be the --

2 MR. COCHRAN: Right.

3 VICE CHAIRPERSON HART: And what the construction
4 is. So, less than 70.

5 MR. COCHRAN: Just for your information, it's also
6 possible that that earlier lot occupancy number was based on
7 the existence of a six foot deep metal deck that had been
8 there, that the applicant has since torn down.

9 VICE CHAIRPERSON HART: Yes. Understood. Okay.
10 Any other questions for Mr. Cochran? From the Board? Any
11 questions --

12 MR. COCHRAN: I think officially I need to say
13 that we do recommend that you approve the case.

14 (Laughter.)

15 VICE CHAIRPERSON HART: Thank you. Ms. Ahmed, do
16 you have any questions for Mr. Cochran?

17 MS. AHMED: No. Thank you.

18 VICE CHAIRPERSON HART: Okay. Thank you. I don't
19 think I received anybody looking to speak on this case. And
20 I'm looking at OAG for this, or Mr. Moy. There's nobody
21 signed up for this case?

22 MR. MOY: Not to my knowledge. There is some --
23 (Simultaneous speaking.)

24 VICE CHAIRPERSON HART: Thank you. So, I don't
25 think I have any other things that we need. Does the Board

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1 have any other things that they would like to address?

2 COMMISSIONER TURNBULL: Well, I guess I just need
3 -- what lot occupancy are we approving?

4 VICE CHAIRPERSON HART: It will be 62.5, I think
5 it is.

6 COMMISSIONER TURNBULL: And what document is that
7 on?

8 VICE CHAIRPERSON HART: It's the ZA letter. The
9 ZA --

10 MEMBER JOHN: Exhibit 39.

11 VICE CHAIRPERSON HART: Yeah. Number 39. Second
12 page.

13 COMMISSIONER TURNBULL: Oh, okay.

14 MEMBER JOHN: It would be 62 --

15 VICE CHAIRPERSON HART: There's two ZA letters.
16 There's one that --

17 (Simultaneous speaking.)

18 COMMISSIONER TURNBULL: I was looking at the first
19 one.

20 VICE CHAIRPERSON HART: Yeah.

21 COMMISSIONER TURNBULL: Okay. So, the second one

22 -- VICE CHAIRPERSON HART: The second one.

23 COMMISSIONER TURNBULL: The second one's got the
24 revised numbers that we believe are correct?

25 VICE CHAIRPERSON HART: Yes.

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1 MEMBER JOHN: Yes.

2 COMMISSIONER TURNBULL: Okay.

3 MR. COCHRAN: Excuse me. That 62 percent is also
4 in the OP report.

5 VICE CHAIRPERSON HART: Yes.

6 MEMBER JOHN: It's just the chart that has the 46
7 percent. So, Mr. Vice Chair, I have to mute my video for a
8 moment. I'm having technical difficulties.

9 VICE CHAIRPERSON HART: Sure. So, it looks like
10 we can set this for a -- actually, are there any other
11 comments? I didn't hear any more, besides the one that
12 Commissioner Trumbull just had.

13 And I think we can -- does the Applicant want to
14 have any final comments they would like to make? Ms. Ahmed?

15 MS. AHMED: No. Just thank you for your time.

16 VICE CHAIRPERSON HART: Thank you. So, I think
17 what we will -- I will close the record. And, Mr. Moy, I'd
18 like to set this for decision for next week.

19 MR. MOY: Okay. It's noted. It's done. Thank
20 you.

21 VICE CHAIRPERSON HART: Okay. Thank you very
22 much, Ms. Ahmed and Mr. Cochran. And I'll turn it back over
23 to Chair Hill.

24 MS. AHMED: Thank you.

25 CHAIRPERSON HILL: Okay.

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1 VICE CHAIRPERSON HART: And I don't know if you
2 were listening, but Ms. John was trying to fix something.
3 So she'll be rejoining us in a moment. Her video is not on.

4 CHAIRPERSON HILL: Okay. Great.

5 COMMISSIONER TURNBULL: Mr. Hill, I will be
6 leaving you. We'll see you next Wednesday.

7 CHAIRPERSON HILL: Okay. Stay safe..

8 CHAIRPERSON HILL: It's nuts over here where I am right now,
9 by the way. Like I'm over at 12th and K, and it it's just
10 nuts.

11 Witness protection program number 17.

12 VICE CHAIRPERSON HART: Chairman Hood, the back
13 light is making you really look like you're incognito.

14 ZC CHAIR HOOD: So, I'm going to keep that back
15 light right there, because since I'm the last case of the
16 day, I've done so much today that (telephonic interference)
17 at this point.

18 How's everybody?

19 CHAIRPERSON HILL: We're getting there.

20 ZC CHAIR HOOD: Okay. Can you all hear me?

21 CHAIRPERSON HILL: We can hear you. We can hear
22 you.

23 ZC CHAIR HOOD: Well, that's good.

24 CHAIRPERSON HILL: We're just waiting for Ms.
25 John.

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1 ZC CHAIR HOOD: Okay. So, Mr. Hart, if there's
2 a problem I'll close my blinds so you can see me better.

3 VICE CHAIRPERSON HART: Chair Hill was the one
4 that said you were in the witness protection program. I
5 didn't. I just was telling you why.

6 (Laughter.)

7 CHAIRPERSON HILL: Yeah, I'm sorry. It was my
8 fault. I made the joke. Because I made the joke earlier
9 with someone from the Office of Planning. I need some
10 comedy.

11 VICE CHAIRPERSON HART: All he needs is to
12 disguise his voice.

13 CHAIRPERSON HILL: Right. I guess Ms. John could
14 also call in. I don't know if --

15 MEMBER JOHN: I'm starting my video again.

16 CHAIRPERSON HILL: Okay. We can hear you.

17 MEMBER JOHN: Okay. Great. Well, my battery was
18 about to die. I had about 9 percent left. So I had to hunt
19 down an extension cord. But, anyway --

20 CHAIRPERSON HILL: Okay. Did it work?

21 MEMBER JOHN: Yes. We're back on.

22 CHAIRPERSON HILL: Okay. All right.

23 MEMBER JOHN: Good.

24 CHAIRPERSON HILL: Okay. Great. Wonderful. All
25 right, Mr. Moy, do you want to go ahead and call our last

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1 case of the day?

2 MR. MOY: With pleasure. Thank you, Mr. Chairman.
3 So, that would be Case Application Number 20213 of Jake
4 Greenhouse. Request for special exception under the use
5 provisions of Subtitle U, Section 601.1(c), alley lot use
6 requirement, Subtitle U, Section 600.1(e)(3)(b). This would
7 construct a new detached principal dwelling unit in the RA-2
8 Zone at the rear of 3rd Street, Northwest, between O Street,
9 Northwest and P Street, Northwest, Square 553, Lot 59.

10 This was last, I'm going to say, physically heard
11 on March the 4th. And scheduled for a limited scope hearing
12 on April the 1st. Of course that was never held. Thank you.

13 CHAIRPERSON HILL: Okay. Great. Thank you. All
14 right. Let's see, so just to let everyone know who's on the
15 call. And I don't know whether you've been watching or not
16 today, but my video has been going in and out. So I'm
17 actually calling upon people to speak. And so I can't see
18 anyone. And so if you just do speak up, then I will go ahead
19 and acknowledge you. And we'll kind of get through this
20 together.

21 I suppose if we could start with the applicant.
22 Mr. Greenhouse, are you there? And could you just introduce
23 yourself for the record?

24 MR. GREENHOUSE: Yes. Good afternoon, Chairman
25 Hill and members of the Board. If you can hear me, I think

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1 everything has been on since the very first. So, I've
2 learned a lot about these tech issues. But it looks like you
3 have a video of me. And hopefully you can hear properly?

4 CHAIRPERSON HILL: Yes.

5 MR. GREENHOUSE: Excellent.

6 CHAIRPERSON HILL: Okay. So, I'm sorry, could you
7 just introduce yourself, just give your name and address?

8 MR. GREENHOUSE: Yes. Apologies. Jake
9 Greenhouse. I'm the applicant. I'm applying for a special
10 exception, Case 20213, which is located at Square 00553, Lot
11 Number 0059.

12 CHAIRPERSON HILL: Okay. Great. Thank you. And
13 Mr. Hunter, are you there as well?

14 MR. HUNTER: Yes. This is Kenneth Hunter. And
15 this is my partner, Mark LaPointe. And we are the homeowners
16 of 1423 3rd Street, which is directly, I guess if you're
17 looking at 3rd Street, we're directly in front of Lot 59.
18 And we are opposed to the applicant.

19 CHAIRPERSON HILL: Okay. And Mr. Hunter, what is
20 Mark's last name there? I'm sorry. I just want to write it
21 down.

22 MR. HUNTER: LaPointe. L-A-P-O-I-N-T-E.

23 CHAIRPERSON HILL: Okay. Great. Thank you.

24 And is it Mr. DeWerd?

25 MR. DEWERD: Good afternoon. Ryan DeWerd. Right

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1 next door to Mark and Ken at 1421 3rd Street. Thanks for
2 being here.

3 CHAIRPERSON HILL: Okay. Great. Thank you. All
4 right. So, Mr. Greenhouse, if you could go ahead and tell
5 us again -- so, this is a continued hearing from, gosh, I
6 don't even remember when we were here. But, so, it's been
7 a continued hearing from a long time ago. I do remember the
8 case. I do remember everything that we talked about. And
9 I know that there was a bunch of things that we had asked for
10 concerning your application.

11 If you could, Mr. Greenhouse, go through what you
12 believe we had asked you for, and what is the status of all
13 that. And then we'll go ahead and walk through with the
14 parties in opposition also hearing from them. But, Mr.
15 Greenhouse, if you could go first, please?

16 MR. GREENHOUSE: Sure thing. Chair Hill, do you
17 want me to remind what the case was about, or more speaking
18 to the limited scope items?

19 CHAIRPERSON HILL: Just the limited scope items,
20 please.

21 MR. GREENHOUSE: Sure. So, in addition to what
22 I'm about to present over this Webex, this was submitted as
23 an exhibit called "summary of actions and responses." And
24 I'll kind of just read through this. And this should be
25 helpful in understanding what has been done, and the actions

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1 and responses to the original hearing, as well as actions and
2 responses to issues and concerns with the neighbors.

3 After rereading the transcripts, rewatching the
4 video, and evaluating the hearing memo, there were
5 essentially five main topics that needed more clarification
6 or attention to my case. Hence, this limited scope hearing.

7 Number one was enhancing and discussing privacy
8 for neighboring properties. Specifically, these were
9 properties that are located west of the property, of my
10 proposed development.

11 Number two, providing the Board with elevations
12 all over the proposed structure. We previously only had
13 elevations located at the south and the north, east-looking.
14 And we wanted to provide the Board with elevations from the
15 roof deck, from the rear, from the side, essentially
16 surrounding it. So, we did that, as well.

17 Number three is defining the roof deck area. This
18 was an item by Vice Chair Hart in that we had previously just
19 labeled the roof deck, without defining it architecturally
20 in its location. So, what we did was we revised that in the
21 most recent BZA presentation, as well as incorporated that
22 perspective view of being on the roof deck itself.

23 Number four was a clarification that was requested
24 by Chairman Hill. And this was clarifying the statement from
25 FEMS. Specifically, if you remember, it was if the private

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1 alley, being that one connected to 3rd, were closed off,
2 would it be more difficult or would you still be able to
3 access the property from the public portion of the alley to
4 P Street?

5 The last topic is one that I kind of incorporated,
6 seeing that come up, especially from Board Member John, that
7 this common theme of "light and airy" to the structure,
8 something that, you know, that could be incorporated in
9 different ways. So I just wanted to say that we have taken
10 attempts to incorporate a light and airy characteristic to
11 the project.

12 Those are the five items that I recall being the
13 most important. They are listed in the limited scope memo.
14 And I'd be happy to elaborate on what we've done for each of
15 the five items, if now is the time. I'm not sure if now you
16 wanted me to make my presentation or was it just more a
17 summary? That would be a question for Chairman Hill, I
18 guess.

19 CHAIRPERSON HILL: No, that's all right, Mr.
20 Greenhouse. I think why don't you go -- you have summarized
21 what we kind of were asking about. And I think that we could
22 have more specific questions about your proposed project and
23 those of your 00 of the parties in opposition.

24 Now, I can't recall, I think we did -- did you
25 guys -- did we determine who was going to be the spokesperson

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1 for you guys? Was it Mr. Hunter or Mr. DeWerd?

2 MR. HUNTER: At the hearing in March with Mark
3 LaPointe and Ryan's wife, Lauren DeWerd, they actually
4 attended that hearing. So, they actually -- their names are
5 listed in the hearing transcript as parties in opposition.
6 Mr. DeWerd and I actually filed the paperwork to be witnesses
7 in opposition that are on the exhibit list. We just,
8 unfortunately, at that day we just couldn't make it to be
9 there physically.

10 CHAIRPERSON HILL: So, Mr. LaPointe, you were
11 there?

12 MR. LAPOINTE: Yes.

13 CHAIRPERSON HILL: Okay. So, Mr. LaPointe, why
14 don't you go ahead and be the spokesperson, then? I mean,
15 we're going to hear from everybody, just because it's virtual
16 and it's a little bit digital, but since you were there with
17 Mr. Hunter and since you were there at the hearing, could you
18 go ahead and kind of tell us what you believed -- and we
19 understand everything that's in the record, and we understand
20 where people are currently standing on this project. But if
21 you could please walk us through what has happened since the
22 hearing.

23 MR. LAPOINTE: Well, actually, not a lot,
24 actually. We had last Friday, for the first time, we had a
25 Zoom meeting with Mr. Greenhouse to explain the modifications

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1 that he did. But if you compare the true plan together, it
2 doesn't have a big change. So, one we will talk about,
3 privacy, the windows facing the back, that he -- it's the
4 same size. Nothing changed.

5 And also when we're talking about the concern
6 about the exit to the P alley, totally this dismisses the
7 whole thing. Never talked to us about it. We're the ones
8 that ended the conversation needs to bring that to the table.
9 So, a lot of things that Mr. Greenhouse did that he did a lot
10 of work on it. And, to me, it looks like he took a picture
11 and he copy and pasted into the document. The only thing
12 really changed is really the fabrication of the outside of
13 the house.

14 And the other concern is the deck. Because the
15 deck, the way he put it, yes, he put up half of it. But the
16 rest of them doesn't mean after everything gets approved that
17 he will use the whole thing.

18 And there's so many things that once you look at
19 the drawing, okay, you will have a garage door, you'll have
20 it to most of the kitchen. The private entry did have -- you
21 have the front of the house.

22 CHAIRPERSON HILL: Okay. Mr. LaPointe, I have to
23 interrupt you just for a second. So, I mean, I see your
24 exhibit in the record in terms of, you know, with the X's on
25 everything. And you know, I do see where, you know, there

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1 were some -- you know, we can go back over the changes.

2 I mean, there's two different -- well, there's not
3 two different things --- there before us for a variety of
4 reasons which are usually -- or which are clarified in the
5 Office of Planning's report in terms of the things that we're
6 looking at for zoning purposes. Right?

7 And then there's also some of the issues that you
8 all have brought up concerning light and air in terms of,
9 again, the zoning relief that is being put forward before us.

10 And you're saying that you guys haven't had a lot
11 of discussion. You're saying you just had a Zoom call the
12 other day. But you've seen these most recent plans that the
13 Applicant has put forward that seemed to address more privacy
14 screening, at least what the applicant is putting forward at
15 this point. You've seen those drawings.

16 MR. LAPOINTE: Correct. Yes.

17 CHAIRPERSON HILL: All right. And you just have
18 disagreement with some of those drawings. And you have made
19 suggestions to some of those drawings.

20 MR. LAPOINTE: Yeah, we did. The communication
21 we had, first of all, we sent a recourse about the things
22 that we would like to change. And if you look on the plan,
23 of the new plan, that we don't have any more exit at all for
24 any houses in the back.

25 So, because I don't know if you'll recall the

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1 first time, he was wanting to put a ladder on the private
2 entry. And we said no. We need to be to the public alley.
3 And he totally dismissed the whole thing.

4 MR. HUNTER: To clarify, the entry point from 3rd
5 is actually private property that belongs to the Dunbar High
6 School.

7 CHAIRPERSON HILL: Right. The alley. I
8 understand the alley issue.

9 (Simultaneous speaking.)

10 MR. HUNTER: Yeah. I'm sorry. And our major
11 concerns were, there are five lots, 60 to 64 that are -- will
12 be impacted in the back and we would no longer have access
13 to -- or emergency access, really, to the public alley in --
14 because of the structure being built. And one of our
15 concerns is that access, or now that access is being removed.
16 And, unfortunately, Mr. Greenhouse never reached out to us
17 to discuss those -- I mean, he knew of those concerns,
18 because we'd been talking about them ever since we knew the
19 project was planned. They have yet to be addressed by any
20 of his plans. And that's why with the revised plan, which
21 you'll see, which you see with all my X's, there's sort of
22 maybe one to alleviate that one concern, because the private
23 entry point really is not technically an alley, it's an entry
24 point. It was an old entry point to the old Dunbar High
25 School that used to be on the big lot next door before they,

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1 you know, knocked it down and rebuilt a new school.

2 So, that was one of our concerns I think we
3 brought up at the first hearing, that some of the
4 Commissioners were asking questions about.

5 CHAIRPERSON HILL: Right. Mr. Hunder, let me stop
6 you for a second now.

7 MR. HUNTER: Yeah. Sorry.

8 CHAIRPERSON HILL: That's all right. So, the
9 Office of Planning, you guys, your report, you don't have
10 anything additional from your report that's in Exhibit 33,
11 is that correct?

12 Could you answer, unmute yourself, please?

13 MR. HUNTER: No. It's Exhibit 33.

14 CHAIRPERSON HILL: No, no, no, I'm saying -- I was
15 trying to ask the Office of Planning. And Mr. Hunter and Mr.
16 DeWerd, if you could please mute your microphones. Thank
17 you.

18 Ms. Thomas?

19 MS. THOMAS: Yes, sir. Good afternoon, Mr. Chair.

20 CHAIRPERSON HILL: Good afternoon. I'm asking,
21 first, is Exhibit 33, you only have the one report. You did
22 not give us a supplemental report, correct?

23 MS. THOMAS: That's correct. That's correct. Can
24 you hear me?

25 CHAIRPERSON HILL: Okay. I can hear you.

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1 MS. THOMAS: Okay.

2 CHAIRPERSON HILL: And just so the Board knows
3 what I'm planning on doing, I'll let the Board kind of go
4 through this and ask some questions. And then we can allow
5 the applicant and the party status people to also ask
6 questions of the Office of Planning, as well as each other.
7 I'm trying to go through this as organized as I can,
8 concerning that it's difficult to see people. I apologize
9 for that.

10 Ms. Thomas, if you could please -- and it would
11 be very helpful for me if you could please walk us through
12 your report again and to the things that you had looked at
13 in terms of, again, the zoning requirements for the case.

14 MS. THOMAS: Sure. We had looked at the criteria
15 for the special exception relief, which we had recommended,
16 based our review on, and recommended approval of.

17 The criteria is, essentially -- the essential
18 elements of the criteria speaks to public safety access and
19 access by the fire department. Particularly, the different
20 requirements for that within (telephonic interference) water
21 and sewer services, waste management collection, traffic and
22 parking impacts. So our report speaks to that, page 305 of
23 our report dated February 21st. And I can, if you'd like me
24 to hit on those points?

25 CHAIRPERSON HILL: Yes, please.

1 MS. THOMAS: Okay. So, the alley itself connects
2 to well-defined alley system where a portion of it is private
3 and belongs to -- is under the jurisdiction of DC BGS
4 (phonetic), because it's part of the school that abuts the
5 alley.

6 The other portion of the alley exits onto P
7 Street. And that is a 15-foot portion, 15-foot wide, I
8 think, portion. But the main portion of the alley that comes
9 from the applicant's lot is about 30 feet wide. But the
10 distance from P Street to the applicant's lot is over
11 approximately 600 square feet or more.

12 So, each tenant use access, provide access, or
13 claim access to the portion of the alley that exits onto 3rd
14 Street because that portion of that alley, which is about 112
15 feet from 3rd Street, it's under private access. So that
16 cannot be used for zoning purposes.

17 The Office of Planning did get in touch with DC
18 Fire. And DC Fire's report is found at Exhibit 26B. And
19 their claim is that they had no objection to the drawing
20 (phonetic) located within 600 feet of the fire hydrant.

21 I understand that the applicant, in their most
22 recent records that he submitted on the 28th, discussed
23 additional information provided by FEMS, which states that,
24 although it would be difficult -- I mean, it's not impossible
25 to provide fire service from P Street.

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1 And I don't have the -- let me see what -- and I
2 am now referring to the Exhibit 67 of the record. I'd just
3 like to say that we didn't submit a report because we didn't
4 have all the information from the applicant. This
5 information was filed 5/28, which wasn't enough time for us
6 to go through anything. But I could certainly do that now
7 at this time.

8 With respect to waste management, trash comes
9 through the alley and picks up. So that shouldn't be a
10 problem. DPW stated that to that effect via email. DDOT
11 provided comments, in Exhibit 24, and had no objection. We
12 were satisfied that the applicant made attempts to contact
13 all the agencies, the required agencies, like Fire, Water,
14 DTS (phonetic), and DDOT. And he (telephonic interference).

15 So, with that, we did not go into the effects of
16 criteria, with it being harmonious with the general purpose
17 and intent of the regulations. We did find that to be so.
18 And because of DC Fire's, and the general reports from other
19 agencies, we would say that it will not tend to adversely
20 affect the use of neighboring property.

21 While during the last hearing, we did -- I did
22 state, though, that the applicant should address any concerns
23 that the neighbor had with respect to light and air or
24 privacy. And based on what I saw in the record, as of 5/28,
25 I would say that I am satisfied that those attempts were made

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1 to address those concerns, as well as providing the
2 elevations that the Board required to get a better sense of
3 what was going on on the roof and so on.

4 So, with that, I will rest on the record of our
5 report and I will happy to take any questions at this time.
6 Thank you.

7 CHAIRPERSON HILL: Ms. Thomas, I'm a little
8 confused in terms of this alley. Well, not alley, the egress
9 from the party in opposition's rear yard.

10 Is there -- and I will ask the applicant and the
11 party in opposition, but was this -- there was supposed to
12 be like another way to kind of walk around this house. Is
13 that what you were kind of --

14 MS. THOMAS: No, the way I understood it was that
15 there is no access -- you're speaking of 3rd Street, right?

16 CHAIRPERSON HILL: Pardon me?

17 MS. THOMAS: The residents on 3rd Street?

18 CHAIRPERSON HILL: Yes.

19 MS. THOMAS: Okay. Based on the surveyor's plat,
20 surveyor's record, there is no access for residents from 3rd
21 Street to the rear. The applicant is not on lot line. I
22 don't know -- the Applicant's lot line, the full length lot
23 line abuts the rear yard. Which is typical, in some places
24 you have rear yards abutting rear yards.

25 So, in this case, the applicant's side yard would

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1 abut the rear yards of residents facing 3rd Street of one,
2 two, three, four, five lots facing 3rd Street. Based on the
3 surveyor's record that we have, and submitted by the
4 applicant, I believe.

5 CHAIRPERSON HILL: Right. So there would be no
6 rear access to those homes.

7 MS. THOMAS: No. There is none based on the legal
8 lot lines.

9 CHAIRPERSON HILL: And that's not a safety issue?

10 MS. THOMAS: There are several places that have
11 no rear access to their homes. There are several lots like
12 that. That's not that a typical condition, but it exists.

13 CHAIRPERSON HILL: Okay.

14 MS. THOMAS: The way I understood it, the way I
15 understood it, is that, from what I heard the applicant said
16 the last time, was that -- or discussed with OP at one point,
17 was that access was going to be provided, or he had offered
18 some kind of an easement to them. But I haven't heard more
19 about that, so I can't speak to that. But, this is not an
20 unusual condition for a yard to abut somebody else's yard.
21 It's not an unusual condition. People have trash picked up
22 from the front of their homes. Even on my street where I
23 live, and it's a rowhouse district. So it's not an unusual
24 condition.

25 CHAIRPERSON HILL: Okay. All right. Does the

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1 Board have any questions for the Office of Planning?

2 VICE CHAIRPERSON HART: Yeah, I had a question.
3 Good to see you, Ms. Thomas. Just the question around the
4 privacy issue. I understand in your report you talk about
5 there being ground floor windows, and we didn't have an
6 elevation of the west side of the building, which is the side
7 that is directly -- I guess, looking directly at the rear of
8 the buildings on 3rd Street.

9 And so that is of concern in that the Applicant
10 has now proposed to put in some blinds -- not blinds --
11 shades or things that you could close so that you could, I
12 guess, reduce the visibility to the west. But it seems like
13 there is another response, either as the -- I'm not exactly
14 sure which party in opposition brought it up, but the issue
15 of having, you know, a ribbon window or some higher window
16 that, you know, would allow light in but would preclude
17 people from actually looking out. That might be a response.

18 Or having the elevation noting that you have to --
19 require there to be a translucent glass be, you know, put in
20 place on those westerly-facing windows. And I don't know if
21 it's the entire window or, you know, there's a frosting or
22 something you could do for a portion of it, but to allow
23 light in but not have views out.

24 And this kind of, to me, speaks fairly directly
25 to the zoning regs in terms of Subtitle X, 901, and that's

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1 the "will not tend to affect adversely the use of neighboring
2 property in accordance with the zoning regs." And I just
3 want to hear your view point of that. I know that was long,
4 but it's really the privacy and other things that can be done
5 to mitigate that. There was another issue about the roof
6 deck, but I'll get to that in a minute.

7 MS. THOMAS: Yes. I saw where the applicant --
8 let's start at the ground floor. The applicant -- I mean,
9 this is -- again, these are not unusual conditions for
10 residences. You're talking about rear yards. And I can't
11 speak to exactly where all the applicant's homes end within
12 their rear yards, to say how close it is to that lot line.
13 But the applicant in this case is also even satisfying side
14 yard requirements of five feet.

15 I also noticed that, in the recent plans of 5/28,
16 he shows where they're going to be putting this privacy fence
17 in for the ground floor, and also landscaping that may grow
18 up eventually to even provide more privacy.

19 With respect to the upstairs windows, which are
20 bedroom windows, I did notice that some people asked for
21 these ribbon windows. And they were specific in terms of it
22 should be one-foot wide or high, or whatever, I can't
23 remember exactly what was the specifications. But I am a
24 little bit concerned with respect to that, because I don't
25 know if those meet code for bedroom windows. Ribbon windows

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1 you might find in bathrooms and stuff like that for privacy,
2 but I don't know if that is -- that would be something code
3 would have to talk about.

4 I see that they did reduce the size of the windows
5 in their drawings to smaller windows, and screening on those
6 windows that would -- and I've seen those windows that would
7 provide, you know, more privacy from looking out. So, you
8 wouldn't feel as if somebody is standing at the window and
9 staring at you, which I don't anticipate as much, staring out
10 of a bedroom window looking into rear yards from your bedroom
11 window. That would be weird -- but, yeah.

12 VICE CHAIRPERSON HART: I think the concern that
13 I --

14 (Simultaneous speaking.)

15 VICE CHAIRPERSON HART: I think the concern that
16 I had was really -- go ahead.

17 MS. THOMAS: Go ahead.

18 VICE CHAIRPERSON HART: I think the concern they
19 had was really around understanding that there is a --
20 currently there is a -- there is no building that's there.
21 This is a new building that's being introduced on a location
22 that there hasn't been one. And I understand that, you know,
23 assumptions are not always really good to have, but there was
24 an assumed property line that the folks along 3rd Street had
25 that is being reduced by this particular lot. And, I mean,

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1 I understand the lot is -- it existed. But placing that
2 seems like more of a not so ordinary situation.

3 And so it seems as though there might be a way to
4 -- while I understand and appreciate having some sort of
5 screen that maybe in place, the screen seemed to be that
6 people could decide whether or not they want to have them
7 open or not. And so you, you know, might as well not have
8 them in some cases, because they are voluntary. And it seems
9 as though there's some part of the design that could be
10 adjusted to deal with that.

11 And that's why I was suggesting something like
12 translucent glass. You could still have the ability to get
13 in -- and we've done that before. So, I get not having the
14 ribbon windows. That's fine. But it just seems like there
15 could be some way to deal with that.

16 (Simultaneous speaking.)

17 MS. THOMAS: The applicant -- someone had
18 suggested evergreen trees, the evergreen pines that I see
19 some people have. And some of my neighbors do have them.
20 They're tall. They grow up, they're manicured, and they're
21 above a certain height which substantially reduces visibility
22 in the windows.

23 VICE CHAIRPERSON HART: That would be possible if
24 they had, I think, more space. I don't think that there is
25 sufficient space to be able to actually grow them in that

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1 location, at least grow them well. Or, you know, it may be
2 just problematic, because they'd be very close to the fence
3 line. It looked like Mr. Greenhouse wanted to chime in on
4 part of this, so.

5 MS. THOMAS: All right.

6 CHAIRPERSON HILL: Okay. Give me one second. Mr.
7 Greenhouse, if you could just try to -- okay. Go ahead, Mr.
8 Greenhouse. I can't see anybody. So, go ahead, Mr.
9 Greenhouse.

10 MR. GREENHOUSE: I think you're going to ask me
11 to try to be specific to this issue and not elaborate, if
12 that was correct. Maybe not. Sorry.

13 The western windows, they serve two purposes. And
14 I think you guys are well aware, for a bedroom you need
15 egress, which is a certain size. And this was an option to
16 have an architectural element on the exterior that could be
17 slid open in the event of an emergency, while still hindering
18 and obstructing views in and out.

19 This will be additional to interior elements, such
20 as roll up shades, which will be incorporated in the project.
21 So, don't get me wrong, I know you have to see it on the
22 presentation to make a choice, but there will be shades. It
23 will be blocked off.

24 To say the least, translucent -- the opaque glass
25 is also a fantastic option that I'm more than willing to

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1 consider. I'm just trying to balance code with keeping
2 natural light and then also privacy. So, that was our best
3 stab. And that's just for the window.

4 I do have another comment to make for the egress
5 on the rear, but I'll wait my turn.

6 VICE CHAIRPERSON HART: I understand and I
7 appreciate the thinking on that. It is definitely something
8 that we have requested and actually included in our order
9 when we have, you know, in some of the projects that we have
10 approved in the past looked at that issue.

11 And I'm not also saying that it has to be the
12 entire window. It may be just, you know, up to seven feet
13 or something. And then beyond that you can have the clear
14 glass so that you could actually see out and see the stars
15 or something. So I think that there's some room for trying
16 to figure that out, so that was one thing.

17 The other issue is about for privacy is on the
18 roof deck. And I understand and I appreciate the fact that
19 you have actually delineated where this roof deck is going
20 to be. I understand that Mr. LaPointe brought up an issue
21 about, you know, you could just, kind of, use whatever
22 portion of the roof that you wanted to once you had access,
23 you know, once there was access to it.

24 I think that, you know, as part of the
25 improvements that we have done in the past for projects we

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1 have looked at, you know, having certain parts of the roof
2 not be available as a part of the order, as a condition in
3 the order. And we could look to do something if we decide
4 that we are looking to approve this application.

5 But that's only if we're looking to approve the
6 application. So there are conditions that I think we could
7 craft to be able to deal with that particular issue, because
8 I think shifting it to the eastern portion of the roof is
9 very helpful because of the close proximity of the neighbors
10 to the west. I haven't talked about the folks to the north,
11 but we can deal with that, you know, later.

12 I'm done with my comment, thank you.

13 CHAIRPERSON HILL: Mr. Greenhouse, you had
14 mentioned something about the egress. Could you go ahead and
15 just speak to that since you brought it up?

16 MR. GREENHOUSE: Sure. So it's to clarify, and
17 I know this only from my own experience, these landlocked,
18 is what I call them, backyards being landlocked, not the
19 front yards, are not common but they are not rare in D.C.

20 In fact, I've had a property that was similar
21 where a vacant land similar to what I'm applying for, in
22 fact, just completely cut off my property towards the rear
23 and I had no access and had to now take the trash out of the
24 front.

25 This is something I've vetted from the very

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1 beginning. And in fact, when I first came upon the property
2 in July it was around the 15th, 2019, the first person I ever
3 met with was Mr. LaPointe.

4 And the first thing we ever drew up on paper was
5 a rear egress plan that I was going to promote myself -- I'm
6 sorry, build and finance myself that would be essentially a
7 bunch of gates that would allow egress in the event of
8 emergency through property yards to the street level.

9 At that time, it was to the private street and
10 there was an idea of using a ladder, but to say that it's
11 never been explored it's actually something I've continued
12 to say I will absolutely consider and try to figure out and
13 collaborate since day one. And it's also in my exhibits.

14 But what I really wanted to say was that I'm still
15 considering it. I'm still looking at options, but it is not
16 required is what I was looking for.

17 CHAIRPERSON HILL: Okay.

18 MR. GREENHOUSE: It's not required in any way.

19 CHAIRPERSON HILL: Okay. Let me do this. Let me
20 do this. If you all can give me one second? Hey, Paul, can
21 you hear me?

22 MEMBER JOHN: Mr. Chairman, while you're waiting
23 for Paul, may I make one observation?

24 CHAIRPERSON HILL: Please, yes. Go ahead.

25 MEMBER JOHN: It seems to me that the neighbors

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1 on P Street, if I have that right, as well as the neighbors
2 on Third Street would be impacted by this building. And the
3 ones -- and none of them would have alley access. So I'm not
4 sure what the applicant could propose to remedy that
5 situation.

6 I agree that these lots without alley access do
7 exist all over the city. And so it's really not an unusual
8 situation. Previously there was discussion that, of course,
9 there would be some concern because now there's a building
10 where one did not exist before.

11 And I would -- I can understand that that would,
12 you know, create some sort of inconvenience, but this type
13 of -- this type of situation without alley access is really
14 not uncommon.

15 CHAIRPERSON HILL: Okay. Did Paul -- Paul are you
16 able to hear or no?

17 ZC CHAIR HOOD: Mr. Chairman?

18 CHAIRPERSON HILL: Yeah, go ahead Mr. Chairman.

19 ZC CHAIR HOOD: All right. Having watching you
20 all all day I thought once we were done we were calling on
21 people in order. Is that still the process or has it
22 changed?

23 (Simultaneous speaking.)

24 CHAIRPERSON HILL: That's all right. That's all
25 right. I'm trying to -- I'm trying to get in touch with Paul

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1 there to let him know that I'm going to try to sign on with
2 my phone so I can also see people. But what I think we'll
3 go ahead and do now is so we've gone ahead and heard from the
4 Office of Planning, but I want to --

5 ZC CHAIR HOOD: But I'm trying to ask the
6 question. I was waiting to try to ask the question of Office
7 of Planning.

8 CHAIRPERSON HILL: I understand.

9 ZC CHAIR HOOD: Oh, that's what I'll do.

10 CHAIRPERSON HILL: No, no, no, I'm doing it just
11 because you can see me and now I can see you for one second.
12 What I'm saying is that we've heard from the Office of
13 Planning. We've heard from the Office of Planning.

14 I was going to let all the board members ask their
15 questions to the Office of Planning. I was then going to let
16 the applicant ask the questions of the Office of Planning and
17 the party in opposition ask any questions of the Office of
18 Planning.

19 And so then there is the opportunity when -- and
20 that was my next steps. So currently now, Mr. Hart, you've
21 asked your questions of the Office of Planning, correct?

22 VICE CHAIRPERSON HART: Yes.

23 CHAIRPERSON HILL: Ms. John, do you have
24 questions, further questions for the Office of Planning?

25 MEMBER JOHN: Not at this time, Mr. Chairman.

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1 CHAIRPERSON HILL: Mr. Hood, please, do you have
2 any questions for the Office of Planning?

3 ZC CHAIR HOOD: Yes, I have a question. Ms.
4 Thomas, I heard you mention that that's typical of not having
5 a back access. I understand that's typical. The Board of
6 Zoning Adjustment some years back had a case on Georgia
7 Avenue. I would like to see how we resolved that. I just
8 don't remember.

9 I know that was a major issue but I think, I'm
10 looking at one of the -- and that's why I wanted Mr.
11 Greenhouse -- I didn't hear everything he said about the
12 proposed easement area and hopefully when it gets to this
13 time -- because I can tell you I'm very concerned about that.

14 While I know it's typical but, in my tenure, even
15 though it's typical and that's normal because of the way this
16 city has been built up, we don't want to exacerbate or
17 continue to increase those type of problems. So I want to
18 see what kind of mitigation that we can put in place.

19 So that's kind of why I'm -- I understand it may
20 be out there already, but this is the case in front of us and
21 this is something that we could probably mitigate. And
22 that's where my intentions and my push will be.

23 So thank you, Mr. Chairman. And Ms. Thomas, I
24 don't know if you have anything to add on that? If you could
25 just, kind of, research what the board did on that case on

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1 Georgia Avenue I would really -- I just do not recall what
2 we did, but it was something very similar and I know we came
3 up with a mitigation method.

4 So looking forward to hearing what Mr. Greenhouse
5 has to say at the appropriate time. Thank you, Mr. Chairman.

6 CHAIRPERSON HILL: Mr. Hill, did you want to try
7 to log off and login on your phone, do you want to take a
8 pause or something? You're muted right now.

9 MR. YOUNG: Can you guys hear me?

10 VICE CHAIRPERSON HART: Yes.

11 MEMBER JOHN: Yes.

12 MR. YOUNG: Okay, now I'm going to try and do
13 this.

14 CHAIRPERSON HILL: All right. Mr. Greenhouse, do
15 you have any questions for the Office of Planning?

16 MR. GREENHOUSE: I do not have any questions that
17 I know. I've said a comment, if I may? At the -- there were
18 two iterations of my responses, I think, that are being
19 confusing. The deadline for the response was originally on
20 the 18th and that's when I submitted my presentation.

21 The one that's for viewing today that was
22 submitted on the 28th is a follow-up, the most recent. So
23 I wanted to hit my deadline and then, for that to review, and
24 then I changed the facade treatment and shrunk the windows
25 to the most recent presentation, which everyone has been

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1 referencing today from the 5/28. I just wanted to be clear
2 that there was this solution on the 18th. Sorry.

3 CHAIRPERSON HILL: Okay. Okay. Give me a second.
4 That's all right. Paul, can you turn my camera back on on
5 the desktop?

6 MR. YOUNG: I don't -- if I put your other one
7 back in with your video we're going to get that feedback
8 again.

9 CHAIRPERSON HILL: All right, well, I muted that.
10 It doesn't matter. Can anybody see me now?

11 VICE CHAIRPERSON HART: No.

12 ZC CHAIR HOOD: Fortunately, no.

13 (Laughter.)

14 CHAIRPERSON HILL: Okay. All right, I'm sorry
15 guys. I can now see and, you know, I can see Mr. Hunter and
16 Mr. LaPointe and Mr. DeWerd, which is what I had wanted to
17 try and do. And so at least I got that.

18 So Mr. LaPointe, do you have any questions for the
19 -- so let me, let me just try to do my best that I can with
20 this for the people that are here in opposition. I fully
21 understand that you all (telephonic interference) that you
22 have the backyard, right. And wanted to have a backyard and
23 this is now a lot that is there, right?

24 So I'm just going to be as concise as I can at
25 this point, which is the whole reason there is zoning is

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1 there is so people can make use of the land that they have,
2 right? And this applicant is here for a special exception
3 for something that, you know, the general requirements -- let
4 me just go try and look at the -- X901.2 that basically speak
5 to "Will not intend to adversely affect the use of
6 neighboring property in accordance with zoning regulations
7 of the zoning map."

8 Those are very, like, that's the very general
9 regulation, meaning that there's a lot of things that you
10 wouldn't want to happen that happened under that regulation,
11 meaning in terms of, like, light and air and privacy.

12 I mean, what really they're here for, in my
13 opinion, is again the special exception in terms of whether
14 or not fire and safety have access to that alley, right? So
15 I know you guys can't see now, but we are doing our best to
16 make sure that the light and air, you know, adversely affect
17 the neighboring properties.

18 That's what we're, kind of, struggling with but
19 the applicant primarily, I think, is here for the whole, you
20 know, alley access in terms of the fire and safety, which I
21 believe they've possibly already met that burden, okay? So
22 I'm just going to cut to the chase on that.

23 So I'm going to start with Mr. LaPointe and then
24 I'm going to go to Mr. DeWerd in terms of questions for the
25 Office of Planning. So Mr. LaPointe and Mr. Hunter, did you

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1 have any questions for the Office of Planning? Let me go
2 with you first.

3 MR. LAPOINTE: Yes, I do actually. Hi, Ms.
4 Thomas. I heard the conversation you had about safety and
5 all of that. I do understand that some places don't have
6 exit from the back because of the time that the house was
7 built and back in 1800 nobody was concerned about safety.

8 But to look at now today, the reason that we
9 bought the place is because we have an exit. And so the
10 other, some other place we didn't buy because it didn't have
11 an exit. So that's something it's so important to us.

12 But my question to you is you seem to have a lot
13 of concern about the windows safety than the neighbor exit
14 from the public alley. So can you explain to me what is the
15 different about the safety of the window and the safety of
16 an exit to use a public alley?

17 MS. THOMAS: Sure. I don't have any -- one
18 concern doesn't trump the other. The --

19 MR. LAPOINTE: Yeah.

20 MS. THOMAS: But let -- can you hear me?

21 MR. LAPOINTE: Yep.

22 CHAIRPERSON HILL: Yes.

23 MS. THOMAS: Okay. Yes, so I said, you know, for
24 the record, one concern doesn't trump the other in terms of
25 light and air trumping your security or safety for getting

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1 out of a building. Okay. Now, that's that.

2 I noted that the applicant was in discussion with
3 you guys, as Mr. Hood said. Everything could be mitigated
4 to an extent. The basis of special exception is based on
5 mitigation for any type of adverse impact.

6 It's not going to say -- it doesn't say there
7 should be no impact, but how this is mitigated would depend
8 on what agreements you may come up with the applicant and
9 provide to us.

10 He suggested that he did speak to you about that.
11 Maybe that's something you could discuss or would you like
12 to elaborate further on that?

13 MR. HUNTER: Yes. Actually, let's go back to that
14 statement if I may? The -- we're all here today because of
15 the lack of cooperation from Mr. Greenhouse. He has made
16 inferences that --

17 CHAIRPERSON HILL: Mr. Hunter? Mr. Hunter?

18 MR. HUNTER: Yes.

19 CHAIRPERSON HILL: Mr. Hunter, it's been a long
20 day for me.

21 MR. HUNTER: No, I know. I'm going to get to the
22 point.

23 CHAIRPERSON HILL: No, no, no. No, no, no. I'm
24 just pointing out something, Mr. Hunter. We're here, and as
25 I've said before, because Mr. Greenhouse is trying to do

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1 something with the property, the applicant is trying to do
2 something with the property that they have, right? I am
3 terribly sorry that that lot is behind your house, but that
4 lot is behind your house, right?

5 MR. HUNTER: No, we understand that.

6 CHAIRPERSON HILL: So -- oh, okay. All right.
7 And so all --

8 MR. HUNTER: And so we're getting to the point
9 about what adversely affects the neighborhood.

10 CHAIRPERSON HILL: No, Mr. Hunter. Well, anyway,
11 anyway, there is a variety of things that we are here for.
12 That's one of the reasons. It's not the only reason.

13 MR. HUNTER: Right.

14 CHAIRPERSON HILL: And so Paul, if you can turn
15 on my camera, I think I've made it so that the sound
16 shouldn't work or should be okay.

17 MR. YOUNG: That's something that you need to do
18 from your end. I can't do it from mine.

19 CHAIRPERSON HILL: I keep pushing those buttons.

20 ZC CHAIR HOOD: Let me just interrupt. That
21 discussion that was getting ready to happen, Mr. Chairman,
22 was getting ready to be very helpful to me. So hopefully we
23 can get back to that. And I'll just wait.

24 CHAIRPERSON HILL: Okay, all right. Okay. So Mr.
25 Hunter, please go ahead, Mr. Hunter.

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1 MR. HUNTER: Well, I'm just starting to understand
2 this notion of something not adversely affecting the
3 neighborhood. You're correct. We understand there is a lot
4 back there. We understand that.

5 We're going to deal -- we're dealing with that on
6 a separate issue. I guess the thing is that that there has
7 been a lot of inferences about cooperation. We're just
8 trying to say you guys are, sort of, getting involved in the
9 middle of the lack of cooperation between Mr. Greenhouse and
10 the parties because one of the -- being the public access,
11 the possibly emergency public access to the alley has always
12 been one of our major concerns.

13 And he has consistently ignored them. He talked
14 about he's willing to talk about them.

15 CHAIRPERSON HILL: Right.

16 MR. HUNTER: But yet he has never really truly
17 reached out to us until the very last minute, and he has made
18 a point of saying I already have the plans drawn and so we
19 just deal with it as it is, which is why I have the markup
20 because we only got that. And we only got that because Mr.
21 DeWerd reached out to Mr. Greenhouse asking if he would like
22 to sit down to negotiate. Mr. Greenhouse has never reached
23 out to any of us since the -- since --

24 MR. LAPOINTE: March, April.

25 MR. HUNTER: Well, March 17th when I initially

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1 went to ask if you would like to delay the proceedings
2 because we're about to get down into the shutdown of COVID-
3 19. He chose to ignore that until he had to file based on
4 the schedule and hence, we filed our opposition again on the
5 25th of March.

6 So you're, sort of, getting caught up in a lot of
7 other stuff that you really shouldn't have to because as you
8 say, you're dealing with the special exemption, which we are
9 still opposed to, given the fact that it is in excess of 300
10 feet and is actually almost close to 600 feet.

11 Now, we understand that the fire department is
12 amenable to that, but that's just for his property. That in
13 turn will affect other properties if something happens in the
14 back. Now, hypothetically, who knows?

15 Well, hypothetically, we never thought we'd be in
16 a pandemic, so we have to give a consideration that the
17 safety of the existing residences is being put in jeopardy
18 by this proposed site, as well as actually the proposed site
19 itself because any delay in any action from emergency
20 services can cost a building, a life or whatever. And we
21 have several elderly people who, you know, would never be
22 able to walk down a seven-foot ladder to whatever anyway.

23 So I'm getting back to what, if this is adversely
24 affecting the neighboring property, if this is not, then I --
25 please give me an example of what would constitute an

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1 adverse, you know, adversely affecting the property, the
2 neighboring properties, because this is one specific --

3 This is quite a unique situation because of the
4 location, because of where we are and the school and the
5 private entrance, the alley. No structure's ever been built
6 there and there's probably a reason why, but I know the
7 Allied Development Initiative is important. So we'd like to
8 understand if this is an adverse effect to the neighborhood
9 or neighboring property because number one of the way it's
10 designed doesn't blend into the neighborhood, how -- would --
11 I guess, what are we supposed to take from that if this is
12 not adversely affecting?

13 ZC CHAIR HOOD: Mr. Chairman? Mr. Chairman?

14 CHAIRPERSON HILL: Yeah, Mr. Hood?

15 ZC CHAIR HOOD: Yeah, so I thought Mr. Hunter was
16 going somewhere. He kind of went the way I was going, but
17 so I'm fine. I think I understand what he's saying again,
18 but what I want to do is especially hear from Mr. Greenhouse.
19 So I'm fine with that.

20 So I just wanted you to know we can cut that
21 conversation off, which I think is where you were going, but
22 I did want to hear what Mr. Hunter had to say because I
23 thought we was getting to a mitigation but I see that we're
24 not. So thank you, Mr. Chairman.

25 CHAIRPERSON HILL: Okay.

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1 MR. HUNTER: No, we've offered. We've offered a
2 plan but we've just never been able to discuss it with him,
3 which is what that --

4 (Simultaneous speaking.)

5 MR. HUNTER: -- which is what that exhibit is with
6 the X.

7 ZC CHAIR HOOD: I got it. I got it. Okay, thank
8 you.

9 CHAIRPERSON HILL: Okay. So Mr. Hunter -- Mr.
10 LaPointe or Mr. Hunter, did you have any questions for the
11 Office of Planning? I mean, you started out --

12 MR. HUNTER: Well, I --

13 CHAIRPERSON HILL: -- and the reason why I was
14 stopping you, the reason why I was cutting you off, Paul, I'm
15 sorry, was that you were starting to speak of the
16 negotiations that had not become --

17 MR. HUNTER: Right.

18 CHAIRPERSON HILL: -- been fruitful thus far with
19 the applicant. And so that's why I was trying -- I hadn't
20 gotten you to, kind of, you guys, your discussions, but did
21 you have any questions directly to the Office of Planning?

22 VICE CHAIRPERSON HART: Mr. Chairman? Mr.
23 Chairman? This is Vice-Chair Hart.

24 CHAIRPERSON HILL: Yes.

25 VICE CHAIRPERSON HART: Can I just interject for

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1 a minute here just about this proceeding? There are -- we've
2 gotten some notes that have been popping up during the
3 process and I kind of see it as a conversation that the board
4 is having with the Office of Planning, with the applicant,
5 with the parties in opposition.

6 It's like somebody yelling in the background, you
7 know, that they need to talk about something. And I see it
8 somewhat disruptive. I would appreciate it if we could
9 actually have the conversations actually on the record in --
10 that's being spoken. The reason for that is because it is --
11 I can't pay attention to what's going on and listen to this
12 and then to also try to read something that is being, you
13 know, inserted in here.

14 I always saw the message portion of our -- of the
15 proceeding as being an ability for somebody to ask technical
16 questions about accessing the platform or, you know, talking
17 to OZ staff or Mr. Moy about stuff

18 So I kind of want to focus the message portion
19 only on that and then have the conversations that we have
20 just in person and so that we can actually hear what's going
21 on without that. I just wanted to make that point up, but
22 that's it. You can continue where we were.

23 CHAIRPERSON HILL: Okay, that's all right. So if
24 we can, kind of, not use the chat function for a while you
25 guys? And we'll, kind of, go through this process.

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1 So Mr. Hunter and Mr. LaPointe, I'm sorry, did you
2 have any further questions for the Office of Planning?

3 MR. HUNTER: No, I just, I guess, my -- I guess
4 my question didn't get through. It's, like, what -- the
5 Office of Planning kept saying this is not adversely -- this
6 will not adversely affect the neighboring properties. I
7 guess I was asking for clarification on that because
8 obviously we're of the opinion that it does affect, adversely
9 affect the neighboring properties.

10 So if this was part of her justification to grant
11 the exemption, what criteria has not been met? We just don't
12 see it so I guess that, maybe that --

13 CHAIRPERSON HILL: That's okay. I'm understand.
14 I'm just trying to get a question to the Office of Planning.
15 So your question, Mr. Hunter, is that -- is how is this not
16 adversely affecting the neighborhood, correct?

17 MR. HUNTER: Correct. Correct.

18 CHAIRPERSON HILL: Okay. Ms. Thomas?

19 MS. THOMAS: Based on the past hearings, we heard
20 that there were concerns with access and the hearing ended
21 originally with the applicant and the parties concerned
22 affected having to work out some agreement. Again, the
23 special exception process is hinged on mitigation, mitigating
24 adverse impacts.

25 Every project more or less would have an impact

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1 on another property at any kind of development project. So
2 the -- I'm not saying that you may not be affected because
3 you're going to lose the current access you have, free street
4 access you have through that property to access the alley,
5 however, that said, if there is some way that this impact
6 could be mitigated but a project isn't deemed -- that one
7 should not be or isn't unnecessarily developed --
8 undeveloped, although because you have access to your rear
9 yard. Where that in itself is not an uncommon situation.

10 What I'm saying is if there is a way to have that
11 issue mitigated that adverse impact to you mitigated and
12 there's where the special exception process come in where
13 there is mitigation to be had or determined.

14 CHAIRPERSON HILL: Okay, okay. Mr. Thomas -- I
15 mean, and this is where Mr. LaPointe and Mr. Hunter, I'm
16 trying to work through this a little bit in that I can't even
17 recall from the first hearing whether there was one person
18 that was supposed to speak to everyone, so I'm just going to
19 go through everybody right now.

20 I mean, I know there was one person and I can't
21 remember. I want to say it was actually Ms. DeWerd, perhaps?
22 And so Ms. DeWerd is not with us, but we're taking Mr. DeWerd
23 and so it should be Mr. LaPointe but since this is all video
24 crazy world anything we're going to do this anyway.

25 So Mr. Hunter or Mr. LaPointe, do you have any

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1 other further questions for the Office of Planning?

2 MR. HUNTER: No.

3 CHAIRPERSON HILL: Okay. Mr. DeWerd, do you have
4 any questions for the Office of planning?

5 MR. DEWERD: I do, thanks, Mr. Chairman. A couple
6 of quick ones, keeping within the scope, given the time of
7 day, because the lot and the alley aren't a master address
8 repository for D.C. is the lot 59 eligible for an address?

9 MS. THOMAS: I would assume that the lot is
10 eligible for an address. I can't speak to that. That would
11 be something that the surveyor would have probably
12 determined. But it is a lot of record in the surveyor's --

13 MR. DEWERD: Okay.

14 MS. THOMAS: -- records.

15 MR. DEWERD: Okay. So can you guys please take
16 that as a question? Because the alley isn't named. You
17 can't assign an address to it so could you confirm that it's
18 even eligible for an address?

19 CHAIRPERSON HILL: I don't think that in our
20 purview, right, Ms. Thomas?

21 MS. THOMAS: Yeah. No, that's not something that
22 we do. We don't assign addresses and I don't know the
23 process for doing so.

24 MR. DEWERD: Okay.

25 CHAIRPERSON HILL: Okay, so what --

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1 MR. DEWERD: Because we've got friends in the FEMS
2 response that they would need an address and if they're able
3 to meet the requirements for it that was part of their
4 condition for approval.

5 In the DDOT engineering letter it references
6 needing to meet engineering requirements in 11, 12 and 24.
7 Have those engineering requirements been met with this
8 design? And that's specifically in relation to access to the
9 parking spot and sizing and position to other lots and
10 access.

11 MS. THOMAS: So I can possibly answer with that.
12 When this goes to permitting this is just one part of the
13 process of getting a permit. This is just one part. When
14 all of these things come together this part would maybe with
15 the access from the access from the alley is one part of this
16 process.

17 When it goes to permitting, they would look into
18 addressing. They would look into whether engineering can be
19 met. The different disciplines within the permitting
20 process, even back again to zoning, which will go through
21 each piece again to determine whether this lot can be
22 developed as specified in their plans. So this is just one
23 portion of it.

24 We may not have all the answers right here at the
25 Office of Planning with respect to different aspects of it.

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1 Engineering is one thing and but it has to go through. My
2 point is it has to go through DCRA. And DCRA's permitting
3 would have each type of review. Okay?

4 MR. DEWERD: Understood.

5 MS. THOMAS: Okay.

6 MR. DEWERD: Last question from me is in some of
7 the earlier planning documents it was referenced that Mr.
8 Greenhouse made an easement on my property or in his property
9 in 1419 Third Street and able to get utilities. Has it been
10 confirmed that he would be able to get utilities through a
11 different path rather than needing an easement on my property
12 or my next-door neighbor's?

13 MS. THOMAS: That's something that we don't -- we
14 haven't looked at. Again, that would be something that
15 DCRA's permitting with respect to the utilities routing and
16 everything.

17 And if that won't be granted, if that's the only
18 way that he can possibly get it, I'm not -- I don't want to
19 speak to that as yes or no. Again, that is permitting.

20 MR. DEWERD: Thank you.

21 CHAIRPERSON HILL: So then now I have a follow-up
22 question. And Ms. John, I know you haven't had a chance yet,
23 but and this is to the Office of Planning in terms of the
24 easement for the utilities. And now I'm just curious.

25 So if the applicant needs an easement to the

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1 utilities that's not something that can be forced onto the
2 property owner, right?

3 Like, in other words, if Mr. DeWerd needed to do
4 an easement to get to the -- so this applicant could have
5 utilities, they can't force the easement. Is that correct?

6 MS. THOMAS: I don't suspect so because that's a
7 whole legal requirement. Jake, if Jake could answer that I
8 -- that should be a legal determination. I don't think you
9 can force an easement on anyone through this process at
10 least.

11 CHAIRPERSON HILL: Okay, Mr. Greenhouse, hold on
12 one second. That's all right. I mean, if you think you have
13 an answer for that question is that -- I can see you. Can
14 you just nod? If not then it's okay. I'm coming back around
15 to you in a minute because it was just for my own curiosity.

16 All right. Mr. DeWerd, do you have anything else
17 for the Office of Planning?

18 MR. DEWERD: No. Thanks for your answers. I
19 think it was helpful and would just urge the board to make
20 sure that we're able to answer these question.

21 CHAIRPERSON HILL: Okay. Well, I guess just Mr.
22 DeWerd to answer that question real quick, again, if it's
23 outside of our purview it's not something that, you know,
24 this, again, goes through permitting and what the Office of
25 Planning is now saying is they're here for this zoning

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1 question. And if it does or doesn't get approved then that's
2 one step in the process.

3 And so, you know, we're not part of the utilities.
4 We're not part of all that. And so that end of -- that's the
5 side of permitting. So that's the answer. I mean, they're
6 only here for zoning. The applicant's only here for zoning.

7 Ms. John, do you have any questions of the Office
8 of Planning? Is that a no?

9 MEMBER JOHN: Yeah, that was a no. I was trying
10 to unmute myself. No, I have no questions.

11 CHAIRPERSON HILL: Okay. All right. All right.
12 So now I suppose -- and Jake, OAG, I'm going to just, kind
13 of, if you can, kind of, keep me making sure that everyone
14 gets the appropriate time and opportunity to ask questions
15 of everyone? So I'm just, kind of, doing my best to go
16 through this on my phone and on the computer. And as you can
17 see that it's erratic.

18 So Mr. Greenhouse, a lot of things have been
19 stated. Do you have any questions about any of the things
20 that have been stated by the parties in opposition or the
21 Office of Planning?

22 And this is where, Jake, I can't remember the
23 steps. I can't remember whether it's the party in opposition
24 that now gets to ask questions of the applicant or vice
25 versa. The order, it's more that everyone gets an

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1 opportunity to be heard, correct?

2 MR. RITTING: Yes, and to cross-examine the other
3 parties.

4 CHAIRPERSON HILL: Right.

5 MR. RITTING: So you have to make sure everyone
6 has their chance to raise the issues that they think are
7 relevant and then the other parties have a chance to ask
8 questions about those statements.

9 CHAIRPERSON HILL: Got it. So Mr. Greenhouse, a
10 bunch of statements have been made and, you know, I don't
11 know what's going to happen with this, to be quite honest.
12 Like, we might try to see, I mean, I have a bunch of
13 questions about, like, still the light and air and it sounds
14 like there's some privacy things that might still be, kind
15 of, talked to in terms of just the neighbors and this, kind
16 of, access thing.

17 But do you have any questions for either the party
18 in opposition or the Office of Planning? And/or do you have
19 any responses, I suppose?

20 MR. GREENHOUSE: Thank you. Yeah, I do have a
21 couple responses I think, and then possibly some questions.
22 I just want to say thank you Ryan for your questions. I
23 think those were interesting and I think those were subjects
24 that definitely are something you should know.

25 I can lend some light to it. The utility issue

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1 is there's essentially a couple, if not a few, different
2 options for getting utilities to the site. That's what was
3 vetted from the very beginning in the feasibility studies
4 with the civil engineers I brought onboard, with the
5 representatives from D.C. Water.

6 The easements that I referenced are one of the
7 three options there. They are not necessary, I should say.
8 I think we could find a good solution to use them. I cannot
9 force the easement onto any of the people involved. It would
10 have to be a mutually, a mutual agreement.

11 And it's called a covenant easement with D.C.
12 Water involved where you can tap off of an existing home's
13 water service and increase a meter. That could be beneficial
14 to me in the future because it's a much easier process, but
15 that's not to say that it's necessary.

16 It's already been approved by D.C. Water that I
17 can take the water and sewage from the public portion of the
18 alley, all manner, you know, within a right without having
19 to get any easements involved. So utilities have been vetted
20 by appropriate parties and are in the exhibits.

21 Addresses, there is a process involved for an
22 address and it has also been vetted and approved that this
23 lot could get an address from the deputy surveyor, which was,
24 again, during my feasibility study.

25 I don't think I need to ask any questions. I just

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1 wanted to clarify that.

2 CHAIRPERSON HILL: Okay. Does Mr. DeWerd have any
3 questions for the applicant? I can't hear you, Mr. DeWerd.
4 I think you're on mute.

5 MR. DEWERD: Here we go. Sorry about that. Jay,
6 you mentioned granting an easement to the alley, but it was
7 through Annie's backyard. It wasn't through your lot and I
8 just was wondering if you could clarify it for the board what
9 options you did give for rear egress?

10 MR. GREENHOUSE: Sure. So that was a two-part
11 question is how I understood it. You may have misunderstood
12 or I may have provided misinformation, but the easement is
13 through, totally through my property and there is a
14 possibility of a covenant easement, a utility easement, with
15 adjacent properties.

16 That could be your property. That could be
17 Annie's property. That could be DGS going through the alley
18 considering it's a lot line and a private property. Those
19 are all options for water, but -- and frankly, they're more
20 efficient than the by right version of going through the
21 public alley and why is this?

22 It's because contractors for this kind of work
23 they scope it linear feet. It's approximately 400 feet to
24 the public alley on P Street and it will cost a lot more
25 money than for me to do dig a water source directly, say,

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1 from an adjacent property being possibly yours, possibly
2 someone else's.

3 So to clarify, in the original proposal I was
4 discussing this easement with Dunbar High School and DGS,
5 still am in that process, as going through the private alley,
6 which you would typically do if it was a public alley. Your
7 closest avenue to a public street or the water line.

8 Sewer has already been identified within the alley
9 itself so you tap into that. But the water line, what I was
10 referencing in the easement was possibly finding agreements
11 with Dunbar High School to use the alley and that's something
12 that's still in discussion and still we're trying to consider
13 things that could benefit Dunbar and ways that I can get that
14 easement.

15 You brought up a good point that it could be
16 Annie's property if she agrees to it. It could be your
17 property if you agree to it. It could be Mr. LaPointe or Mr.
18 Hunter's property, if they agree to it. This is not a
19 forceful thing by any means. It has to be agreed between
20 both parties.

21 And I hope that answers it. It's just to say
22 there's a lot of options. Frankly, there's one option, but
23 there can be a lot of options if you guys agree to it.

24 The second part, your egress, I have drawn up a
25 couple of iterations that had -- don't necessarily require

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1 easements but they can if we need it. That would be a gate
2 system that could go around my property and exit onto a
3 public or private portion of the alley.

4 Now, I noticed, and forgive me, but I noticed Mr.
5 Hunter's red lines that were submitted and I just -- I
6 apologize, I just saw them this morning while I was watching
7 these hearings, but that was the first time that I actually
8 saw a feasible option for egress, and I'm very interested
9 into exploring that.

10 But I cannot agree to it because this is the first
11 time I've seen it, and I have a lot of follow-up questions.
12 Will it only be used for egress? Will it be used for your
13 trash? How will I protect the front of my property?

14 These are things that I'm saying we should discuss
15 because what you've shown me now is a good suggestion. And
16 I want to explore that. We just needed the time.

17 So I hope that answers to say that this is a
18 complicated egress and it -- I'm sorry. It's not an egress
19 issue. The ways to mitigate the egress concerns is
20 complicated. And I think we need to all sit down and
21 evaluate all these options and think about how both are
22 benefitted.

23 I mean, frankly, if you look at it from my shoes,
24 I don't have any rear egress. So when I build this building
25 I'm not -- I'm going to have one form of egress. What you

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1 guys are requiring is two forms of egress.

2 That is usually only required by buildings, you
3 know, four units or above or four stories up. Typical
4 residential structures only require one point of egress. You
5 have the front to Third Street.

6 Now, this I would loop into a concern that we
7 should explore, but I -- and I'm more than willing and want
8 to explore. But frankly, I have the same concern, too. If
9 I can't get out the front of my house, well, are you guys
10 going to grant me an egress to Third Street? You know, these
11 are questions -- you know, it's both sides.

12 So needless to say it's an open conversation and
13 I want to collaborate, but it has to be feasible and
14 realistic and that's -- and fair. And that's all I'm asking.
15 That's it. Okay.

16 CHAIRPERSON HILL: Okay. Mr. LaPointe and/or
17 Hunter, do you guys have any questions of the applicant?

18 MR. HUNTER: Yes. Yes, you go ahead. You've got
19 to go.

20 MR. LAPOINTE: Well, yes. We need to be
21 straightforward about this situation when he said about the
22 easements because it's something we spoke to him from the
23 beginning and also that he said he received that document
24 this morning? Yes, it's true he received that document this
25 morning --

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1 MR. HUNTER: I filed it yesterday.

2 MR. LAPOINTE: Yeah, yesterday, but we sent a
3 letter one prior in March with what were a big concern about
4 the exit. He knows that. And on Friday when he did the
5 presentation, totally ignore the question of the easement.
6 He never have anything about it so that's why when he said
7 this open mind to communicate with us, it's not accurate.

8 And the thing is even -- it's very frustrating for
9 all of us because he's not been truthful and on top of it
10 that he come with the people that are neighbor that we all
11 talk to each other and trust us, so that's another good
12 thought.

13 MR. HUNTER: All right. All right.

14 MR. LAPOINTE: I'm sorry, I have to stop.

15 CHAIRPERSON HILL: Okay. So again, that seemed
16 to be making some statements.

17 MR. HUNTER: Right. Now, briefly --

18 CHAIRPERSON HILL: So I assume --

19 MR. HUNTER: Oh.

20 CHAIRPERSON HILL: No, that's all right. I'm just
21 trying to --

22 MR. HUNTER: Oh, so briefly we're just trying to
23 say that we've always been open to negotiation.
24 Unfortunately, it's not been -- it's only been --

25 (Simultaneous speaking.)

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1 CHAIRPERSON HILL: Mr. Hunter? Mr. Hunter? All
2 I'm just trying to do, and I apologize --

3 MR. HUNTER: -- between the participants and Mr.
4 Greenhouse.

5 CHAIRPERSON HILL: I'm just trying to ask
6 questions.

7 MR. HUNTER: So with that, I'll stop.

8 CHAIRPERSON HILL: Were there -- that's okay. You
9 don't have to stop. I'm just trying to clarify. I have a
10 process which is this is cross-examination. This isn't,
11 like, presentation or anything.

12 But a lot is getting heard by all of us and I
13 think we're going to have to talk through some things, but
14 do you have any specific -- any more -- I'm going through
15 what I'm supposed to do. Do you have any more specific
16 questions?

17 MR. HUNTER: Well, no. No, not at this moment.
18 No. Sorry.

19 CHAIRPERSON HILL: Okay. All right. Okay. So
20 I guess now I know I'm going to go through the board again
21 in terms of what they have in terms of questions. I mean,
22 I still, now, Mr. Greenhouse, am -- I mean, I'm going to have
23 to think about a bunch of stuff and I guess I might even want
24 to see more things and have -- and see if there's any more
25 discussion that can be had.

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1 I mean, I don't know where, and I'll let us do a
2 round robin with the board members if I can, so this is just
3 us talking with the board and we'll go through with people.
4 I mean, my things that are coming to question in my mind
5 again are, kind of, this egress issue with the neighbors.

6 And again, I don't think it pertains necessarily
7 to the zoning that's in front of us. I'm just trying to
8 understand it. I suppose when I say the zoning that's in
9 front of us, I mean, how it does relate to the general
10 requirements. Oh, I apologize.

11 The general requirements, again, with adverse
12 impact. I think that, again, the front of the properties
13 that, you know, trash going out the front of the properties,
14 they're not the way that, you know, this was -- everybody
15 thought this was their backyard up until however long ago
16 this property came on, came to be known.

17 I'm sure that, again, as we -- I mean, I remember
18 talking to Ms. DeWerd, I think, that, you know, if everybody
19 knew that this property were there everybody would have
20 bought that piece of that property and probably been very
21 happy to divide up that property so they could have a
22 backyard again. But that's not the case and that's not what
23 is before us.

24 So then there's still, kind of, a discussion about
25 this egress. There's the discussion about the -- and we

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1 haven't gotten to this, like, I don't even know what, like,
2 and I don't even know if you have a -- this is where it's
3 going to be interesting when we debrief about all this how
4 actually presentations are done because now I'm pulling up
5 slides, like, that show the roof deck.

6 Like, how -- these are my questions and it's not
7 going that smoothly, but I'm trying to articulate them
8 smoothly, which is to say there's the bedroom windows that
9 I was still interested in hearing about that were on the, I
10 guess, western side of the building and how that might be
11 mitigated.

12 I guess I am asking the applicant if they've heard
13 anything different from this presentation. Also I would like
14 to hear from the applicant as to those blinds, as to those
15 architectural blinds, what exactly does that mean? So I'm
16 asking that question of you, Mr. Greenhouse.

17 Those, you know, are they movable? Like, you
18 know, it's, kind of, you know, it's they're not permanently
19 affixed. Like, you know, you can open and close them from
20 what I understand.

21 And then the last thing that wasn't spoken to was
22 the roof deck. I remember that part of the concern that at
23 least I had was that you were going to be able to -- the
24 property was going to be able to look into the rear yard as
25 opposed to just onto Dunbar High School.

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1 So there was three questions there. The windows,
2 have you heard anything new? The roof deck, can you tell me
3 a little bit more about it? And, I guess, you've already
4 spoken to the egress so you don't have to speak to that.

5 So have you heard anything new about the westward
6 bedroom windows and can you speak to the rooftop? And then
7 I'm going to go around the horn with my fellow board members
8 if they have any questions of you.

9 MR. GREENHOUSE: Sure. So thank you for your
10 questions. They, the west windows, what we've done is the,
11 I guess your question number one and question number two are,
12 kind of, grouped together, but how are they mitigated?

13 Well, there the privacy, how the privacy is
14 mitigated, I think, was your question and it's twofold. It's
15 these architectural home shutters.

16 I mean, they are -- you'll see them if you, like,
17 it looks like a shutter does. It opens and closes. It can
18 be in an open position. It can be in a closed position.
19 These are a shutter in a more architecturally significant to
20 this, kind of, modern façade. Oh, yes?

21 CHAIRPERSON HILL: Yeah, I mean, but the open
22 position is they're slid all the way open, right? It's not,
23 like, they're not, like, plantation shutters? In other
24 words, you slide them and then you slide -- it could be a
25 wide-open window is just what I'm trying to find

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1 clarification on.

2 MR. GREENHOUSE: Yes, so it could be. It would
3 be on a roller track, almost like a barn door, you know.

4 CHAIRPERSON HILL: Right, I got you. I
5 understand. So speak to the rooftop?

6 MR. RITTING: Can I interject? This is Jacob
7 Ritting. I'm the board's attorney. Mr. Greenhouse, I'd like
8 to make a suggestion, which is this. You are the applicant
9 in this case.

10 You have the burden of proving to the board's
11 satisfaction that the elements of the test have been met.
12 So what they're looking for is evidence in the record that
13 shows definitively that the test has been met.

14 And when you mention that there are possibilities
15 that doesn't get them to where they need to be. You need to
16 show evidence in the record that definitively addresses the
17 issue. I hope that's helpful to everyone.

18 MR. GREENHOUSE: That is helpful, Mr. Ritting, and
19 I agree. And I think the confusion is that the zoning issues
20 at hand I do believe the burden of proof is the evidence that
21 is met to make this decision. Now, while we have been
22 presenting, there have been other issues and so, such as the
23 egress and the -- unseen, and the --

24 CHAIRPERSON HILL: Okay, Mr. Greenhouse?

25 MR. GREENHOUSE: Yes.

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1 CHAIRPERSON HILL: I'm okay and I'm going to let
2 my board members now ask their questions. Just speak to the
3 rooftop for me.

4 MR. GREENHOUSE: Sure. The roof deck, so the view
5 is on the last slide of the presentation that you were
6 requesting and that is looking -- that is from the roof deck
7 looking in the northwest direction towards the Third Street
8 and P Street backyards. Because of the parapet walls and
9 because they're closed off and the height, it's essentially
10 a privacy element in itself. And then the location of the
11 roof deck itself is, kind of, mitigating --

12 CHAIRPERSON HILL: I got you. I got you. I
13 understand.

14 MR. GREENHOUSE: -- to, like, yellow or a screen
15 or a look.

16 CHAIRPERSON HILL: I got you. And Mr., and then
17 I'll let my board members talk, I promise. I'm looking for
18 the name. Oh, what am I looking for? Oh, Mr. Hunter or Mr.
19 LaPointe, the X that you guys put on that roof deck, you're
20 trying to say what by that X?

21 MR. HUNTER: Because the drawing of, oh, I'm
22 unmuted, it's because the drawing itself makes it look like
23 -- we couldn't really accurately tell based on the drawing
24 here, but it looked like he was adding another floor.

25 And for me that's, sort of, where that was coming

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1 from, the X on the roof, considering -- I mean, if there was
2 no outdoor space for the applicant but there is based on the
3 greenery next to the home, it just -- it seemed like he was
4 adding another floor. I just --

5 CHAIRPERSON HILL: Okay. I understand. I
6 understand.

7 MR. HUNTER: It looked like a floor and I was
8 confused if he was adding another floor and I thought that
9 was, you know, excessive, considering that wasn't really on
10 the original plan.

11 CHAIRPERSON HILL: I understand. Well, I mean,
12 my --

13 MR. HUNTER: But that --

14 CHAIRPERSON HILL: -- just to clarify for you and
15 then I'm going to give up, or I'm sorry, I'm going to pass
16 it on, the roof deck he did seem to put that railing there,
17 the applicant, that was keeping the people, keeping whoever
18 was on that roof from getting over on that side of the
19 building to look into you all's yard. And so that's why I
20 was confused by that X. But I can get more clarity from it.

21 I wasn't clear if you were saying you didn't even
22 want that there, you know, and that's what I just didn't
23 understand.

24 So I'm going to go ahead and, I did see your face,
25 so I'm going to go ahead now and let Chairman Hood ask any

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1 questions he has?

2 ZC CHAIR HOOD: I don't really have any questions.
3 I was more interested in Mr. Greenhouse's comments. First,
4 I was a bit -- the perception to me was, and hear his
5 conversation the way he was talking, was some entitlement,
6 which I understand he does.

7 But also, I want to remind everyone that part of
8 our charge is to protect the health and safety of the
9 residents of the District of Columbia. That's a charge that
10 I take on the Zoning Commission. I'm sure others, I'm not
11 sure how you're sworn in, I'm not sure, but I know zoning
12 always has -- we always look at impacts.

13 So to me it goes to that next step. But my
14 question is to Mr. Greenhouse, and I don't necessarily have
15 a question, but my comment, and I don't necessarily have a
16 question, but it's just a comment. I hear Mr. Greenhouse
17 willing to listen and sound like there could be some
18 agreements or some conversations being had.

19 I'm more interested in that the rest of the case
20 when those decisions, I believe all that can be worked out,
21 but to me, it's about the safety and health of the residents
22 of this city. And as far as I'm concerned, that's where I
23 am. That's the big key point for me on this case.

24 But I was glad to hear that that entitlement
25 presentation Mr. Greenhouse changed to a, hey, let's see if

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1 we can resolve this. And I would hope that Mr. Hunter and
2 others, everybody, we can work on that. So I'm looking
3 forward to that.

4 I'm not sure where the chairman's going to go with
5 this. I don't have any other questions. I believe
6 everything else can be worked out.

7 But I don't want us to stop short and say, okay,
8 this is not within our purview, but zoning is because we take
9 an oath and it says we take the safety and health of the
10 residents of the District of Columbia, so that's important.
11 So that's all I have, Mr. Chairman.

12 CHAIRPERSON HILL: Okay. So Mr. Greenhouse, just
13 to follow up on what Chairman Hood seemed to have just said,
14 it's the egress issue might be something that he is
15 interested in more specifically about in terms whatever it
16 is that you all -- because I don't think we're there yet.
17 You know, we're going to have another discussion, I think,
18 you know?

19 But so that seems to be something that he's
20 interested in. And I hear your point, which is that, well,
21 not point, you all need to talk about it. Is it a safety
22 egress issue? How do you know that is? Whatever it is you
23 all, kind of, working that out and so that's what I hear
24 Chairman Hood saying.

25 Ms. John, would you like to go next?

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1 MEMBER JOHN: For me the egress is still an issue
2 and I wanted to hear from the property owners if they had
3 talked to their neighbors to see if the neighbors themselves
4 were interested in some sort of an accommodation where there
5 would be, like, a walkway to the west of the applicant's
6 property which would be shared and would involve the owners
7 on that side also giving up feet on their properties, at the
8 rear of their properties, to accommodate the walkway?

9 Did anyone discuss that or is the idea that the
10 applicant alone would set aside property to accommodate the
11 easement? In other words, did you see this as a shared
12 easement where everyone would contribute a portion, maybe two
13 feet to have access to Third Street, to, I'm sorry, the alley
14 to the south of the property?

15 CHAIRPERSON HILL: I'll let everyone respond to
16 that.

17 MR. GREENHOUSE: Okay.

18 CHAIRPERSON HILL: Mr. Greenhouse, would you like
19 to start?

20 MR. GREENHOUSE: Member John, that is essentially
21 more eloquently put in my original proposal. Although my
22 original was on their property, I'm more than willing to open
23 up the conversation of sharing that down the western portion.
24 I guess, the egress would have to be three feet wide or
25 whatever it is, but an even split where both parties are

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1 involved.

2 I think that's a really interesting concept and
3 I'd also be willing to cover the cost of that if we ever got
4 to the point of agreement. But yes, that is something
5 definitely we're considering absolutely, from my perspective.
6 I can't answer on everyone else's part.

7 MEMBER JOHN: And I'm looking at, well, I was just
8 going to follow up to make one more observation. Just
9 looking at Exhibit 69, Slide 4, that might not solve the
10 problem of the owners on P Street. So I, you know, you'd
11 have to all get together and figure that out. But they're
12 not parties, so --

13 CHAIRPERSON HILL: Mr. DeWerd?

14 MR. DEWERD: Yeah, just that I think in terms of
15 placement of a walkway we're very open to where it would be,
16 but exit just can't be on the south side of the lot because
17 there's a six-foot drop between the property lines and the
18 ground for the private alley.

19 So we just need some sort of access on the east
20 side of all the lots and then I think we'd all be open to
21 figuring out how can we share that together.

22 MEMBER JOHN: So the east side of the lot would
23 be towards the Dunbar side.

24 MR. DEWERD: The private alley, Dunbar is to the
25 south and that's where --

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1 MEMBER JOHN: Okay.

2 MR. DEWERD: -- the six-foot drop off is.

3 MEMBER JOHN: Uh-huh. So can you take a look at
4 Exhibit 69, Slide 4? I'm trying to understand where that
5 walkway would run.

6 MR. HUNTER: Are you looking at the -- does that
7 line with the red line that says public access to alley in
8 case of emergency? Are you looking at that exhibit or are
9 you looking at the --

10 MEMBER JOHN: It's the Slide 4. It's Exhibit 69
11 is the revised drawing, the revised. I had always thought
12 that the better place for the walkway if there was one would
13 be behind Third Street. But now you're saying that the alley
14 should be east of Third Street. I believe that's east. Yes,
15 that would be east of Third Street.

16 MR. GREENHOUSE: I think that that --

17 CHAIRPERSON HILL: Yes, so this must be --

18 MEMBER JOHN: Mr. Greenhouse?

19 MR. GREENHOUSE: I'm sorry.

20 MEMBER JOHN: I couldn't hear you. Can you --

21 MR. GREENHOUSE: The main issue is getting, kind
22 of, to the public side, which is the biggest complexity here
23 is getting to the east, right? Because we have to, although
24 there is an alley there we have to treat it as if it's a
25 nine-story building, private, even though it's a private

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1 alley.

2 MEMBER JOHN: Right.

3 MR. GREENHOUSE: That's where I think maybe the
4 combination of Mr. Hunter's most recent submittal where they
5 have that emergency easement along the south side of my
6 property, in combination with that east side, I think there
7 could be some solution there.

8 My biggest fear would be that that would be used
9 for, one, that security would be hindered because the gates
10 won't be up, and then two, that it would be used for means
11 other than egress.

12 If there's a way -- emergency egress. If there's
13 a way we can come to a resolution, I think, and I've looked
14 at this upside down, both ways, this would be a really
15 interesting way to achieve the egress for Third Street
16 properties.

17 Now, I still have to analyze the P Street
18 properties. I have been in contact with a few of them, but
19 it, you just can't get everyone at one time because they're
20 two different situations. But I think to say that what we're
21 talking about today, if we combined a section down the west
22 side of the property and then the south side of mine towards
23 the public alley, that is feasible and realistic and fair.

24 And now I've got to take it to the next step,
25 which is, you know, how are we going to implement it? How

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1 will it be operated and maintained? Who's going to sign the
2 agreements? Who's going to finance it?

3 So at this point I can't agree to it, but I can
4 say that's the best option I've seen so far and I'd love to
5 explore that.

6 MEMBER JOHN: And so just to follow up, when you
7 way to the public side of the alley, this is not a very good
8 showing of where the public alley is. On Third Street right
9 to the south side of your property where's that big red
10 square, is there an alley there?

11 MR. GREENHOUSE: Yes, there's an --

12 MR. HUNTER: No, that's not an alley. That is an
13 entrance.

14 MEMBER JOHN: So the alley you're speaking of
15 would run between that red square and your property?

16 MR. GREENHOUSE: Yeah, so it is actually defined
17 by DDOT and it is an alley and it's in the alley maintenance
18 inventory. It was created as a --

19 MR. HUNTER: That's not true.

20 MR. GREENHOUSE: If I'm --

21 MEMBER JOHN: Well, is it a public alley or is it
22 a private alley?

23 MR. HUNTER: It is a private entrance. It's not
24 an alley --

25 CHAIRPERSON HILL: Hello?

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1 MR. HUNTER: -- based on the definition of an
2 alley.

3 CHAIRPERSON HILL: Hello, hello, hello? You know
4 --

5 MR. HUNTER: Sorry.

6 CHAIRPERSON HILL: We're not supposed to --

7 MR. GREENHOUSE: It's a --

8 CHAIRPERSON HILL: Sure. Hunter, hey, Mr. Hunter
9 and Mr. LaPointe, really, can we just go one at a time and,
10 like, you know, so you are disputing what Mr. Greenhouse is
11 saying as to whether or not that is or isn't an alley. And
12 so Ms. John, please finish asking your question again of Mr.
13 Greenhouse?

14 MEMBER JOHN: So I was trying to, I was trying to
15 understand. Assuming the parties could come to an agreement
16 and could construct a walkway to the west of the lot, could
17 there be access to Third Street south of that end unit? Or
18 I don't know, you know, who owns that lot on Third Street?

19 Or as Mr. Greenhouse is saying, the walkway would
20 have to come along his property east all the way up to P
21 Street.

22 CHAIRPERSON HILL: Right. So may I interrupt
23 because I'm kind of curious now, too? So Mr. Hunter, you,
24 in your slide submission, you have these X's on the doors.
25 I kind of took that as you meant that that might be a way

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1 that you guys could walk around for egress. Is that correct?

2 MR. HUNTER: Correct, because -- yes, that's
3 correct. Because I guess where his fence line will be and
4 where our fence line would be there's a, I'm not sure how
5 many --

6 CHAIRPERSON HILL: Okay. I got you. Feet.

7 MR. HUNTER: -- and not lead to the public alley,
8 yes.

9 CHAIRPERSON HILL: I understand. So the
10 discussion, Ms. John, and I'm just trying to clarify even for
11 my understanding, west is the line that you guys are talking
12 about.

13 And we're getting into the weeds here, but west
14 is where you guys are, kind of, walk down all the way to the
15 end of the property and then over to the east in order to get
16 out. That's what is being discussed, correct? Mr.
17 Greenhouse, is that what we're talking about? Yes?

18 MR. GREENHOUSE: Um --

19 CHAIRPERSON HILL: In some capacity?

20 MR. GREENHOUSE: Yeah, exactly. Exactly. It's
21 the --

22 CHAIRPERSON HILL: Just that's -- so Ms. John, do
23 you understand that portion?

24 MEMBER JOHN: Yes, I understand that. And my
25 understanding, too, is that that portion to the east is where

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1 the Dunbar private alley is, or not?

2 CHAIRPERSON HILL: Can I --

3 MR. HUNTER: It's south.

4 MEMBER JOHN: Pardon?

5 MR. HUNTER: You mean south? We would be to the
6 east of the alley itself, south would be the Dunbar private
7 property --

8 MEMBER JOHN: Okay, so I'm looking --

9 MR. HUNTER: -- and the west would be our homes.

10 MEMBER JOHN: -- at the little diagram below that
11 says east is to the short side of the lot. Now, is that area
12 private or public? So this is where we are hurt by not being
13 able to point to things on a map.

14 CHAIRPERSON HILL: Right.

15 MEMBER JOHN: So to the east of the property is
16 an alley. Is that private or public?

17 MR. GREENHOUSE: Public.

18 MEMBER JOHN: Public.

19 MR. HUNTER: That is, yes, public.

20 CHAIRPERSON HILL: And Ms. John, as I recall the
21 last time and this is what made their -- there was a problem
22 it was, like, if you followed the property on the western
23 side all the way to the end of the property on the south that
24 is a high wall.

25 And so there was a, the initial thing was a ladder

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1 to come down that high wall. And now what I understand, at
2 least this discussion, is come down that westerly side and
3 then head east to walk along that high wall to exit to the
4 public alley on the east. Do you follow me?

5 MEMBER JOHN: Yes. Yes, so --

6 CHAIRPERSON HILL: Okay.

7 MEMBER JOHN: -- the property owners could, you
8 know, perhaps contribute, you know, a foot or whatever and
9 Mr. Greenhouse would contribute a foot or so, which would
10 take them out of the private alley and exit onto the public
11 alley on the east?

12 MR. GREENHOUSE: Yes, but --

13 MEMBER JOHN: I mean, just theoretically.

14 MR. GREENHOUSE: Yeah, but it actually would be
15 more, I would use my entire south side setback as -- it
16 wouldn't be on the retaining wall. It would be on my
17 property where you see that five-foot setback toward the
18 south of the property. That would be the egress from the
19 west to the east is the best way I can describe it.

20 MEMBER JOHN: Okay, okay.

21 CHAIRPERSON HILL: Okay, so Ms. John --

22 MEMBER JOHN: So I just wanted -- pardon?

23 CHAIRPERSON HILL: No, no, that's okay. Go ahead
24 please.

25 MEMBER JOHN: I just wanted to jumpstart the

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1 conversation.

2 CHAIRPERSON HILL: I like that, yeah. Okay, Mr.
3 Hart, do you have any questions for anyone?

4 VICE CHAIRPERSON HART: Actually more of a
5 statement of basically of where I think we are. Mr. Ritting
6 gave us some guidance and just noted that this is the burden
7 for the applicant to provide sufficient information for the
8 board to be able to determine that they are meeting the
9 zoning requirements, the zoning regulations.

10 And it is my dad always told me that, you know,
11 talk is cheap. We can talk about a lot of things that, you
12 know, might possibly hop in or whatever.

13 My thing is we need to have -- if we are to move
14 forward with this, I think that I've heard enough
15 conversation that we need to have some sort of an agreement
16 if that is, if they're able to do that regarding a couple of
17 things.

18 One if it's egress or this easement -- actually,
19 no, I'm sorry. The agreement should deal with the easement
20 or whatever that egress is going to be. The other part,
21 because I connect it to the adversely impacting -- I connect
22 it to the zoning regs Subtitle X901.

23 I also connect the issue of privacy and I think
24 there should be something in the drawings that say, and so
25 this is for you, Mr. Greenhouse, that's saying this is a --

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1 I would prefer to have that these windows are going to be
2 translucent up until this point. You can choose a point, six
3 feet, seven feet off from the floor, but some point that
4 that, kind of, addresses the zoning regulations.

5 And then the other point has to do with the deck.
6 I just think that there needs to be a, and it sounds like
7 that Mr. Greenhouse has actually put forward the plans that
8 show that on the western side of this building that to
9 mitigate the issues about privacy there won't be any deck on
10 the western portion of the building.

11 And I think that that actually includes that in
12 there and that we can possibly have a condition that says
13 that, you know, that the deck will be only on the eastern
14 portion of the deck, of the roof.

15 And it's, I don't know, whatever the size it is.
16 That there's a way to make that as part of a very definitive
17 statement, but again, going to Mr. Ritting, this is we need
18 to have these documents to be able to, I think, have a final
19 discussion on this and then to be able to make that final
20 decision.

21 But to say that there is a, well, we could
22 possibly and oh, we could kind of do this, I think that
23 that's nice to have that kind of discussion, but it doesn't
24 have us -- it doesn't get us to the end which is a definitive
25 agreement that says this is what we're going to do.

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1 And again, I appreciate Mr. Ritting bringing that
2 up in terms of having to follow and understand how this deals
3 with the zoning regulations. I think that we have
4 information regarding the FEMS and where they stand on this,
5 so that's one part of the zoning regulations.

6 But this part of it, I think, is it still needs
7 some work before I can make that final determination for or
8 against.

9 You know, if there's no agreement then I have to
10 take that into consideration. But I think right now it is
11 still in the cooking. It's not done yet. So there needs to
12 be some further determination and discussion that happens
13 prior to the final decision that I think that we can make.

14 And I'll leave my, I'll leave that as my end
15 statement.

16 MEMBER JOHN: So Mr. Hart, can I just go over what
17 I hear you saying?

18 VICE CHAIRPERSON HART: Sure.

19 MEMBER JOHN: That we have a possible
20 recommendation for the windows so we can maybe put that to
21 bed. And based on OP's discussion we're not talking about
22 horizontal windows as shown in Exhibit 69, Slide 4.

23 That we have information on FEMS. That to me it
24 was clear that the deck was on the right side, but what
25 you're saying that we need to have something more clarifying

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1 that the deck will only be on the right side.

2 And then the only outstanding issue is in terms
3 of egress and that's to mitigate any potential impact on
4 locating the building in this location?

5 VICE CHAIRPERSON HART: That's correct, thank you.

6 MEMBER JOHN: And to a certain, well, I'll just
7 leave it there, knowing that this lot is a record lot or is,
8 you know, meets the dimensions for a record lot. And as the
9 chairman said, we are looking at a special exception, not a
10 variance for the applicants the burden is less.

11 But it's a good idea to try to work something out.

12 VICE CHAIRPERSON HART: Yes, thank you.

13 CHAIRPERSON HILL: Okay, I'm going to let
14 everybody go one more. I mean, everybody's gone. I'm going
15 to go one more round then Mr. Hood you can also add in, but
16 this is more actually for OAG. If you could just take notes
17 because this is, kind of, what I think we want. This is what
18 we're asking of the applicant. Okay?

19 So further clarity on the window issue on the
20 bedroom to the west and so there now has been a suggestion
21 made by one of the board members for opaque up to a certain
22 level and then above that clear glass.

23 Then the other -- and so that's one thing and
24 that's one thing that we're asking from the applicant. The
25 other thing that we're asking from the applicant I guess is

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1 clarification. I just, I kind of think I already understand
2 but I will ask from the applicant, like, the roof deck.

3 I mean, Mr. Greenhouse, it seems as though you've
4 made it so that you can't look into the back yards of those
5 properties, but just provide something further into the
6 record.

7 Or you can repost this into the record that shows
8 that that roof deck is only on the eastern and southern side
9 of the building and you can't go looking into the backyards.
10 And this is, again, how it's all relating to, I guess, you
11 know, general X901 in terms of adverse impact to the
12 property.

13 So those -- and then the last one. This is going
14 to be, I think, the hardest one for discussion that Chairman
15 Hood had mentioned was, again, the egress for, you know, how
16 you guys, kind of, share the burden of the egress.

17 And then this is actually now also more to Mr.
18 DeWerd and Mr. Hunter and Mr. LaPointe, which is that it's
19 for emergency egress, right? This is what I understand this
20 to be.

21 It's not for trash removal. It's not for, like,
22 you know, another way that you can leave your home. It's
23 literally in case of a fire and life or death emergency
24 egress. So that's where what Mr. Ritting, OAG, has mentioned
25 because you have to prove to the board that this is now done,

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1 right?

2 This is now, you know, not something that is a
3 like to have. This has now been put to bed. And I think
4 that if we can get those issues, if we can have that
5 submitted into the record then we can make a decision.

6 I didn't know, Mr. Greenhouse, again, just kind
7 of, like, where there was such a concern from the board
8 concerning this egress. So I think you've got some noes --
9 in other words, what I think is I think you've got a bunch
10 of noes in here also right now, so I don't know whether
11 you're at yes or not.

12 So this is where I think you do need to work with
13 your neighbors there to try to figure out something that you
14 can present to us that can make the board feel more
15 comfortable about whether or not the criteria has been met.

16 And Chairman Hood, I'm going to leave you with the
17 last word before I ask if the applicants or the party, and
18 I'll do the party status first, if they have any questions
19 about any of what I said?

20 ZC CHAIR HOOD: Is -- he left me with the last
21 word and then he left?

22 CHAIRPERSON HILL: No, no, can you hear me?

23 ZC CHAIR HOOD: Yeah, I can hear you but you
24 disappeared. I wanted to look at you.

25 CHAIRPERSON HILL: A phone call came in and this

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1 is just the craziest thing, man. So Mr. Hood, go ahead.

2 ZC CHAIR HOOD: Thank you, Mr. Chairman, but I
3 actually had nothing else to say. I actually have nothing
4 else to say. Let's just look forward to when we finish this
5 hearing with all my colleagues have asked for. And then
6 let's come back with a win-win. And I'll leave it at that.

7 CHAIRPERSON HILL: Okay. Mr. LaPointe? Mr.
8 LaPointe, sorry, and Mr. Hunter, do you understand what has
9 been asked at this point?

10 MR. LAPOINTE: Yes.

11 MR. HUNTER: Yes. Yes, we do. But I do have one
12 question. There is a witness, I guess, it's somebody applied
13 to be a witness. I don't know if Paul can see if somebody
14 is --

15 MR. YOUNG: I was just about to interject to let
16 Chair --

17 MR. HUNTER: Okay.

18 MR. YOUNG: -- Hill know that there were two
19 people that had signed up for public testimony, so --

20 CHAIRPERSON HILL: Okay. No, I appreciate that.
21 So we're not done. All right. Where are we? Oh, got you,
22 okay. So there's two people that are waiting to speak. Are
23 they both --

24 MR. YOUNG: There's two that had signed up but one
25 I do not see here.

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1 CHAIRPERSON HILL: Okay, who do you have with us?

2 MR. YOUNG: I have Alex Alonso, who is signed up
3 as undeclared.

4 CHAIRPERSON HILL: Okay. Before you bring that
5 person up, so Mr. LaPointe and Mr. Hunter, do you understand
6 where we are right now --

7 MR. LAPOINTE: Yes.

8 CHAIRPERSON HILL: -- with the discussion?

9 MR. HUNTER: Yes. Yes, yes.

10 CHAIRPERSON HILL: Okay. Mr. DeWerd, do you
11 understand?

12 MR. DEWERD: Yes, no questions at this point.

13 CHAIRPERSON HILL: Okay. Mr. Greenhouse, do you
14 understand?

15 MR. GREENHOUSE: Yes, I do.

16 CHAIRPERSON HILL: Okay. And to all of you,
17 again, I continue to reiterate there -- Mr. -- you know, you
18 all got to get together. And, like, this is the last time
19 we're doing this. Like, this is taking a long time. Like,
20 and I don't know and whoever, whatever, you know, is
21 difficult getting together, get together, right?

22 And the hardest part, I think, is going to be the
23 egress issue and everybody's going to have to be fair, right,
24 and be realistic about this is emergency. You're going to
25 have to share some issues. You're going to have to, like,

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1 give up some things and, you know, so that's my two cents on
2 that one.

3 So Mr. Young, you have a witness that you want to
4 bring forward?

5 MR. YOUNG: Yeah, he should be on now.

6 CHAIRPERSON HILL: Mr. Alonso, can you hear me?

7 MR. ALONSO: I can hear you. Can you hear me?

8 CHAIRPERSON HILL: I can. Well, Mr. Alonso --

9 MR. ALONSO: Excellent.

10 CHAIRPERSON HILL: -- you as a member of the
11 public will have three minutes to testify and I don't know
12 if you can see that clock, and if Mr. Young could put three
13 minutes on the clock?

14 MR. ALONSO: So I am a neighbor within 200 feet.
15 But the positive thing about going last is that it seems like
16 everybody has covered a lot of things that I was going to
17 cover and I really appreciate all the work that you do.

18 And I just, I kind of wanted to emphasize what Mr.
19 Ritting said that, you know, it is the burden on the
20 applicant here. And I feel like a lot of burden has been
21 placed on my fellow neighbors on Third Street, including, you
22 know, burden to come up with solutions when it doesn't --
23 including by the chairman and others.

24 You know, I think the board should really look,
25 place all the burden, right, and what the 900 series says

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1 that the complete burden is placed on the applicant by the
2 board.

3 But it does seem like, hopefully, that there
4 somehow could be solutions here, but if there's not
5 solutions, I mean, this is an exception. And not everybody
6 is exceptional. We don't live in Lake Woebegone.

7 So, you know, ultimately at the end of the day,
8 you know, if the property has to be used without an exception
9 the property has to be used without an exception.

10 Not that the property won't be used. It just has
11 to be used without an exception. And that's, you know,
12 within the board's purview not to grant an exception.

13 This is a circumstance where the ANC did not --
14 the ANC opposed this and, you know, several neighbors did
15 also oppose it. I didn't want that to go without note, but
16 it's going to, you know, I think Mr. DeWerd and others are,
17 you know, going to try to see if there's a solution.

18 But I don't want it to be missed that if there's
19 not, you know, that doesn't mean that it's their burden to
20 come up with a solution. They don't have that burden.

21 And to the point about blocking in, I mean, just
22 because -- no matter how many properties Office of Planning
23 or Mr. Greenhouse can point out that have been blocked in in
24 the past, I think to Commissioner Hood's point, doesn't mean
25 you have to replicate that problem throughout the city. This

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1 board has the power to not replicate that problem by
2 approving another situation.

3 You know, this property doesn't have that problem
4 right now and you don't have to create that problem. And I
5 agree that there are a lot of, to Mr. Hart's point, there are
6 a lot of potentialities right now, but nothing in the record
7 that actually proves the burden has been met. Thank you.

8 CHAIRPERSON HILL: Okay. All right, thank you,
9 Mr. Alonso. Does the board have any questions for Mr.
10 Alonso?

11 MEMBER JOHN: Yes. Where do you live, Mr. Alonso?

12 MR. ALONSO: I rushed right past that.

13 MEMBER JOHN: Are you on Third Street or do you
14 live on Third Street or P Street?

15 MR. ALONSO: I live on Third Street, ma'am. I
16 live at 1412 Third Street.

17 MEMBER JOHN: And is that in the same block as the
18 other two? I just can't tell where --

19 MR. ALONSO: Yes.

20 MEMBER JOHN: Okay, thanks.

21 MR. ALONSO: Yeah, I'm sorry, ma'am. I live
22 directly across from Mr. Hunter, directly across from the
23 private alley entrance way.

24 MEMBER JOHN: Does your property about the -- Mr.
25 Greenhouse's lot?

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1 MR. ALONSO: No, it does not. I'm, so Mr.
2 Hunter's property abuts and I am directly across the street
3 from Mr. Hunter.

4 MEMBER JOHN: Oh, okay, all right. Thank you.

5 CHAIRPERSON HILL: Okay. All right, Mr. Alonso,
6 thank you very much.

7 MR. ALONSO: Thank you, sir.

8 CHAIRPERSON HILL: So Paul, I guess can you once
9 we -- can you put witnesses back as attendees or how does
10 that work? Oh, okay, you've done that. All right.

11 Okay, all right, so to my fellow board members,
12 I'm a little torn. And I can actually see you guys on
13 different screens. Do you all want a meeting or a continued
14 hearing?

15 VICE CHAIRPERSON HART: I think we should probably
16 look at this as a continued hearing only because there may
17 be some questions that we have on this after. I mean, we
18 don't know what any of this stuff is, but I think it should
19 be just limited to the two or three things that we requested.

20 CHAIRPERSON HILL: Okay. All right, okay. All
21 right, I only needed one. So okay, so we'll go ahead and do
22 a continued hearing. Mr. Hood, Ms. John, I can see. You can
23 just not yes, I guess unless you have some problem with it?
24 Okay, all right.

25 So Mr. Moy if we do a continued hearing and then

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1 I guess I'll turn to Mr. Greenhouse. Mr. Greenhouse, you
2 know, you're going to have to take a little time, I guess,
3 figure this out, come up with some stuff. What do you think
4 would be your timeline?

5 MR. GREENHOUSE: I'm dwindling on timeline so I
6 would just request as soon as possible after I can meet with
7 Mr. DeWerd, Mr. LaPointe and Mr. Hunter. So I would base
8 that answer off when is the soonest I can meet with those
9 parties.

10 CHAIRPERSON HILL: Okay, well, let me do this.
11 Mr. Moy, if I came back on a continued hearing for June 24th,
12 what does that look like?

13 MR. MOY: Yes, I was going to suggest that as
14 well, Mr. Chairman. So if you held the continued hearing on
15 June 24th, I would suggest that the applicant make his filing
16 by Friday, June the 12th and responses by the following
17 Friday from the parties, June the 19th.

18 CHAIRPERSON HILL: Okay, Mr. Greenhouse?

19 MR. MOY: -- so there's further discussion.

20 CHAIRPERSON HILL: Right. So Mr. Greenhouse and
21 everybody, and this is where you guys have got to help me out
22 and I can't send you all the pictures now, meaning Mr. DeWerd
23 and Mr. LaPointe and Mr. Hunter. You all got to get
24 together. You all got to get together right away, right?
25 So I, you know, do you all have each other's contact

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1 information, I assume?

2 MR. HUNTER: Yes.

3 MR. GREENHOUSE: Yes, we do.

4 MR. DEWERD: Mr. Chairman, can I make one request
5 thought?

6 CHAIRPERSON HILL: Who's talking?

7 MR. DEWERD: This is Ryan DeWerd.

8 CHAIRPERSON HILL: Okay, sure.

9 MR. DEWERD: So it's in being able to come to an
10 agreement there's six other houses in addition to us. We
11 have party status, but (telephonic interference) individuals
12 are also impacted. So I'd just ask that Mr. Greenhouse work
13 to reach out to Mr. Flynn's, Darrell and Janna (phonetic),
14 any -- the entire block.

15 MR. HUNTER: And it is.

16 MR. DEWERD: It's we're representatives but it's
17 everybody else is also impacted.

18 MR. HUNTER: And it also should be noted, it
19 should be noted that those individuals he named have
20 submitted letters of opposition that are in the exhibit
21 record.

22 CHAIRPERSON HILL: Okay. So Mr. Greenhouse,
23 right, so I'm a little, well, let's put it this way. I've
24 got Mr. Hunter, Mr. LaPointe and Mr. DeWerd, you guys have
25 party status, okay? So I need something from you guys,

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1 right, okay? And again, fi this just doesn't -- I mean, I
2 guess, let me try to say it this way.

3 We're actually getting involved in something that
4 we normally don't get involved in to a certain extent. Like,
5 we're really getting into the minutiae of this.

6 This has gone on for a very long time in terms of
7 this, the hearing, now. And I guess what I'm just trying to
8 get at is, you know, Mr. DeWerd, I understand what your point
9 is and I wish everybody luck, I suppose, right? Okay.

10 Then try to get together, Mr. Greenhouse, with
11 everybody that you can but Mr. Hunter, Mr. LaPointe and Mr.
12 DeWerd, you guys are the ones with party status, right? So
13 I need you all to work together to try to do something,
14 right?

15 And I guess what you're saying is that, right, if
16 you're going to get sign off from all of these other
17 properties, I'm just looking, I don't know what the numbers
18 are on everybody that's along that property line. You know,
19 that might just be difficult. I don't know, right?

20 You know, and I don't know, Mr. Greenhouse, if you
21 have a different suggestion, but you all got to come up with
22 something that we're looking at by June 12th. So basically,
23 Mr. Greenhouse, June 12th you submit whatever you think your
24 best offer is, right.

25 And then everybody gets to reply by June 19th as

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1 to what they think of your best offer. And then we are going
2 to determine what we think of you all's best offer on June
3 24th. Okay?

4 MR. GREENHOUSE: Okay. Could I make a suggestion?

5 CHAIRPERSON HILL: Sure.

6 MR. GREENHOUSE: Can we schedule, while we're on
7 the record and the board's here, the first step is meeting
8 with everyone, can I schedule tomorrow as an opportunity for
9 us all to just speak on a Zoom meeting and so that gives me
10 ample time to revise the plans before the 12th. I need that
11 time to talk to my architect and design team.

12 CHAIRPERSON HILL: I mean, I don't mind you being
13 on the record, meaning we'll just facilitate here for 30
14 seconds, but, like, you know --

15 MR. GREENHOUSE: Yeah.

16 CHAIRPERSON HILL: -- there's nothing about this
17 that has anything to do with anything.

18 MR. GREENHOUSE: No, I'm --

19 CHAIRPERSON HILL: Mr. Hunter and Mr. --

20 MR. GREENHOUSE: Yeah, I'm sorry.

21 CHAIRPERSON HILL: -- that's okay. Can you all
22 talk tomorrow?

23 MR. DEWERD: I have a calendar opening from 8:30
24 until 9:00, otherwise I'm booked solid.

25 MR. GREENHOUSE: That works for me. Half an hour

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1 --

2 CHAIRPERSON HILL: Mr. DeWerd? It's not a lot of
3 time. At least it's a first step.

4 MR. HUNTER: No, it's not a lot of time. I'd have
5 to look at my work calendar, but --

6 MR. LAPOINTE: Like, tomorrow I have the --

7 MR. HUNTER: We're opening.

8 CHAIRPERSON HILL: All right. You all at least
9 start a conversation at 8:30 tomorrow, okay? And you can at
10 least schedule another call. Regardless, I'm letting you all
11 know and I can see my fellow board members kind of swishing
12 around in their chairs. We're going to decide on June 24th,
13 okay? And so and there you go, okay?

14 And so does anybody else have anything they'd like
15 to add?

16 MR. GREENHOUSE: Is this another limited scope
17 hearing or is this a continued hearing? Just so I'm clear
18 for planning?

19 CHAIRPERSON HILL: Sure. This is a limited scope
20 hearing just on the issues that we've brought up, which is,
21 again, the egress, the emergency egress, those windows on the
22 west and the roof deck.

23 And then any questions, Mr. Greenhouse?

24 MR. GREENHOUSE: No, that's it. Thank you.

25 VICE CHAIRPERSON HART: Mr. Chairman?

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1 CHAIRPERSON HILL: Sure, who's that?

2 VICE CHAIRPERSON HART: This is Vice Chair Hart.

3 CHAIRPERSON HILL: Okay, Mr. Hart, yes?

4 VICE CHAIRPERSON HART: So I noted that we should
5 have a limited scope hearing. Do you want to have this as
6 a meeting?

7 CHAIRPERSON HILL: No, I'm fine with the limited
8 scope hearing.

9 VICE CHAIRPERSON HART: Okay.

10 CHAIRPERSON HILL: I mean, I'd be curious also.

11 VICE CHAIRPERSON HART: Okay.

12 CHAIRPERSON HILL: I mean, you know, I mean, I
13 guess I don't know what's going to happen, but I know that
14 this isn't going to go on forever.

15 VICE CHAIRPERSON HART: Yeah, I know.

16 CHAIRPERSON HILL: So on the 24th, you know, we'll
17 at least find out something.

18 VICE CHAIRPERSON HART: Yeah.

19 CHAIRPERSON HILL: Okay?

20 VICE CHAIRPERSON HART: All right.

21 CHAIRPERSON HILL: And I think that on the 24th,
22 like, I'm going to have enough information, so, you know,
23 okay.

24 MR. GREENHOUSE: Can I just ask one more question?

25 On the 24th will that be a full order going back to the

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1 decision, again, for just planning purposes.

2 CHAIRPERSON HILL: Sure. Yeah, Mr. Greenhouse,
3 I'm sorry. I can talk this through if you'd like. On the
4 24th we'll probably have a continued hearing. If you guys
5 all get to someplace that might seem good and you have proof
6 in the record that we think that everybody's, you know, that
7 you're satisfying the zoning criteria that we're just
8 basically just talking about right now, then perhaps, oh, no.
9 Then we can't make a bench decision anyway anymore because
10 (telephonic interference).

11 ZC CHAIR HOOD: So, Mr. Chairman. Mr. Chairman?
12 I want you to -- I want us to remember this case as we
13 continue to look at our virtual regulations.

14 I need to put that out there right now and I'm
15 talking to the board. I want you to remember this type of
16 case because there will be some further discussion on this
17 exact point that you just made on these type of cases. All
18 right.

19 CHAIRPERSON HILL: Okay, okay, okay. So again,
20 the 24th we'll be back here. We'll hear from everybody.
21 Hopefully, that will be the end of that.

22 Then we'll make a decision on the 1st of July,
23 okay, one way or the other, right? I mean, if it's a no you
24 don't have to worry. If it's a yes then you get a full order
25 because you don't have the ANC anyway, right? So you in a

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1 full order regardless of what happens. Does that answer your
2 question, Mr. Greenhouse?

3 MR. GREENHOUSE: Yes, and the timeline for the
4 full order was like you said at a previous hearing it could
5 take up to a year?

6 CHAIRPERSON HILL: I mean, I don't know if that's
7 -- it takes a long time. I mean, I don't know, Mr. Moy, if
8 you have any kind of idea as to what the timeline is, kind
9 of? I can't even put you on the record really, I mean, I
10 don't know.

11 MR. MOY: No, no, it's -- no, that's fine. Though
12 what you did, we work as fast as we can.

13 MR. GREENHOUSE: Well, but I can move forward with
14 the full hearing after the first without -- the timeline is
15 to receive the full order, correct, not to make a decision?
16 The decision will be made on July 1st whether I can move
17 forward or not.

18 But I'm asking these questions only because this
19 is vacant land and there's really -- there is a constraint
20 financially to duration here. There's not much I can do with
21 it until then.

22 CHAIRPERSON HILL: But first, and this is where
23 I forget how this works also. I mean, as I recall, Mr.
24 Greenhouse, like, you get a yes or a no let's say on the 1st.
25 Let's just say you get a yes, right? Then you're at -- then

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1 I forget how the full order questions are then, I forget.

2 You're then at risk. You basically have to wait
3 until the full order and then you have to wait for the appeal
4 time to last before you're 100 percent done, right.

5 So the appeal time, I think, is 60 days after the
6 full order comes out and so, you know, you're just basically
7 at risk. You can do all the building you want. You can do
8 everything you want and then the order comes out and then
9 somebody appeals you inside of the 60-day window and then
10 you're in an appeal process, right.

11 But still you could win the appeal and it doesn't
12 matter because then whatever you built is what you built.
13 So if that helps with your timeline discussion, I don't know.

14 MR. GREENHOUSE: Yes, a lot of risk, but no, that
15 did answer a lot of questions, thank you.

16 CHAIRPERSON HILL: Okay. All right. Are we done?
17 Does anybody have anything? Okay. Is that it? I'm going
18 to let everybody have their opportunity. Okay. All right,
19 well then, gentlemen, in terms of your case being done we're
20 done with you. So thank you very much and good luck.

21 MR. HUNTER: Thank you. Thank you for putting up
22 with us and thank you for the time.

23 CHAIRPERSON HILL: Yes, oh, no. Oh, no, like,
24 really. Like, you know, good luck. Good luck honestly.

25 MR. HUNTER: Thank you.

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1 MR. LAPOINTE: Thank you.

2 MR. DEWERD: Thank you.

3 CHAIRPERSON HILL: And all that stuff. And then
4 as far as the board is concerned, Mr. Moy, is there anything
5 else for us today?

6 MR. MOY: No, there's nothing else for the staff
7 or for the board, Mr. Chair.

8 CHAIRPERSON HILL: Okay. Well, I'd like to say
9 it was fun, but it was fun. Okay? All right. Bye-bye.
10 Good luck to you gentlemen.

11 (Simultaneous speaking.)

12 CHAIRPERSON HILL: Bye-bye.

13 (Whereupon, the above-entitled matter went off the
14 record at 6:16 p.m.)

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C E R T I F I C A T E

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In the matter of: Public Hearing

Before: DC BZA

Date: 06-03-20

Place: teleconference

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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