

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 17, 2020

+ + + + +

The Regular Public Hearing convened via Video-  
Teleconference, 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 MEMBERS PRESENT:

ROBERT MILLER Vice Chair  
MICHAEL TURNBULL Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.  
DANIEL BASSETT, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL  
BRANDICE ELLIOTT  
CRYSTAL MYERS  
ELISA VITALE  
JONATHAN KIRSCHENBAUM  
STEPHEN MORDFIN

The transcript constitutes the minutes from the  
Public Hearing held on June 17, 2020.

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

Application No. 20163 of 719 6th ST LLC . . . . .	8
Application No. 20054 of Rupsha 2011 LLC . . . . .	29
Application No. 20233 of Erin Carroll . . . . .	63
Application No. 20178 of Murat Kayali . . . . .	73
Application No. 20230 of 3232 13 <sup>TH</sup> ST NW LLC . . . . .	114
Application No. 20231 of 5022 Cathedral, LLC . . . . .	139
Application No. 20198 of Mehmet Ogden . . . . .	170
Application No. 20209 of Uzoma Ogbuokiri . . . . .	182
Application No. 20240 of Schmidt Development, LLC . . . . .	216

**NEAL R. GROSS**

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

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

(9:52 a.m.)

CHAIRPERSON HILL: So, the hearing will please  
come to order.

Good morning, ladies and gentlemen. We are  
convening and broadcasting this public hearing by  
videoconferencing. This will be June 17th, 2020, Public  
Hearing of the Board of Zoning Adjustment of the District of  
Columbia. My name is Fred Hill, Chairperson.

Joining me today is Carlton Hart, Vice  
Chairperson; and Lorna John, Board Member; and representing  
the Zoning Commission is Michael Turnbull for a few cases,  
and then Rob Miller for the rest of the day.

Today's hearing agenda is available to you on the  
Office of Zoning's website. Please be advised that this  
proceeding is being recorded by a court reporter and is also  
webcast live via WebEx and YouTube live. The video will be  
available on the Office of Zoning's website after the hearing  
session. Accordingly, everyone who is listening on WebEx or  
by telephone will be muted during the hearing and only  
persons who have signed up to participate or testify will be  
unmuted at the appropriate time.

Please state your name and home address before  
providing oral testimony or your presentation. Oral  
presentations should be limited to a summary of your most

**NEAL R. GROSS**

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

1 important points. When you're finished speaking, please mute  
2 your audio so that your microphone is no longer picking up  
3 sound or background noise, and also so that we don't get any  
4 feedback on the WebEx call.

5           If you're experiencing difficulty accessing WebEx  
6 or with your telephone call-in, or if you have forgotten to  
7 sign up 24 hours prior to this hearing, then please call our  
8 OZ Hotline number. And I will repeat it for those of you who  
9 would like to write it down.

10           The phone number is 202-727-5471. Once again,  
11 202-727-5471 to sign up to testify and to receive WebEx login  
12 or call-in instructions.

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

21           The order of procedures for special exceptions and  
22 variances, as well as appeals, are in Subtitle Y, Section  
23 409.

24           And the order of the appeal process is in Subtitle  
25 Y 407.

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

9           Moreover, the Board may request additional,  
10 specific information to complete the record. The Board and  
11 the staff will specify at the end of the hearing exactly what  
12 is expected and the date when persons must submit the  
13 evidence to the Office of Zoning. No other information shall  
14 be accepted by the Board.

15           The Board's agenda may include previous cases set  
16 for decision. After the Board adjourns the hearing, the  
17 Office of Zoning in consultation with myself will determine  
18 whether a full or summary order may be issued. A full order  
19 is required when the decision it contains is adverse to a  
20 party, including an affected ANC. A full order may also be  
21 needed if the Board's decision differs from that of the  
22 Office of Planning's recommendation.

23           Although the Board favors the use of summary  
24 orders whenever possible, an applicant may not request the  
25 Board to issue such order.

1           The District of Columbia Administrative Procedures  
2 Act requires that the public hearing on each case be held in  
3 the open before the public. However, pursuant to Section  
4 405(b) and 406 of that Act, the Board may, consistent with  
5 its rules of procedures of the Act, enter into a closed  
6 meeting on a case for purposes of seeking legal on a case  
7 pursuant to D.C. Official Code, Section 2-575(b)(4), and/or  
8 deliberating on a case pursuant to D.C. Official Code Section  
9 2-575(b)(13), but only after providing the necessary public  
10 notice, and in the case for an emergency closed meeting,  
11 after taking a roll call vote.

12           Preliminary matters are those which relate to  
13 whether a case will or should be heard today, such as  
14 requests for postponement, continuance, or withdrawal, or  
15 whether proper and adequate notice of hearing has been given.  
16 If you are not prepared to go forward with the case today, or  
17 if you believe that the Board should not proceed, now is the  
18 time to raise such a matter.

19           Mr. Secretary, do we have any preliminary matters?

20           MR. MOY: Good morning again, Mr. Chairman and  
21 members of the Board. As I said earlier, which applies in  
22 the hearing session as well, I'll call up instances of  
23 preliminary matters on a case by case basis.

24           Thank you.

25           CHAIRPERSON HILL: Okay, thank you, Mr. Moy.

**NEAL R. GROSS**

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

1 All right, Mr. Moy, you can go ahead and call our  
2 first case, if you'd like.

3 MR. MOY: All right. So, that would be as we  
4 state there, the Case Application No. 20163 of 719 Sixth  
5 Street LLC, as amended, for special exceptions under Subtitle  
6 E, Section 5201 from the rear yard addition requirements of  
7 Subtitle E, Section 205.4, from the lot occupancy  
8 requirements of Subtitle E, Section 304.1. This would  
9 construct a three-story rear addition to an existing attached  
10 principal dwelling unit, RF-1 Zone. This is at 719 6th  
11 Street, N.E., Square 859, Lot 121.

12 As the Board is aware, this is a continued  
13 hearing. And I believe the preliminary matters here are the  
14 timeliness regarding the affidavit of posting of maintenance.  
15 So, you may want to, you may wish to consider those.

16 CHAIRPERSON HILL: Okay. Paul, could you let in  
17 the applicants and the parties.

18 MR. YOUNG: Yeah, they're in.

19 CHAIRPERSON HILL: Okay. I see Mr. Sullivan. I  
20 see Commissioner Eckenwiler. Or at least I see that he's --  
21 I don't see a video. And that might be me.

22 Commissioner Eckenwiler, can you hear me?

23 MR. ECKENWILER: I can, Mr. Chairman.

24 CHAIRPERSON HILL: Can you, are you planning on  
25 using your video or no?

**NEAL R. GROSS**

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

1 MR. ECKENWILER: I am not.

2 CHAIRPERSON HILL: I'm sorry, Commissioner, I  
3 didn't hear you.

4 MR. ECKENWILER: I will not be using video.

5 CHAIRPERSON HILL: Okay. And actually, and,  
6 Commissioner, that's interesting. Because I was curious  
7 about this, and you're the first one for this to come up.

8 I guess there's nothing in that that we have to  
9 have video; correct, Mr. Moy? Or actually Alexandra, or Ms.  
10 Cain?

11 MR. MOY: Yeah, you're correct, Mr. Chair.

12 MS. CAIN: Yes, you're correct. You don't have to  
13 have video. As long as they have audio, you're fine.

14 CHAIRPERSON HILL: Okay, wow. So, do we have to  
15 have audio?

16 (Laughter.)

17 CHAIRPERSON HILL: All right. Okay. Mr.  
18 Sullivan, I'm going to begin with you. If you can please  
19 introduce yourself for the record.

20 MR. SULLIVAN: Thank you, Mr. Chair, Members of  
21 the Board. It's good to see you all. My name is Marty  
22 Sullivan. I'm here on behalf of the applicant.

23 CHAIRPERSON HILL: Okay. And, Mr. Lee, are you  
24 the applicant again?

25 MR. SULLIVAN: Mr. Lee's the architect.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Oh, okay. Mr. Lee, could you  
2 please introduce yourself for the record?

3 MR. LEE: Sure. My name is Matt Lee. I'm the  
4 architect representing the applicant.

5 CHAIRPERSON HILL: Okay, great.

6 Commissioner Eckenwiler, could you please  
7 introduce yourself?

8 MR. ECKENWILER: Mark Eckenwiler, Vice Chair ANC  
9 6-C, for the ANC.

10 CHAIRPERSON HILL: Okay, great. Thank you.

11 Well, it is actually lovely to see you, Mr.  
12 Sullivan. I haven't seen you in a while.

13 And it's nice to hear from you, Mr. Eckenwiler.  
14 I hope you are all doing well.

15 Let's see. So, Mr. Sullivan, if we can begin with  
16 you, I guess -- well, actually I have a quick question for  
17 the Board, I guess, kind of in terms of the post. I know  
18 that we went through this a couple of times last week, which  
19 was our first hearing, I think -- Was our first hearing last  
20 week? -- and the posting, in terms of the posting.

21 The Office of Zoning did send out the letters to  
22 the 200, you know, 200 parties in Exhibit 40 -- 72. And then  
23 Office of Zoning letters to the parties in Exhibit 75.

24 Mr. Sullivan, I know that we got, I guess, your  
25 affidavit of posting and affidavit of maintenance. Did that

**NEAL R. GROSS**

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

1 have the additional relief on it?

2 MR. SULLIVAN: I'm checking right now with my  
3 staff on that.

4 CHAIRPERSON HILL: Sure.

5 But I don't know -- well, it seems to me though,  
6 fellow Board members, unless there is an issue, I mean the  
7 ANC is here with us now. And so I think that it appears as  
8 though proper notice has been achieved. So that we can  
9 probably move forward with this.

10 But Mr. Sullivan can't clarify in terms of just  
11 the additional relief. But I'm comfortable moving forward,  
12 unless the Board has any objections. And I'm looking at my  
13 fellow Board members. You all raise your hand if you have  
14 anything you'd like to add.

15 VICE CHAIR HART: No, thank you.

16 COMMISSIONER TURNBULL: Okay.

17 CHAIRPERSON HILL: All right. Okay. Then we're  
18 going to go ahead, we're going to go ahead and move forward.

19 Mr. Sullivan, if you could go ahead and kind of  
20 fill us in on what happened since the last time you were with  
21 us.

22 MEMBER JOHN: Mr. Chairman, if I could interrupt  
23 --

24 CHAIRPERSON HILL: Sure.

25 MEMBER JOHN: -- with an exhibit 78, with a new

**NEAL R. GROSS**

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

1 posting. But I don't know when it was posted with the new  
2 information.

3 MR. SULLIVAN: Yeah, I've been told by staff that  
4 the posting did include the amended relief.

5 CHAIRPERSON HILL: Okay. I'm trying to pull it  
6 up. I'm trying to pull up the record, but.

7 VICE CHAIR HART: Yeah. I was looking at the,  
8 what is it, 70 -- is it 78 or 70? Yeah, here it is.

9 MEMBER JOHN: Seventy-eight and 79.

10 VICE CHAIR HART: Yeah.

11 CHAIRPERSON HILL: My computer is slow.

12 Okay. All right, Mr. Sullivan, if you can go  
13 ahead and just fill us in and tell us what's happened since  
14 the last time you were with us?

15 MR. SULLIVAN: Sure. And I have a PowerPoint to  
16 share that we turned in. So, I'll share that in a second.

17 But just to recap, of course, the Board has heard  
18 this case before. Nothing has been changed with the building  
19 or the proposed building since the Board has reviewed this.

20 Originally we were only asking for a 10-foot rule  
21 relief. We have since discovered, upon the hiring of a new  
22 architect, that we are also over the lot occupancy. So,  
23 okay, so there, you guys can see that. And but nothing has  
24 changed to it, so we had to add that relief.

25 So, now we're asking for -- and I'm going to share

**NEAL R. GROSS**

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

1 the screen here. One second.

2 CHAIRPERSON HILL: I think, Mr. Sullivan.

3 MR. SULLIVAN: Yes?

4 CHAIRPERSON HILL: The Board has your presentation  
5 up.

6 MR. SULLIVAN: So, then if you just want to go  
7 through it from there, to the second slide.

8 CHAIRPERSON HILL: What's happened is, like, you  
9 can just ask him to advance the slides.

10 MR. SULLIVAN: Okay. So, if we could just  
11 advance. So, we'll stay on this slide for a second and go to  
12 the overview just to rehash the case itself.

13 It's an addition which was already constructed  
14 incorrectly beyond the 10-foot rule, 3-story addition. And  
15 it's going -- and if you can go to the next slide, please.

16 And the next slide.

17 And one more. Let's go to slide 5.

18 So, here's the new plat, a correct plat, showing  
19 13.32 feet beyond the building to the north, and 9.83 feet  
20 beyond the building to the south.

21 If you could go back to slide 4, please.

22 The 9.83 feet beyond the building to the south is  
23 to main building, not to that addition. So, we're about 2.5  
24 feet past that addition, and 9.83 past the building itself.

25 Slide 6, please.

**NEAL R. GROSS**

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

1           This is a wall check. So, we know we've got it  
2 right this time. This case has been a learning experience  
3 for me. And I know I apologize to the Board for the, the way  
4 this has played out. But, we've got it right now. And we've  
5 got the lot occupancy right, and we've got the measurements  
6 correct.

7           The Board also asked -- slide 7, please -- the  
8 Board asked for a rear elevation. And so this is the rear  
9 elevation prepared by Mr. Lee, the new architect.

10           Slide 9, please.

11           So, in addition to the 10-foot rule relief, we're  
12 also asking for relief from lot occupancy. 65.28 percent.  
13 And of course, like I said, there's no changes to what was  
14 already shown, it's the number, it's the lot occupancy is  
15 over and 65.3 percent, so we're asking for that relief.

16           The criteria under which this is evaluated is the  
17 same as the 10-foot rule.

18           So, I can go through that criteria again if the  
19 Board wants to. That's the next four or five slides. But,  
20 in summary, we're asking for relief of 3.32 feet. Under  
21 several of the Board's decisions this is within the tolerance  
22 of what is normally acceptable with the 10-foot rule relief.  
23 And we're under the 70 percent lot occupancy tolerance for  
24 special exception relief.

25           And we do have the support of both adjacent

**NEAL R. GROSS**

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

1 neighbors.

2           We have submitted shadow studies. And we went  
3 through that. But as you would expect, the difference in the  
4 shadow of 3.32 feet is very minor and rather immaterial.

5           And so, I'll leave it at that. If the Board has  
6 any questions for me or for the architect?

7           CHAIRPERSON HILL: Okay. Thank you, Mr. Sullivan.

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

10          VICE CHAIR HART: Yeah. If you -- this is Vice  
11 Chair Hart. If you could, Mr. Sullivan -- actually, it's  
12 good to see you as well --

13          MR. SULLIVAN: You, too.

14          VICE CHAIR HART: If you could just talk about the  
15 interaction with the ANC and kind of where we are with that.  
16 I understand that there is the ANC issued their report. And  
17 I want to say there was an update to the report. Yeah,  
18 Exhibit 81.

19                 But if you could talk a little bit about that as  
20 well, they made some assertions that there were, you know,  
21 just the various problems with the measurements and all that  
22 stuff, it would be helpful to understand that in some context  
23 as well.

24          MR. SULLIVAN: Sure. And, as I said, it was a  
25 learning experience for me. The architect and the -- either

**NEAL R. GROSS**

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

1 the architect and/or the contractor made mistakes in  
2 measurement and in actual construction which led us to this  
3 point. So, we're just trying to get it correct at this  
4 point, and asking the Board to renew it de novo, which of  
5 course is if it's not there. The fact that it is there  
6 doesn't lend one way or another to the Board's decision.

7 So, we're just asking for the 3.32 feet.

8 Regarding the ANC, we've done our best to explain  
9 our position. And we thought it was very helpful that both  
10 neighbors were in support, the constituents of the ANC. But,  
11 we obviously don't see eye to eye on the impact of an  
12 additional 3.32 feet of addition.

13 And the ANC did not care to have us return after  
14 the last hearing. So, I think we're on the same page with  
15 that because they didn't think that it was necessary for us  
16 to go to another meeting.

17 VICE CHAIR HART: Thank you.

18 CHAIRPERSON HILL: Ms. John or Mr. Turnbull?

19 COMMISSIONER TURNBULL: I'm good, Mr. Chair. I  
20 think I understand where we are. I think, I think I know --  
21 going back, it's been a while since we took that look at  
22 this, but going back over the document I am fully prepared to  
23 go forward.

24 MEMBER JOHN: I have no comments or questions at  
25 this time. But, Mr. Chairman, I had a comment or a question

**NEAL R. GROSS**

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

1 about the interactions of the ANC which Mr. Hart asked. So,  
2 I am fine for now.

3 CHAIRPERSON HILL: Okay. Commissioner Eckenwiler,  
4 do you have any questions for the applicant on their  
5 presentation?

6 MR. ECKENWILER: No questions, Mr. Chairman.

7 CHAIRPERSON HILL: Okay. Commissioner Eckenwiler,  
8 then as the representative for the ANC you also have an  
9 opportunity to present your testimony to the Board. Would  
10 you like us to bring up anything, or do you know if Paul --  
11 is there anything you sent to Paul, or would you just like to  
12 go ahead and give your testimony?

13 MR. ECKENWILER: I'm prepared to proceed, Mr.  
14 Chairman. This will be very brief

15 CHAIRPERSON HILL: Okay, please go ahead.

16 MR. ECKENWILER: Mr. Chairman, the ANC is in  
17 opposition. You've had in the record, as a member of the  
18 Board just referenced, our most recent reports, which is Case  
19 Exhibit 81, that simply re-summarizes points that were  
20 previously made in Exhibit 64 and Exhibit 58, and the  
21 supporting attachments. And we will rest on those written  
22 submissions.

23 CHAIRPERSON HILL: Okay. Thank you, Commissioner.

24 Does the Board have any questions for the  
25 Commissioner?

1 (No audible response.)

2 CHAIRPERSON HILL: No. Okay, I don't see anyone  
3 raising their hand.

4 Mr. Sullivan, do you have any questions for the  
5 Commissioner?

6 MR. SULLIVAN: No.

7 CHAIRPERSON HILL: Okay. All right, I'm going to  
8 turn to the Office of Planning. Ms. Fothergill, are you with  
9 us?

10 MS. FOTHERGILL: I am. Can you hear me?

11 CHAIRPERSON HILL: I can hear you.

12 MS. FOTHERGILL: Okay. Hello. Good morning. For  
13 the record, I'm Anne Fothergill with the Office of Planning.

14 The Office of Planning entered the original  
15 hearing report into the record on January 3rd, recommending  
16 approval of the relief for the rear addition that extended  
17 beyond 10 feet. And then filed a supplemental report on  
18 March 12th, also recommending approval of the proposed lot  
19 occupancy of 65 percent.

20 And rest on the record in support of the  
21 application. And I'm happy to take any questions.

22 CHAIRPERSON HILL: Okay. Does the Board have any  
23 questions for the Office of Planning?

24 (No audible response.)

25 CHAIRPERSON HILL: Commissioner Eckenwiler, do you

**NEAL R. GROSS**

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

1 have any question for the Office of Planning?

2 MR. ECKENWILER: No questions, Mr. Chairman.

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

5 MR. SULLIVAN: No, thank you.

6 CHAIRPERSON HILL: Okay. All right. I guess, Ms.  
7 Fothergill, if you wouldn't mind just kind of summarizing  
8 again. I think you did do it the last time. But in terms of  
9 your analysis as to how they're meeting the standard. I  
10 guess, you know, you could speak to the additional lot  
11 occupancy now at least with the last report, and then also  
12 the 3, the additional 3 feet or 3-some-odd feet beyond the 10  
13 foot.

14 If you could just kind of speak to your analysis,  
15 that would be helpful. Thank you.

16 MS. FOTHERGILL: Sure. I'd be happy to.

17 The, as Mr. Sullivan mentioned, the criteria are  
18 the same for both relief requests. And our analysis found  
19 that the light and air would not be unduly affected by the  
20 addition extending 3.32 feet beyond the matter of right 10  
21 feet addition.

22 And the rear yard will be -- meet the minimum  
23 required and in addition it will be 26 feet, I believe, they  
24 have. They will meet the rear yard.

25 In terms of lot occupancy, similarly the 65

**NEAL R. GROSS**

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

1 percent should not unduly affect light and air to the  
2 neighboring properties.

3 The privacy, the windows on the sides of the  
4 proposed addition should not unduly impact the neighbors'  
5 privacy.

6 Then those additional criteria about the visual  
7 intrusion on the site for scale and pattern, this is a rear  
8 addition and it would be visible from the alley but it should  
9 not intrude upon character as seen from the alley.

10 And so for both the lot occupancy and the 10 foot,  
11 beyond 10-foot rear addition we found that it met the  
12 criteria and would not have an undue impact on the  
13 neighboring properties or be inconsistent with the criteria.

14 CHAIRPERSON HILL: Okay, great. Thank you, Ms.  
15 Fothergill.

16 By the way, Ms. Fothergill, I am so jealous of  
17 your, like, backyard with the trees, and, like, the birds are  
18 chirping. I mean, you know, I'm down in the downtown  
19 corridor and I have protestors, not birds.

20 MS. FOTHERGILL: And there's been a silver lining  
21 with the pandemic to be able to be in my backyard.

22 CHAIRPERSON HILL: Wow, that's so great. Good for  
23 you. Not that we have anything to do with the protestors.  
24 The protestors are doing a very important thing. But I'd  
25 like to see some birds every now and again.

**NEAL R. GROSS**

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

1 So, no one has any other questions I guess.

2 And I'm looking on the filings here. It looks  
3 like there was a motion to waive the filing deadline in  
4 Exhibit 77. So, I guess that we could get the updated  
5 surveyor's plat.

6 I'm going to approve that motion by consent just  
7 because we wanted to see that updated surveyor's plat, if I  
8 believe I'm accurate on that. The Board can just nod with  
9 me, if that's okay with you.

10 Okay. All right. And then I don't see anyone  
11 else, I think, that we need for testimony.

12 It looks as though there was -- is that -- is  
13 there anyone else that has signed up that we need to get in  
14 here? I don't think so; correct? Mr. Moy, I think that's --

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

16 CHAIRPERSON HILL: Okay. All right. Okay, well  
17 then I guess we can set this for a decision next week. Okay?  
18 And I will go ahead and we can deliberate next week.

19 Mr. Hart, do you have something to say?

20 VICE CHAIR HART: Yeah. Only that I didn't know  
21 if you wanted to start having a deliberation and then vote on  
22 it next week? I don't know if you wanted to do that? It may  
23 be fresh. Because one of the things that we're trying to, I  
24 guess, get used to, having the hearings, having no bench  
25 decisions at the hearings. And I didn't know if it made some

**NEAL R. GROSS**

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

1 sense to have some discussion now and then have the actual  
2 decision next week.

3 But it's fine either way. I don't -- it doesn't  
4 -- it's fine either way with me, I just was asking the  
5 question for not just this case but for all the cases today.

6 CHAIRPERSON HILL: Well, I appreciate it. And I,  
7 I was a little bit unclear as to what the Office of the  
8 Attorney General and the Office of Zoning had tried to work  
9 through in terms of this process.

10 And, Ms. Cain, I don't know, or Mr. Moy, if you  
11 did have a thought as to where we were with, with that?

12 MS. CAIN: So, you would be able to do preliminary  
13 deliberations so, you know, initial discussions of the case,  
14 you know, major issues that you see. But you would have to  
15 stop before coming to a final decision.

16 So, if there were some issues that you wanted to  
17 talk through as the Board, that would be fine. But, sort of  
18 your final run-up to the vote and then vote itself would need  
19 to wait until the next hearing date, or the decision date  
20 next week.

21 CHAIRPERSON HILL: Okay. All right. So then,  
22 that being the case, I'm going to go ahead and close the  
23 hearing then. So, we don't need to get anything else from  
24 the Board -- I mean for the Board.

25 We would be, you know, awaiting the appropriate

**NEAL R. GROSS**

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

1 time, which is the 24 hours in case there's some kind of  
2 technical issue that is taking place now with the WebEx call.  
3 And then we can deliberate a little bit.

4 I just saw somebody pop in again here, so that's  
5 why I'm just a little --

6 MR. YOUNG: Yeah. Chairman Hill, there was  
7 actually another person, the other ANC commissioner had  
8 signed up.

9 CHAIRPERSON HILL: Okay, yeah, that's what I  
10 thought. There was a -- So. Now I don't know -- Oh, there's  
11 Mr. -- Okay, Commissioner.

12 All right, so, Commissioner Kelty, okay, so I'm  
13 reopening the hearing, okay. I'm just going to clear this  
14 up.

15 So, what I was a little confused by, Commissioner,  
16 is that -- so, first of all, Commissioner, if you could  
17 please introduce yourself.

18 MR. KELTY: Yes. This is Joel Kelty. I'm the ANC  
19 commissioner for SMD 60-05. The subject property is in my  
20 SMD.

21 I'll be brief and just say that I remain opposed  
22 to the project, as I have from the beginning. And my letter  
23 that Commissioner Eckenwiler and I sent you, I stand behind  
24 that 100 percent.

25 Thank you.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay. And, Commissioner, I  
2 guess were you, you were at the first one, correct, the first  
3 hearing?

4 MR. KELTY: I was. I was there and I gave  
5 testimony in person.

6 CHAIRPERSON HILL: Okay, I'm sorry, I just can't  
7 remember.

8 MR. KELTY: Okay.

9 CHAIRPERSON HILL: Okay. Then does anyone have  
10 any questions for the commissioner?

11 (No audible response.)

12 CHAIRPERSON HILL: No. Okay.

13 Mr. Sullivan, do you have any questions for the  
14 commissioner?

15 MR. SULLIVAN: No, thank you.

16 CHAIRPERSON HILL: Okay. All right, great. Okay.  
17 All right, so I'm going to go ahead and again close the  
18 hearing.

19 So, Mr. Hart, you seemed like you want to start a  
20 discussion.

21 VICE CHAIR HART: I just thought that we may want  
22 to start the discussion.

23 CHAIRPERSON HILL: Sure. That's fine.

24 VICE CHAIR HART: And, yeah, and I understand that  
25 what the applicant has, what they have submitted as -- why

**NEAL R. GROSS**

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

1 they have requested additional relief. I also understand  
2 that the ANC has made some -- they are in opposition for a  
3 variety of reasons, including, you know, acquisitions --  
4 accusations that the owners have erroneously stated  
5 information regarding the project.

6 And I understand that. And I'm, I'm somewhat, I'm  
7 disappointed that there is that kind of conflict that's going  
8 on, or at least the issues that are going on with that. But  
9 whether or not I believe that that has the basis in zoning,  
10 that's the, that's the issue

11 The ANC raised some concerns and including, you  
12 know, that there should be drawings and some ways to depict  
13 the information, the project itself. And the ANC is saying  
14 that the drawings were erroneous. And, you know, we've heard  
15 from the applicants saying that they are, that they were  
16 errors. They agreed to that. They said that they were just  
17 errors when they were making the project.

18 And I think it's you've got to watch out when  
19 you're being paid to make, to do these projects and making  
20 errors. That's, I think, problematic for me. But whether or  
21 not that actually connects to what the zoning relief is, I  
22 think is a different matter.

23 So, I wanted to kind of say that and that I  
24 understand that the ANC has some concerns. They raised  
25 concerns about, you know, the shadow study in that it shows

**NEAL R. GROSS**

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

1 that there are some impacts. They believe that they are  
2 undue impacts on the neighbors.

3 We have input from the neighbors, at least the  
4 adjoining neighbors that they are in support of the  
5 applications.

6 And so the question would really be whether or not  
7 I believe that they are undue impacts from the looking at the  
8 shadow study that the applicant provided. I don't believe  
9 that they are undue impacts but, sure, they are impacting  
10 more than what the matter of right development would be.

11 But that's, that's all I'd like to say for right  
12 now. So, I know that we have to make the decision next week,  
13 but that's kind of where I am.

14 CHAIRPERSON HILL: Okay. Ms. John or Mr.  
15 Turnbull, are you interested in discussing anything at this  
16 point?

17 MEMBER JOHN: I don't have anything to add to Mr.  
18 Hart's summary. I, I also agree that the issue of unclean  
19 hands is really not before the Board, and that we look at the  
20 application in its entirety to see if they are in compliance  
21 with the regulations.

22 Concerns that the matter of rights is the basis  
23 that we would look to see if there is any undue impact. And  
24 in this case I believe we are looking at a difference of 3  
25 feet in terms of the depth of the addition. So, I would

**NEAL R. GROSS**

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

1 just, you know, make those observations which Mr. Hart  
2 already stated.

3 That's it for me, Mr. Chairman.

4 CHAIRPERSON HILL: Okay. Commissioner Turnbull?

5 COMMISSIONER TURNBULL: I guess I would chime in  
6 only, again, sort of repeating some of the same comments of  
7 Ms. John's and the vice chair.

8 It's hard to get into the heads of people and know  
9 what position they're in and what happened in bad faith, good  
10 faith, or whatever. I think the fact that the applicant has  
11 gone and brought in a new architect to review the situation,  
12 the drawings, and the lot plan and everything else I think  
13 says a lot. I'm sure it doesn't go back and relieve for the  
14 ANC the testimony or false testimony, or however you want to  
15 quantify it. While I think that is a good faith effort to  
16 try to rectify some of the issues.

17 And I think as both my colleagues said, we did  
18 factor the zoning issues beyond matter of right, and what the  
19 impacts are. So, right now that's, that's what I'd be  
20 concerned with in looking at it. It's just where we are from  
21 a zoning standpoint, the matter of right, the impacts, both  
22 neighbors on either side seem to be now willing to accept the  
23 new -- the applicant's building. So, we'll look at it from  
24 there.

25 So, I'm not concerned about bad faith or whatever.

**NEAL R. GROSS**

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

1 We're looking at it mainly from the zoning, from the zoning  
2 issues that are before us going beyond matter of right.

3 CHAIRPERSON HILL: Okay. All right, thank you,  
4 Commissioner.

5 I'm just going to wait till next week to -- I  
6 mean, we can't vote. We're not talking about anything, so  
7 we're going to go ahead.

8 And I hate to, Commissioner Kelty, the little girl  
9 that popped in, just so cute. Such a cute smile.

10 MR. KELTY: Thank you. That's my daughter Maia.  
11 She was asking if she could have a treat.

12 CHAIRPERSON HILL: Wow. That was a treat to see  
13 such a sweet person smiling in the background. I think we  
14 should do that more often. All the kids should show up in  
15 the back for the cameras. It makes it so much more pleasant.

16 MR. KELTY: I'll have her give testimony next  
17 time.

18 CHAIRPERSON HILL: You do that, Commissioner. She  
19 has three minutes. I don't know if there's an age. I don't  
20 know. We're going to do it anyway. Okay.

21 All right. So, okay, I'm going to close the  
22 hearing. We've closed the hearing. We've done what we  
23 needed to do.

24 And this case is done and we'll set it for  
25 decision next week. All right, Mr. Moy?

**NEAL R. GROSS**

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

1 MR. MOY: Yes, sir. Done.

2 CHAIRPERSON HILL: Okay. All right, we'll see you  
3 all later in terms of the people from this case. Thank you.  
4 Bye-bye.

5 This is just the oddest thing, this, this video  
6 thing. I don't think I -- I'm glad that I got to kind of  
7 experience it. But it's kind of like we're back together  
8 again, but really everybody is still there. It's so weird.  
9 And it feels like I'm talking to myself, which is also weird,  
10 you know. Okay.

11 VICE CHAIR HART: You are. You are.

12 CHAIRPERSON HILL: I know. I get, like, I mean,  
13 don't you guys think it's weird. Do you feel, does it feel  
14 weird?

15 VICE CHAIR HART: Yeah, it is.

16 CHAIRPERSON HILL: That would be 6/24 is the  
17 decision.

18 Okay. Mr. Moy, you can call our next case.

19 MR. MOY: Thank you, Mr. Chairman.

20 This would be Case Application No. 20054 of  
21 Rupsha, R-U-P-S-H-F -- R-U-P-S-H-A, 2011 LLC, as amended for  
22 special exception under the use provision of Subtitle U,  
23 Section 421.1. This would construct an eight-unit apartment  
24 house in the RA-1 Zone at premises 616 50th Street, N.E.,  
25 Square 5180, Lot 814.

**NEAL R. GROSS**

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

1           And on this application, Mr. Chairman, according  
2 to my notes, the Board may wish to address the preliminary  
3 matter regarding the timeline for the filing of the updated  
4 -- posting an updated affidavit of maintenance, Exhibits 93  
5 and 96 respectively.

6           CHAIRPERSON HILL: Okay. Mr. Young, if you could  
7 let in the armies.

8           MR. YOUNG: Yeah. Do you want me to bring in the  
9 individual witnesses? Or do you want me to wait?

10          CHAIRPERSON HILL: Why don't you wait.

11          MR. YOUNG: Okay.

12          CHAIRPERSON HILL: When we get to the public  
13 testimony portion. Let me look and see.

14          MR. YOUNG: I have two that are signed up in  
15 oppositions.

16          CHAIRPERSON HILL: Okay. Yeah, let's wait for the  
17 public testimony portion then.

18          MR. YOUNG: Okay.

19          CHAIRPERSON HILL: Is the ANC -- they don't have  
20 an ANC representative here; correct?

21          MR. YOUNG: No. The applicant is in here though.

22          CHAIRPERSON HILL: Okay. Mr. Seck, are you there?

23          MR. SECK: Yes, Chairman Hill. Good morning.

24          CHAIRPERSON HILL: Good morning. Are you going to  
25 be joining us? You're not turning on your camera; is that

**NEAL R. GROSS**

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

1 correct? I just want to make sure I'm not having any  
2 technical issues.

3 MR. SECK: Oh. I actually -- start my video.  
4 Okay, I'll turn it on right now.

5 CHAIRPERSON HILL: Okay. Okay, great.

6 Hello, Mr. Seck, nice to see you.

7 MR. SECK: The same here, Chairman Hill and Vice  
8 Chair Hart and Ms. John.

9 CHAIRPERSON HILL: That's great. All right.

10 Okay, let's see. So, Mr. Seck, we'll go ahead and  
11 start with you. If you could -- well, hold it, let me do  
12 this.

13 So, we went ahead, so the Board in terms of the  
14 notice, so the Office of Zoning sent out letters to the 200  
15 parties in Exhibit 90. The Office of Zoning also sent out  
16 letters to the parties in Exhibit 94.

17 Mr. Seck, did you guys post that this -- for this  
18 date, for this virtual hearing date?

19 MR. SECK: Chairman Hill, yes. We posted for the  
20 affidavit of maintenance.

21 CHAIRPERSON HILL: There's the affidavit of  
22 maintenance and there's the affidavit of posting; right?

23 MR. SECK: Yes.

24 CHAIRPERSON HILL: And I see those exhibit. But  
25 I'm asking you whether or not in your posting did you list

**NEAL R. GROSS**

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

1 today's date for the virtual hearing?

2 MR. SECK: I, no, I would have to check. I can  
3 get my assistant right now to see if there --

4 VICE CHAIR HART: You don't need to.

5 MR. SECK: Oh, okay.

6 VICE CHAIR HART: I can see it on, see today's  
7 date on the affidavit of maintenance that was submitted in  
8 Exhibit 97.

9 MR. SECK: Oh, okay. Thank you.

10 VICE CHAIR HART: It's close enough to the, to the  
11 hearing notice, and it says 16-17 2020, so.

12 CHAIRPERSON HILL: Okay.

13 MR. SECK: Yes.

14 CHAIRPERSON HILL: Mr. Seck. Ms. Seck, give me  
15 one, give me one moment, okay?

16 MR. SECK: Okay. Okay.

17 (Pause.)

18 COMMISSIONER TURNBULL: Mr. Chair, I don't see on  
19 the exhibit the hearing notice. As the Vice Chair said, it  
20 does say 6/17, so.

21 CHAIRPERSON HILL: Okay, great. Thank you. I was  
22 just trying -- I'm having some, again, I'm continuing to have  
23 technical issues.

24 But, all right, so let's see, so then we're all  
25 good with the notice, with that date of notice.

**NEAL R. GROSS**

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

1           So, Mr. Seck, if you could please introduce  
2 yourself for the record.

3           MR. SECK: Yes, Chairman Hill.

4           Good morning, Chairman Hill and Vice Chair Hart  
5 and everyone. My name is Omar Seck, representing Rupsha 2011  
6 LLC for the Case 20054.

7           CHAIRPERSON HILL: Okay. So, Mr. Seck, if you  
8 could go ahead and walk us through your application and how  
9 you think you're meeting the standard for us to grant the  
10 relief requested. I have a clock running with 15 minutes on  
11 it, but, you know, just go ahead and kind of walk us through  
12 your applications.

13           Is there anything we need to pull up for you?

14           MR. SECK: No. I will just walk up the  
15 application and briefly give the history of what we have done  
16 so far from the beginning since the July 10th hearing where  
17 we requested the postponement. So, I will introduce the  
18 project --

19           CHAIRPERSON HILL: Okay.

20           (Simultaneous speaking.)

21           MR. SECK: -- and what we've done also with the  
22 ANC.

23           CHAIRPERSON HILL: Okay. Please go ahead.

24           MR. SECK: Thank you, Chairman Hill.

25           This is a project at 616 50th Street, N.E. It's

**NEAL R. GROSS**

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

1 designed for an 8-unit apartment building with a lot area of  
2 6,017.5 square foot in an RA-1 district. As per Subtitle U,  
3 Chapter 421-1, it requires a special exception from BZA for  
4 new residential in this RA-1.

5 This is an 8-unit apartment building on four  
6 levels, a seller unit plus three. Two units per floor which  
7 consists of two bedroom, two bathroom on each floor. The  
8 seller on the first. And there will be two bedroom, 1 bath  
9 -- 1.5 bath on another floor.

10 We will be providing two off street parking, which  
11 is the max we came up with on this lot. And it originally  
12 was a 10-unit when we first designed it, and we were  
13 requesting a variance as well as the special exception. And  
14 at the hearing on July 10th when we were requesting for  
15 postponement to deal with ANC more, with more time, we were  
16 suggested to do away with the variance, and we did that. By  
17 reducing the size of the building we went down from eight to  
18 ten.

19 This building, this 8-unit apartment is in the  
20 Hillbrook neighborhood in the middle of 50th Street and  
21 Foote, near Fitch Place also. And it has adequate facilities  
22 around the area, elementary school and middle school.

23 The site is currently in the RA-1 zone. And we  
24 have met I would say all the requirements as far as zoning  
25 regulations in the second phase of my application, where we

**NEAL R. GROSS**

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

1 have a table for zoning that shows the lot area, lot width,  
2 occupancy, FAR, et cetera. As far as the lot occupancy, we  
3 are below the 40 percent that is required. The FAR, we're  
4 also below the .9 that is required.

5 The green area ratio with the minimum of .40, we  
6 are at .55. The rear yard requirement is 20 feet. We're  
7 providing 21.10 inches -- 21 feet, 10 inches. The side yard  
8 requirement is 8, and we have 9. The building maximum height  
9 is 40 feet. We are 36 because we have a cellar unit.

10 And we know in that area of ANC they always want  
11 to keep the building down, so we've been going cellar even on  
12 our other single-family BZA cases. The parking, as I said,  
13 is two, with the requirement for zoning it's one for every  
14 three units in excess of four.

15 So basically, this is the summary of the building.  
16 And as I earlier stated, we are requesting from the Board of  
17 Zoning the special exception due to the fact that in RA-1  
18 zone, all new residential development except those  
19 compromising -- comprising of one family detached or semi-  
20 detached dwelling shall be reviewed by the Board of Zoning  
21 Adjustment for special exceptions according to under Subtitle  
22 X in accordance with the standards and requirements in this  
23 section.

24 In conclusion, we propose this building to  
25 contribute in the continued improvement of the Hillbrook

**NEAL R. GROSS**

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

1 area, to develop the vacant inter-lot. This improvement will  
2 be basically very modern apartment units with all the modern  
3 amenities inside, and also a very nice look on the outside  
4 with a mix of bricks and hard siding to give it a modern  
5 look, and to provide nice living for the citizens in the  
6 area.

7 I would like to just jump back and give a quick  
8 history, if I may, Chairman Hill, on the case with our  
9 interaction with ANC, or should I wait until I'm questioned  
10 then?

11 VICE CHAIR HART: We can't hear you, Chairman  
12 Hill.

13 CHAIRPERSON HILL: No, Mr. Seck, you can go ahead  
14 and speak to that now if you would please. Thank you.

15 MR. SECK: Thank you, Chairman Hill. So this case  
16 was scheduled for BZA I believe it was July 10th of last  
17 year. And due to the interaction with ANC during executive  
18 meetings and the single member meeting, we went to postpone  
19 the case. And there were attendees there at the time in  
20 opposition. And I think they were given an opportunity to  
21 talk.

22 And I believe it was Commissioner May who  
23 suggested to work with the variance and try to do away with  
24 that, which I stated earlier we did. We went from 10 units  
25 to eight units. And that took away the variance.

**NEAL R. GROSS**

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

1           And since then we've been interacting with the  
2 ANC. I, myself, have attended multiple meetings, executive  
3 meetings and also attended ANC, interacted with Chairman  
4 Holmes. And each executive meeting that I attended, it was  
5 a maximum of three that I recall, a commissioner attended:  
6 Chairman Holmes himself, Commissioner Green, and Dr. Gaffney,  
7 Commissioner Gaffney. But the single member Commissioner  
8 Patricia Malloy, I've never had a chance to see her in these  
9 executive meetings regarding this particular case in her  
10 single-member district.

11           However, on September 26th, when I attended the  
12 executive meeting, Dr. Gaffney, Commissioner Holmes, and  
13 Commissioner Green talked -- I presented the case to them.  
14 And they showed -- even my email proves this because I sent  
15 them an email thanking them for showing some kind of support.  
16 But that was only at the executive.

17           And then we went to the ANC meeting. It was  
18 basically a conversation there regarding this thing that the  
19 only way they can work with us in this particular -- for this  
20 particular lot is to convert the apartment to a single family  
21 house. Because on the right side of the property, facing the  
22 building, facing the lot are two residential, single-family  
23 homes there. To the left side is that apartment. Right  
24 across right now there's a development going on for the  
25 apartment building.

**NEAL R. GROSS**

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

1           Then we reached out again on January 30th at the  
2 executive meeting. Again, I was invited by Chairman Holmes.  
3 And Ms. Patricia Malloy, the single-member commissioner, was  
4 not there again. And they asked me to reach out to her on  
5 her single-member district commission meeting, which I did  
6 that day. I reached out to her in basically according to  
7 Chairman Holmes' recommendation to call her and join, and  
8 even walk to the meeting.

9           When I called her she said no, you cannot walk to  
10 my meeting like that. This is something we're going to have  
11 to discuss. Then I could not go that day. And back in March  
12 12th, there was an ANC. I sent a representative at that  
13 time. I couldn't attend.

14           Basically the report that was given to me by my  
15 representative is that he attended the meeting, and only  
16 three commissioners were in attendance there. It was  
17 Chairman Holmes and Dr. Gaffney again. And I don't see the  
18 name of the single-member commissioner here, Ms. Patricia  
19 Malloy.

20           They basically don't want an apartment. That was  
21 their decision. And also some neighbors who interjected in  
22 the meeting said that they're not happy with two parking  
23 spaces. These were the two reasons. And they said well they  
24 were basically not in favor of the building, but they  
25 couldn't take a vote because they don't have the maximum

**NEAL R. GROSS**

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

1 number of commissioners. Since then we haven't heard  
2 anything, and that's where we are with this project. And I  
3 thank you for listening.

4 CHAIRPERSON HILL: All right, Mr. Seck, thank you.  
5 Does the Board have any questions for the Applicant? Mr.  
6 Hart?

7 VICE CHAIR HART: A couple of questions. Good to  
8 see you, Mr. Seck.

9 MR. SECK: Thank you, sir.

10 VICE CHAIR HART: So thank you for going through  
11 the ANC kind of contact. That's very helpful for us. I just  
12 have a series of questions, and I'll kind of lay them out and  
13 then you can respond to them. The first has to do with you  
14 are creating a record lot for this project, correct?

15 MR. SECK: Yes. Normally when if it is a back  
16 sale we definitely do the record lot. Yes, sir.

17 VICE CHAIR HART: Okay. Could you also kind of  
18 talk about the -- I don't know if you saw DDOT's report --

19 MR. SECK: Yes.

20 VICE CHAIR HART: -- regarding the number of  
21 bicycle spaces. And if you could talk about that, but I'll  
22 also connect that with if you could give us some more  
23 information about the special exception standards, which is  
24 Subtitle X, 901.2, that would be very helpful for us as well.

25 And I'll leave it at that. We didn't have a lot

**NEAL R. GROSS**

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

1 of information on that, and I'd just like you to expound on  
2 it a little bit more.

3 MR. SECK: Okay. Thank you, Vice Chairman Hart.  
4 For -- I think if I go back, the first item was the DDOT  
5 comments on the bicycle parking. Yes, we addressed that.  
6 And I believe it's on the plan. Let me just pull up the  
7 plan. Give me one second please.

8 (Pause.)

9 CHAIRPERSON HILL: Mr. Seck, can you hear me?

10 MR. SECK: Yes, I can hear. I was just pulling  
11 from my other computer.

12 CHAIRPERSON HILL: No, I understand. I  
13 understand. But are you -- are you pulling up something from  
14 the record?

15 MR. SECK: Yes. That's what I was trying to pull  
16 from the record on the exhibit -- let me see. Exhibit --

17 CHAIRPERSON HILL: Is that 33?

18 MR. SECK: No. I got Exhibit 81, the landscape  
19 plan where -- or the architectural plan on Exhibit 80 for the  
20 bicycle. One second. I'll adjust this.

21 COMMISSIONER TURNBULL: I'm looking at 81. I  
22 really don't see any spaces marked for bicycles.

23 VICE CHAIR HART: Yeah, I didn't either.

24 MR. SECK: One second. Yes, that --

25 CHAIRPERSON HILL: Mr. Seck. Mr. Seck, why don't

**NEAL R. GROSS**

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

1 you, why don't you mute. If you can mute your microphone  
2 while you're looking for the plan, I'm going to turn to the  
3 Office of Planning. Okay. So please keep looking for the  
4 plan where the two long-term bicycle spots are.

5 MR. SECK: Yes.

6 CHAIRPERSON HILL: If you could please look in the  
7 record and find that. But in the meantime if you would put  
8 your microphone on mute please.

9 MR. SECK: Yes, yes. I know, I type pretty hard.  
10 Thank you. I'll do that right now.

11 CHAIRPERSON HILL: Mr. Mordfin.

12 MR. MORDFIN: Hi. Good morning, I'm Stephen  
13 Mordfin with the Office of Planning. And the Office of  
14 Planning supports this application. It was initially an  
15 application for two variances and a special exception. The  
16 Applicant has since revised the application to no longer need  
17 those variances.

18 However, the special exception, the Office of  
19 Planning does find the application to continue to be in  
20 conformance with those because they've reduced the number of  
21 units, which would then reduce the impact on schools and the  
22 impact on any recreational facilities, and therefore  
23 continues to support this application, and is available for  
24 any questions. Thank you.

25 CHAIRPERSON HILL: Okay. Does the Board have any

**NEAL R. GROSS**

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

1 questions for the Office of Planning?

2 VICE CHAIR HART: So just one. If -- did the  
3 Office of Planning -- I'm sorry, good morning, Mr. Mordfin.  
4 Did you all see the bike spaces in any of the plans? Maybe  
5 I just missed them.

6 MR. MORDFIN: Yeah, I was looking for that now  
7 when you all started to talk about it. I didn't find it. I  
8 was looking on the landscape plan, but I'm not sure it's  
9 there.

10 MR. BASSETT: So this is Daniel Bassett, OAG.  
11 Exhibit 80, page 4 shows two bicycles on the seller plans.  
12 But again, the Applicant has not requested relief. And the  
13 Board, it's not in front of the Board. And so the Board  
14 shouldn't be making any findings as to whether those bicycle  
15 parking spaces are sufficient for or compliant parking  
16 spaces. So I'll leave it at that.

17 VICE CHAIR HART: Thank you for that  
18 clarification, Mr. Bassett.

19 CHAIRPERSON HILL: Can you guys hear me?

20 VICE CHAIR HART: Yes.

21 CHAIRPERSON HILL: Okay. The -- for Mr. -- I'll  
22 get to you in one second. I just had a question now for Mr.  
23 Bassett.

24 I mean I understand what you're saying about in  
25 terms of the bike parking. But I mean what I'm confused

**NEAL R. GROSS**

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

1 about, it there was -- if it is a condition that DDOT is  
2 requesting that we're adding into the order, wouldn't we need  
3 to see it? I'm a little confused as to why, can you clarify  
4 again why we would not? Because normally we want to see it  
5 all in the plans, right?

6 MR. BASSETT: So this is a self-certified  
7 application. They're saying that they will provide  
8 compliance on bicycle parking spaces. DDOT's report says  
9 that they have not seen on the plans compliant long-term  
10 bicycle parking spaces.

11 If the Applicant needs to request relief from the  
12 parking space, the bicycle parking space regulations, they  
13 can do that and they can update their self-certified  
14 application. They have not done that, and therefore it is  
15 not before the Board.

16 If the Applicant provides those three compliant  
17 parking spaces by the time it gets to DCRA, and he has some  
18 way of showing us those compliant parking spaces, then you  
19 wouldn't need to -- or they would not need to request relief  
20 from the Board. They are requesting relief from the Board in  
21 only specific areas that do not roll into bicycle parking.  
22 If they need relief from the Board for those bicycle parking,  
23 they can request it. You do not need to address it until  
24 they request it.

25 VICE CHAIR HART: Understood.

1 CHAIRPERSON HILL: Okay. I understand. I  
2 understand. But I guess -- yeah, all right. Ms. John, you  
3 have some questions?

4 MEMBER JOHN: So Exhibit 80 shows bicycle storage,  
5 and it seems to be two spaces. And since the Applicant  
6 reduced the number of units to eight, only two bicycle  
7 parking spaces would be required.

8 So I guess we can confirm with the Applicant if  
9 that is the intention to provide compliant bicycle parking  
10 spaces, and if this representation shows that it would be  
11 compliant parking spaces. No relief is before the Board at  
12 this time.

13 CHAIRPERSON HILL: Okay. Ms. John, so do you have  
14 a question, or are you just making a statement?

15 MEMBER JOHN: Well both. I guess I would want the  
16 Applicant to explain the diagram in Exhibit 80. I don't  
17 remember what page it is, but it shows bicycle storage. And  
18 what is the Applicant's understanding of what the requirement  
19 is. Is it two spaces for eight units or three spaces?

20 CHAIRPERSON HILL: Okay. So Mr. Seck, I mean Mr.  
21 Bassett, I know that what you're -- we understand what you're  
22 saying, but I guess Board Member John does have a question  
23 about it. Mr. Seck, do you plan on providing the two long-  
24 term bicycle parking spaces?

25 MR. SECK: Yes, Chairman Hill. Yes.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay. All right.

2 MR. BASSETT: So just to clarify, it's three long-  
3 term bicycle parking spaces under my reading of the  
4 regulations. It's one bicycle parking space for every three  
5 units, and then they round up if it's above 0.5. And so  
6 because this is eight units, it would round up to three long-  
7 term bicycle parking spaces.

8 CHAIRPERSON HILL: So Mr. Seck, do you plan on  
9 providing three long-term bicycle parking spaces?

10 MR. SECK: Yes, Chairman Hill. We're definitely  
11 going to add the other one, yes.

12 CHAIRPERSON HILL: Okay. I mean again, what OIG  
13 is saying, you're not requesting that relief from us right  
14 now. So you plan on meeting the regulation.

15 MR. SECK: Yes.

16 CHAIRPERSON HILL: All right. Does anyone have  
17 any other questions for Mr. Seck?

18 VICE CHAIR HART: I had -- I had several  
19 questions, well I had several questions that I asked. One of  
20 them was about the bike parking. But I think that that's  
21 kind of -- we understand that now.

22 But Mr. Seck, if you could actually explain a  
23 little bit more, or expound on it, how you're meeting the  
24 special exception standards of Subtitle X, 901.2. And it  
25 just needs some more information on that from you. I'd

**NEAL R. GROSS**

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

1 appreciate it.

2 MR. SECK: Yes. Thank you, Chairman, Vice Chair  
3 Hart. Yes, basically I'll run down through the analysis as  
4 to that. The proposed construction of the project of eight-  
5 apartment building, the subject lot would be conforming to --  
6 I mean since the lots meet the RA-1 zone requirements which  
7 I went over earlier, however, in this area of single-family  
8 residential area, any development will have to request a  
9 special exception.

10 So under Subtitle X, Chapter 901.2, the Board of  
11 Zoning adjustment is authorized under Chapter 8 of the Zoning  
12 Act, D.C. Official Code, Chapter 6-641.07, to grant special  
13 exception as provided in this title where it's the judgment  
14 of the Board of Zoning Adjustment a special exception, if  
15 requested, would be in harmony, our building would be in  
16 harmony with the general purpose and intent of the zoning  
17 regulation in this area.

18 As I stated earlier, there's apartment buildings  
19 in the area as well as single families. It would not tend to  
20 affect adversely the use of the neighboring property in  
21 accordance with the zoning regulation and zoning map.

22 We are providing two parking spaces, and also  
23 additional bicycle parking. Everything will be done within  
24 our lot. We would not have any issues with the neighbors,  
25 which I'm dealing with one -- one on each side right now, to

**NEAL R. GROSS**

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

1 make sure that we are in compliance with the property lines  
2 and not encroaching.

3 And basically we believe that we meet the  
4 conditions to build this lot in conformity with the zoning  
5 regulations. I don't know if I answered it properly.

6 VICE CHAIR HART: There's a lot of feedback.

7 CHAIRPERSON HILL: Mr. Seck, could you mute your  
8 microphone.

9 MR. SECK: Sure.

10 VICE CHAIR HART: Okay. Is there feedback now?

11 CHAIRPERSON HILL: No.

12 VICE CHAIR HART: Okay. So yeah, you've helped  
13 with that. I just realized, I realized that there was, there  
14 wasn't a lot of information in the record, so you've provided  
15 that for us. So that's very helpful for me.

16 I was also looking for -- and a question, this is  
17 just trying to understand the site and the elevations of  
18 things that I saw. In one of the elevations or one of the  
19 plans, I think it was Exhibit 80 maybe -- yeah, I think it  
20 was 80. It showed the project and some of the topography of  
21 the site. It looks like this site is sloping from the  
22 street, from 50th Street down to the alley by like 5 or 6  
23 feet. Is that -- am I reading that correctly?

24 MR. SECK: Yes. It is sloping to the alley.

25 VICE CHAIR HART: Okay. And so are you putting in

**NEAL R. GROSS**

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

1 like retaining walls or something on the side to deal with  
2 the slope, or how are you dealing with that? The image that,  
3 the elevations that you're showing, everything looks like  
4 it's flat. And so I'm just trying to understand how that  
5 kind of works.

6 MR. SECK: Okay. Let me pull up the elevation  
7 real quick.

8 VICE CHAIR HART: So I was looking at -- I don't  
9 know what page this is. Oh yeah, I don't know. Either  
10 elevation on the side elevations. Again, it's just trying to  
11 understand the, you know, what it is that we're, that we're  
12 looking at. And I just don't quite understand how if there  
13 is an elevation drop of several feet, but it doesn't show up  
14 on the elevation. And if it doesn't, to me it means that  
15 there is some retaining wall that's helping to do that. And  
16 I just don't understand where that is.

17 So if Mr. Turnbull, Commissioner Turnbull, if  
18 you're able to see or understand what I'm talking about, or  
19 if anyone else, I'd be happy to hear.

20 COMMISSIONER TURNBULL: No, you're right. It's  
21 hard, it's hard to tell. It looks like the elevations do not  
22 show -- they show a drop back to the front, or vice versa,  
23 but it doesn't really -- you don't see a grade line. You see  
24 it at the front and the back, but you don't really see a  
25 grade line. There's area wells for the windows. But you

**NEAL R. GROSS**

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

1 really can't tell the slope of the grade going -- what it  
2 really looks like.

3 MR. SECK: Yes.

4 CHAIRPERSON HILL: You're muted, Mr. Hart. Mr.  
5 Hart, you're muted.

6 VICE CHAIR HART: Yes. Thank you, Commissioner.  
7 Thank you, Chair Hill.

8 Yeah, Mr. Commissioner Turnbull, it just is hard  
9 to kind of figure that out. And I thought there might be a  
10 retaining wall that was back where the parking is. But you  
11 don't really see that in the images. And there don't seem to  
12 be any steps that I can determine, that I can see that would  
13 then kind of get me to understand where that, where all of  
14 that is.

15 But right now it's just really hard to understand  
16 the elevation change, not knowing what the starting elevation  
17 is for the alley and the starting elevation is for the  
18 street. Again, it just is what does the, you know, is the  
19 site plan that we have accurately showing what it is that's  
20 going on with the property?

21 And it can be flat. It just may have, might have  
22 a retaining wall that's, you know, near where the parking is,  
23 or some other point that is off the -- that's not shown in  
24 the elevation.

25 And the reason I was asking also was whether or

**NEAL R. GROSS**

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

1 not the project would be impacting other, adversely impacting  
2 other properties because of this grade change, and you know,  
3 what that might do for the next door neighbors. And again,  
4 just curious because we don't really see that in its -- at  
5 least it doesn't seem like it's a full context. And if you  
6 could answer that, Mr. Seck, that would be helpful.

7 MR. SECK: Yes, Vice Chair Hart. The site  
8 elevation you're absolutely correct, it's showing a flat line  
9 and it is not. It's a drop about five feet or so from the  
10 front of the street on 50th to the alley. And because we're  
11 accessing the property with the parking from the alley, we  
12 cannot lower that any further with this -- by putting a  
13 retaining wall.

14 It tapers very well, smooth, to not require a  
15 retaining wall. So a retaining wall is not shown here. But  
16 the grade that is shown on the elevation is wrong, and we  
17 will correct that. And I apologize for that.

18 As well as the window well that Commissioner  
19 Turnbull mentioned, yes, in the rear we will have somewhat of  
20 a retaining -- I mean areaway made out of concrete, but it's  
21 not going to be as high as this 10 foot that's shown in the  
22 rear elevation on the Exhibit 80, page -- I believe there's  
23 a page number here. Let me see.

24 Actually he didn't show a page number, but that's  
25 -- yeah, page 8. So you are correct. This elevation shown

**NEAL R. GROSS**

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

1 on, the grade shown on the elevation is not accurate.

2 VICE CHAIR HART: Okay. So do you think that we  
3 could get an updated drawing by the end of this week, like  
4 Friday?

5 MR. SECK: Yes, absolutely.

6 VICE CHAIR HART: Okay. That's it, Mr. Chairman.

7 CHAIRPERSON HILL: Okay. All right. So Mr. Seck,  
8 you have that. And Mr. Moy, we're going to look for updated  
9 drawings. Where's Mr. Moy? Oh, there's Mr. Moy. Okay.

10 COMMISSIONER TURNBULL: Mr. Seck, could you also  
11 show the third spot for the bicycle?

12 MR. SECK: Okay. Let me pull up the cellar.

13 CHAIRPERSON HILL: No, no, Mr. Seck, in --

14 COMMISSIONER TURNBULL: You have two bicycles  
15 showing now, but you're going to add a third you said. So  
16 maybe if you're sending in revised drawings, you could show  
17 where the third bicycle would go.

18 MR. SECK: Oh. Right. Okay, I thought you wanted  
19 to see where it would be. Yes, we will definitely update  
20 that as well.

21 COMMISSIONER TURNBULL: That's fine.

22 MR. SECK: Thank you.

23 CHAIRPERSON HILL: Okay. So Mr. Seck, the three  
24 bicycle spots as well as then the elevations that -- I mean  
25 the elevation clarification that Mr. Hart was requesting.

**NEAL R. GROSS**

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

1 You understand, correct?

2 MR. SECK: Yes, Chairman Hill.

3 CHAIRPERSON HILL: Okay. So I don't remember if  
4 I asked everyone, but did anybody have any questions of the  
5 Office of Planning.

6 (No audible response.)

7 CHAIRPERSON HILL: No? Okay. All right. Mr.  
8 Young, if you could allow the parties in opposition to enter.

9 (Pause.)

10 CHAIRPERSON HILL: Mr. Young, your microphone's  
11 muted. I don't know if you're talking or not.

12 MR. YOUNG: Yeah. I have just one person in,  
13 Pamuila Robinson-Schools.

14 CHAIRPERSON HILL: Okay.

15 MR. YOUNG: And there was also a Robert Schools.  
16 I assume they're probably together, but I don't see a Robert  
17 Schools in here.

18 CHAIRPERSON HILL: Okay. In the room you mean?

19 MR. YOUNG: Correct.

20 CHAIRPERSON HILL: Okay. And just so I know, I  
21 guess you have to search for the names, correct?

22 MR. YOUNG: Correct.

23 CHAIRPERSON HILL: Okay. All right. Well thank  
24 you. So Ms. Schools, can you hear me?

25 MS. ROBINSON-SCHOOLS: Yes, I can.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay. Could you please  
2 introduce yourself for the record?

3 MS. ROBINSON-SCHOOLS: Yes. I'm Pamuila Robinson-  
4 Schools. Robert Schools is here also. We've logged in from  
5 the same email.

6 CHAIRPERSON HILL: Okay. And would you like your  
7 video to be shown, or are you just you're testifying with --

8 MS. ROBINSON-SCHOOLS: I just sent out two, three  
9 days ago that we were doing it in this format when I called.  
10 So I don't even know if I have a camera on my computer, on my  
11 laptop.

12 CHAIRPERSON HILL: That's okay. We can hear you.  
13 We can hear you well. So that's all that is necessary. But  
14 you're saying your husband is with you as well?

15 MS. ROBINSON-SCHOOLS: Yes.

16 Honey.

17 MR. SCHOOLS: Yes. My name is Robert Schools at  
18 620 50th Street, N.E., D.C.

19 CHAIRPERSON HILL: Okay. Okay. Well thank you.

20 One moment please, Ms. Schools. So you'll both  
21 have three minutes each to testify. And there's a clock --  
22 I think can you see the clock?

23 MS. ROBINSON-SCHOOLS: No. I don't.

24 CHAIRPERSON HILL: Okay. That's all right. I'll  
25 go ahead and just let you know when your three minutes are

**NEAL R. GROSS**

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

1 up. And I'll move on to Mr. Schools, if that's correct. And  
2 so you can begin whenever you like.

3 MS. ROBINSON-SCHOOLS: Okay. One, for the posting  
4 of the meeting, it was posted for the 16th, yesterday. Until  
5 a few days ago it was changed to the 17th.

6 So two, we have opposed this building project from  
7 the beginning, not only because of the variances but because  
8 it has, one, a great big building, tall building in between  
9 two residential residences. And there are apartment  
10 buildings but they're on the -- there's one on the very  
11 corner. It's not in the center of the block.

12 Also, we have a Providence Place project that D.C.  
13 Government is doing straight across the street, 93 units and  
14 45 parking spaces. He is proposing two. From my reading of  
15 the regs, he was supposed to have two -- excuse me, one  
16 parking space per two units. And you're saying you're going  
17 to take his word that he's going to have these bicycle  
18 parking spaces. I don't see what bicycle parking has to do  
19 with vehicles.

20 Because potentially we just cannot take the  
21 tolerance of an eight, even eight-apartment building when we  
22 have in excess of potentially 40, 50 at the minimum probably  
23 additional vehicles that's going to be on this street.

24 Now Office of Planning I guess it was said that  
25 there would be no parking impact for that unit, for that

**NEAL R. GROSS**

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

1 project. And there is. Providence Place has been in the  
2 works since well before they even purchased this property.  
3 So it's going to be a terrible negative impact on this  
4 neighborhood.

5 The parking with the aesthetics of the  
6 neighborhood, we just can't tolerate it. We don't want it.  
7 We have a petition with 60 signatures on it from the  
8 neighbors saying that we do not want that project. We oppose  
9 it.

10 ANC opposed the project. It wasn't just one of  
11 the members of the Board. Do I have more time?

12 CHAIRPERSON HILL: Yes. You have another minute.

13 MS. ROBINSON-SCHOOLS: Oh okay. So we, again, we  
14 can't even -- at this point there are so many vehicles coming  
15 in here, trucks and all, just for the project across the  
16 street. This street cannot tolerate any more construction  
17 vehicles coming through here to even construct that project.

18 We are concerned about this project. It doesn't  
19 fit the neighborhood. We oppose it. We cannot tolerate that  
20 additional burden on this street. You know, it was designed,  
21 that lot was designed for a single-family home, not for an  
22 apartment building.

23 CHAIRPERSON HILL: Okay. Mr. Robinson, would you  
24 also like to testify? I mean Mr. Schools, would you also  
25 like to testify?

1 MR. SCHOOLS: Basically I concur with what my wife  
2 said. And I think she laid it out very well as far as I'm  
3 concerned. So my concerns are basically the same as hers.  
4 Okay?

5 CHAIRPERSON HILL: Okay. Thank you.

6 MR. SCHOOLS: Uh-huh.

7 CHAIRPERSON HILL: Thank you, Mr. Schools. So I  
8 guess for both of you, the main concern that you guys are  
9 having is, well parking, construction. And that, that is  
10 what your concerns are, correct?

11 MS. ROBINSON-SCHOOLS: And the aesthetics.

12 MR. SCHOOLS: Yes.

13 MS. ROBINSON-SCHOOLS: The aesthetics. We don't  
14 want a tall building right between -- in the middle of a  
15 street between our two houses.

16 The lady next door, her husband is -- yeah, I  
17 know, I don't know why I brought this up -- but her husband  
18 is terminal. Now he has a long-term degenerating illness.  
19 If there's nowhere for them to get in and out if the  
20 ambulances have to come. Fire vehicles are here on a regular  
21 basis. If we can't -- I mean there's nowhere. As it is,  
22 we're going to be so pressed with space. They're not going  
23 to be able to get in and out to get to him.

24 CHAIRPERSON HILL: Okay. Okay, I understand.  
25 Does the Board have any questions for the witness?

**NEAL R. GROSS**

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

1 (No audible response.)

2 CHAIRPERSON HILL: I'm looking. Okay. All right.  
3 Okay. All right, Ms. Schools, well thank you very much for  
4 your testimony. Mr. Schools, also thank you very much for  
5 your testimony.

6 Mr. Young, if you could please move the Schools  
7 back to an attendee. Okay. Thank you.

8 Mr. Mordfin, just real quick, I mean like they,  
9 they the Applicant, they're not before us for parking.  
10 They're meeting the parking requirement, correct?

11 MS. ROBINSON-SCHOOLS: They never checked it.

12 MR. MORDFIN: Yes, they, yeah, their parking  
13 requirement is one space for three units after four. So with  
14 eight proposed units, they are required to have two off  
15 street parking spaces, which is shown on their plan.

16 CHAIRPERSON HILL: Okay. And as far as this is  
17 where we've been kind of going back and forth for this. And  
18 I'm not talking to you, Mr. Mordfin, I'm speaking now to the  
19 Board. We're going back and forth with this bicycle parking  
20 thing.

21 Like you know, I'm glad that we're going to get a  
22 chance to see the three long-term bicycle parking spots. But  
23 the Applicant is not before us requesting relief from those  
24 three spots. So I'm just kind of providing clarity to that.

25 All right. So does the Board have anything else

**NEAL R. GROSS**

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

1 for the Applicant at this time?

2 (No audible response.)

3 CHAIRPERSON HILL: I don't see anybody raising  
4 their hand. Mr. Seck, do you understand what you've been  
5 requested to provide to the Board?

6 MR. SECK: Yes, Chairman Hill.

7 CHAIRPERSON HILL: Okay. And you think you can do  
8 that by Friday?

9 MS. ROBINSON-SCHOOLS: The Office of Planning is  
10 the one that has the issue with the parking.

11 CHAIRPERSON HILL: I'm sorry. Mr. Young, can you  
12 go ahead and --

13 MR. SCHOOLS: Yeah, I guess so, but --

14 CHAIRPERSON HILL: Ms. Schools, we, Ms. Schools,  
15 we can still hear you guys.

16 MS. ROBINSON-SCHOOLS: Oh.

17 MR. SCHOOLS: Pay no attention.

18 CHAIRPERSON HILL: I don't know if Mr. Young is  
19 able to move you to attendees so you can still -- and Mr.  
20 Young, I'm going to wait for you to tell me so that I know.

21 MR. YOUNG: Yeah, you're good. Sorry about that.

22 CHAIRPERSON HILL: That's all right.

23 Okay. So Mr. Seck, okay, so Mr. Seck, you said  
24 you can give us that information by Friday?

25 MR. SECK: Yes, sir, Chairman Hill. By Friday I

**NEAL R. GROSS**

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

1 will have it to you, yes.

2 CHAIRPERSON HILL: Okay. Then I'm going to close  
3 the hearing other than for the information requested by the  
4 Board that will be provided to us by Friday, and then set  
5 this for a decision.

6 Mr. Hart, Ms. John, Mr. Turnbull, are you  
7 interested in discussing anything at this point? Mr. Hart,  
8 you can go ahead if you want to.

9 VICE CHAIR HART: Sorry. Yeah, just one question.  
10 And I'm sorry if I missed this. Did we get a supplemental OP  
11 report? Did I miss that?

12 CHAIRPERSON HILL: Mr. Mordfin?

13 MR. MORDFIN: No. We did not submit a  
14 supplemental because what they did was they bought the  
15 project more ---

16 (Telephonic interference.)

17 MR. MORDFIN: ---- and didn't ask for additional  
18 relief. They asked for less relief. They rescinded their  
19 request for the two variances that were initially required --  
20 requested.

21 VICE CHAIR HART: Thank you. I just wanted to  
22 make sure I wasn't missing it.

23 CHAIRPERSON HILL: Okay. So I'm back to -- and I  
24 guess I'm going to kind of comment. I don't know if we're  
25 necessarily saving any time by deliberating now versus again

**NEAL R. GROSS**

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

1 deliberating next week. I mean if there's anything anybody  
2 wants to say, you're welcome to.

3 Is there any -- and Mr. Moy, I saw your hand.  
4 Give me one second. Is there anything anyone would like to  
5 speak about right now?

6 COMMISSIONER TURNBULL: No. I'm good, Mr. Chair.  
7 Thank you.

8 VICE CHAIR HART: Yeah. I'd like to just have the  
9 final landscape plan, or at least elevations and plans, so  
10 that we have an updated drawing set before I make comments on  
11 it.

12 CHAIRPERSON HILL: Okay. Okay. Ms. John, are you  
13 good? Okay.

14 MEMBER JOHN: Mr. Chairman, I'm fine.

15 CHAIRPERSON HILL: Okay. Great. Mr. Moy, you had  
16 your hand raised for a moment?

17 MR. MOY: Yes. When you get to the point about  
18 submissions and timeline I can make some suggestions, Mr.  
19 Chairman.

20 CHAIRPERSON HILL: Okay. If you would please,  
21 we're at that point then.

22 MR. MOY: Oh, we're here. Okay. So this is what  
23 I'm hearing. So the Applicant, I believe he said he could  
24 provide submissions to the record on the Board request for  
25 revised elevation plans, and the bicycle spaces and its

**NEAL R. GROSS**

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

1 location. I'm assuming, Mr. Chair or Mr. Turnbull, it's he's  
2 going to have to provide a site plan to show the location of  
3 those bike spaces.

4 And I believe also the Applicant said he could  
5 file that information by this Friday, which would be June the  
6 19th. And I believe, Mr. Chair, he should provide responses  
7 to the parties, because I believe ANC-7C is opposed. So if  
8 you allow the ANC to provide a response, I would give them  
9 time until Wednesday, June the 24th, and then you can make  
10 your decision on July the 1st.

11 CHAIRPERSON HILL: Okay. Mr. Seck, you don't need  
12 to answer, but you can just nod. Do you understand the  
13 timeline?

14 (No audible response.)

15 CHAIRPERSON HILL: Okay. Great. All right. So  
16 Mr. Moy, so this is going to -- so we'll get all that  
17 information that you just said. And we'll set this for  
18 decision on July 1st.

19 MR. MOY: Yes, sir.

20 CHAIRPERSON HILL: Okay. Great. All right, thank  
21 you, Mr. Seck. We'll see you next time.

22 MR. SECK: Thank you all. Thank you, Chairman  
23 Hill. Thank you.

24 CHAIRPERSON HILL: Okay. So Mr. Turnbull, you're  
25 done with us I think, right? Those were the two cases?

**NEAL R. GROSS**

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

1 COMMISSIONER TURNBULL: Yep.

2 CHAIRPERSON HILL: I don't know if you guys want,  
3 do you guys want to take a break, or do you want to do one  
4 more case? You're nodding take a break. Okay.

5 All right. So Mr. Turnbull, we'll see you next  
6 time. And then we'll take a quick, how about let's say 10  
7 minutes. Is that fair? And then we'll be back here at like  
8 11:30. So Mr. Turnbull, you have a good day.

9 COMMISSIONER TURNBULL: Yeah, you too. Stay safe.

10 CHAIRPERSON HILL: Bye-bye.

11 VICE CHAIR HART: Bye-bye.

12 (Whereupon, the above-entitled matter went off the  
13 record at 11:28 a.m. and resumed at 11:38 a.m.)

14 CHAIRPERSON HILL: All right. Mr. Moy, if you can  
15 call our next case, please.

16 MR. MOY: All right, Mr. Chairman. Before I do  
17 that -- well, first of all the hearing -- the Board is back  
18 in session after a very quick break, and the time is at or  
19 about 11:38. Before I call the next case, Mr. Chairman,  
20 just want to announce for the transcript, take a step back  
21 from the previous case which is 20054 Rupsha 2011, LLC.

22 Just wanted to make an amendment to the date of  
23 submission for the responses, that it should be Friday June  
24 the 26th instead of the Wednesday June 24th date. That would  
25 give all the parties a week to respond. I was looking at the

**NEAL R. GROSS**

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

1 wrong week when I gave that date. Sorry for that, Mr.  
2 Chairman.

3 CHAIRPERSON HILL: All right. Mr. Moy, could you  
4 then hold on for one second? I apologize. I'm just trying  
5 to fix this IT issue. I apologize, everyone.

6 MR. MOY: Sure. Okay.

7 (Pause.)

8 CHAIRPERSON HILL: All right. Sorry about that,  
9 you guys. I'm really just struggling over here with this IT  
10 stuff. So, Mr. Moy, if you could go ahead and call our case.

11 COMMISSIONER MILLER: Mr. Chairman?

12 CHAIRPERSON HILL: Yeah.

13 COMMISSIONER MILLER: I just wanted to make sure  
14 I'm on the record as the participating member of the Zoning  
15 Commission at this point.

16 CHAIRPERSON HILL: Thank you, Commissioner Miller,  
17 and welcome.

18 COMMISSIONER MILLER: Thank you.

19 CHAIRPERSON HILL: All right, Mr. Moy. Do you  
20 want to go ahead and call our next case?

21 MR. MOY: Thank you, Mr. Chairman. So with that,  
22 the next case before the Board is application number 20233 of  
23 Erin, E-R-I-N, Carroll advertised and captioned for a special  
24 exception under Subtitle B Section 5201 from the lot  
25 occupancy requirements, Subtitle D Section 304.1 to construct

**NEAL R. GROSS**

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

1 a one-story rare addition to existing attached principle  
2 dwelling unit, or R-1-B zone. This is at 4810 48th Street,  
3 Northwest, Square 1491 Lot 41. And the Board may wish to  
4 address the preliminary matter regarding the affidavit of  
5 maintenance, which I think is not timely, so yeah.

6 CHAIRPERSON HILL: Okay. Paul, if you could let  
7 in the applicant and any parties.

8 MR. YOUNG: Yeah, they're in.

9 VICE CHAIR HART: Mr. Chairman, this is Vice Chair  
10 Hart. There's also the issue of the -- I think there's a  
11 motion to waive the 21-day filing requirement as well. I  
12 think we got something today, an email today.

13 CHAIRPERSON HILL: Oh, okay. Thank you so much.  
14 I appreciate that. All right, so let's see. I'm looking  
15 around to see who I have here. Ms. Brittingham and then is  
16 it Ms. Carroll, or who else is with us?

17 MS. CARROLL: Yes, I'm here as well.

18 CHAIRPERSON HILL: Okay, great. So, Ms. Carroll,  
19 are you going to be presenting or who's going to be  
20 presenting?

21 MS. CARROLL: No. Ms. Brittingham is going to be  
22 presenting.

23 CHAIRPERSON HILL: Okay. All right. Well, give  
24 me one second, you guys. So in terms of a preliminary map --  
25 well, I guess that's part of it. So, Ms. Brittingham, could

**NEAL R. GROSS**

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

1 you please introduce yourself for the record?

2 MS. BRITTINGHAM: Hello. My name is Lacy  
3 Brittingham. I am architect for this project and also the  
4 agent of the owner.

5 CHAIRPERSON HILL: Okay. And, Ms. Carroll, could  
6 you also please introduce yourself for the record?

7 MS. CARROLL: Sure. My name is Erin Carroll and  
8 I'm the homeowner.

9 CHAIRPERSON HILL: Okay, great. So, Ms.  
10 Brittingham, did you file for a late waiver?

11 MS. BRITTINGHAM: Can you hear me?

12 CHAIRPERSON HILL: Yes.

13 MS. BRITTINGHAM: Okay. I don't know about that.  
14 We filed the affidavit of maintenance last week, but there  
15 was not a request to include photographs of the updated sign  
16 with that in the instructions that I got. So I just heard on  
17 a previous case this morning you guys asked --

18 (Off-mic comments.)

19 MS. BRITTINGHAM: -- for photos of the sign  
20 showing today's web meeting as an updated. And so I just  
21 uploaded them to the case file this morning just to make sure  
22 you could see that we had changed the signs as requested. We  
23 did that in May.

24 VICE CHAIR HART: Mr. Chairman?

25 CHAIRPERSON HILL: Yes?

**NEAL R. GROSS**

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

1           VICE CHAIR HART: This is Vice Chair Hart. So Ms.  
2 Brittingham, what I suggested, because there is a 21-day  
3 filing requirement for any plans that we get, and we actually  
4 received some plans that were revised artificial plans on, I  
5 guess it was yesterday, that there wasn't that 21-day time  
6 frame. And so it is a -- you would have to make a verbal  
7 motion to request a -- to waive the 21-day filing motion for  
8 these updated plans.

9           And our Office of Attorney General submitted a --  
10 they just made us aware of that. So that's what I was  
11 referring to. It didn't have to do with the notice  
12 requirements that were some other particular issues with  
13 that. It had to do with the drawings being submitted,  
14 revised drawings being submitted yesterday.

15           MS. BRITTINGHAM: Do I need to make the motion  
16 then right now, or has that been done?

17           VICE CHAIR HART: I think we're actually  
18 discussing it right now, so it's -- I think we're discussing  
19 a motion to accept or waive the 21-day filing requirement.  
20 And that's it, Mr. Chairman.

21           CHAIRPERSON HILL: Okay.

22           VICE CHAIR HART: I don't have an issue with it.  
23 I just wanted to make sure that we --

24           CHAIRPERSON HILL: No, I appreciate that and I'm  
25 thankful that you're on the call with me, Mr. Hart, because

**NEAL R. GROSS**

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

1 again I have two computers here. I'm trying to fix these  
2 issues. So I don't have any issue with the waiving the 21  
3 days in order to get the updated drawings. And also then I  
4 don't have any issues with the notice. I believe that again  
5 the 200 footers have been noted in Exhibit 35. The Office of  
6 Zoning letters went out in Exhibit 38.

7 And so before we begin, it looks like I might be  
8 getting this other system up and running in terms of my  
9 technical issues. So if you could all just bear with me  
10 again for a moment, I'm going to mute this line.

11 (Pause.)

12 CHAIRPERSON HILL: Okay. Paul, can you hear me?

13 MR. YOUNG: Yeah.

14 CHAIRPERSON HILL: Okay. So I'm just going to  
15 keep this, the one that you -- the one that I'm on right now,  
16 the computer system that I'm on right now, just leave me the  
17 way it is. Don't switch the other one back. Do you  
18 understand what I'm saying? Leave this the way it is.

19 MR. YOUNG: Got it.

20 CHAIRPERSON HILL: I'll work off of this one for  
21 the rest of the day.

22 MR. YOUNG: Okay.

23 VICE CHAIR HART: Ms. Chairman, can I ask one  
24 question before we start? Ms. Brittingham, the drawings that  
25 you submitted, there weren't any changes? Why were the re-

**NEAL R. GROSS**

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

1 submission necessary? Revised drawings necessary?

2 MS. BRITTINGHAM: I just changed them to reflect  
3 the request of an A&C. Well, it was actually a condition for  
4 the letter of support that we show one ring barrel for the  
5 project, so that was it.

6 VICE CHAIR HART: That's very helpful. It helps  
7 in the discussion about, you know, waiving the 21-day filing  
8 deadline. So that's it, thanks.

9 MS. BRITTINGHAM: Uh-huh.

10 CHAIRPERSON HILL: Okay. Ms. Brittingham, if you  
11 could please go ahead and give your presentation as to how  
12 you believe -- well first of all, the application and how you  
13 believe you're meeting the standard for us to grant the  
14 relief requested, and you can believe whenever you'd like.

15 MS. BRITTINGHAM: Okay, thank you. So I think --  
16 is Mr. Young bringing the drawings up? Okay. So this is  
17 just the set that I uploaded just recently for the  
18 presentation. We are obviously before you for, as mentioned,  
19 a single story rear addition. It's quite small. It's 10  
20 foot 2 inches by 12 feet, and we are asking for 3.6% lot  
21 coverage relief from Subtitle D304.1.

22 Again, as a single story and quite small, it is  
23 well below the lot coverage limit of the 50% for the special  
24 exception limit. And so we believe that we meet the burden  
25 of proof for, you know, not adversely affecting the

**NEAL R. GROSS**

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

1 neighbors. We do have three letters of support, one from  
2 each of the three neighbors that have adjoining property  
3 lines.

4           So the neighbor to the north at 4818, their house  
5 is about 60 feet away from the subject property, the  
6 structure of the subject property. So they are, you know,  
7 light and air. Certainly there's a lot of air space between  
8 the buildings. As far as shadows, there will be not much  
9 cast by a single story addition. And again, their house is  
10 very far away. The property line is also heavily vegetated,  
11 so the privacy between that property owner and our property  
12 will not really be changed, and it will definitely still be  
13 screened. There is a rear yard fence around our property, so  
14 the addition will be also additionally concealed by that  
15 fence.

16           The neighbors to the south, the two properties on  
17 Davenport Street. The sense between the structures are over  
18 40 feet, and so again there is space for light and air  
19 between the properties. Since they are to the south, they  
20 will not be affected by any shadows from our proposed single  
21 story addition. In addition, the garage on our property is  
22 between the west neighbor on Davenport and our proposed added  
23 structure.

24           And I think then the last section would be the  
25 character and scale. You can progress to maybe the page 9 is

**NEAL R. GROSS**

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

1 the rear elevation. The existing house has had many  
2 modifications over the years. The back of the house is sort  
3 of in a very specific style of architecture, and we have  
4 tried to just replicate the detailing so that the changes to  
5 the back of the existing house are consistent with the  
6 language and the character of the existing house, and as it  
7 might be viewed from the alley, not from the street. But we  
8 tried very hard to make the proposed changes match the  
9 existing architecture of the house.

10 CHAIRPERSON HILL: Okay, great. Thank you, Ms.  
11 Birmingham. Brittingham, I'm sorry. Can I turn to the  
12 Office of Planning, please?

13 MS. ELLIOT: Good morning. I'm Brandice Elliot  
14 representing the Office of Planning and I'll give a brief  
15 testimony for Case 20233 for the home at 4810 48th Street,  
16 Northwest. The Office of Planning is recommending approval  
17 of the lot occupancy that's been requested. It would be  
18 43.6% where 40% is permitted by matter of right.

19 We'll go ahead and stand on the record of our  
20 report that I'm happy to answer any questions that you have.  
21 Thanks.

22 CHAIRPERSON HILL: Okay, right. Thank you, Ms.  
23 Elliot. Ms. Elliot, is this your first time back with us?  
24 I can't remember.

25 MS. ELLIOT: It is, yeah.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Yeah. Nice to see you, Ms.  
2 Elliot.

3 MS. ELLIOT: Thanks. You too.

4 CHAIRPERSON HILL: Okay. Did the Board have any  
5 questions for the applicant or the Office of Planning? Okay.  
6 Does the applicant have any questions for the Office of  
7 Planning? Okay. Mr. Hart, I'm going to ask you to help me  
8 with something. I don't have the list up in terms of  
9 witnesses and such.

10 So I'm going to ask Paul anyway but, like, if  
11 there is any of the information that was sent prior to this  
12 morning, if something comes up just let me know. But Mr.  
13 Young, I know that there were people in support, but is there  
14 anybody wishing to testify, Mr. Young?

15 MR. YOUNG: I don't have anyone on the list.

16 CHAIRPERSON HILL: Okay. All right. So then what  
17 I'm asking, for the record, is if there's anyone wishing to  
18 speak in support, and if there's anyone wishing to speak in  
19 opposition, and no one has signed up for either. So with  
20 that, I will go and ask again if there's any Board members,  
21 any final questions? Okay.

22 Ms. Brittingham, is there anything you need to add  
23 at the end? You need to shake your head yes or no. Your  
24 microphone was muted. Okay, all right. She shook her head  
25 no. So I'm going to go ahead then and close the hearing and

**NEAL R. GROSS**

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

1 the record.

2 MS. BRITTINGHAM:

3 MR. BASSETT: Sorry. This is Dan Bassett, OAG.

4 CHAIRPERSON HILL: Sure.

5 MR. BASSETT: I'm not sure if it got lost in that  
6 conversation of the motion at the beginning, but what the  
7 Board has been doing by practice is going through the notice  
8 and the updated notice, and I'm not sure if that got done  
9 with this case.

10 CHAIRPERSON HILL: Okay. So I believe that we  
11 might have, but maybe I might have neglected it, when we were  
12 going through all of the notices when we were talking about  
13 the waivers for the posting and such. I mean, I didn't have  
14 any issues with notice. I thought that, you know, the Office  
15 of Zoning had sent out the letters to the 200 footers in  
16 Exhibit 35. The Office of Zoning sent out the letters to  
17 parties in Exhibit 38. And then the ANC had also filed their  
18 letter of support. So meaning I believe there was plenty of  
19 notice for this project.

20 Does the Board have any issues for this notice?  
21 Okay. No? Okay. Everyone's nodding no.

22 So with that being the case, but thank you, Mr.  
23 Bassett, I'm going to go ahead and close the record and then  
24 also close the hearing. I believe we can go ahead and  
25 deliberate, or discuss next week, unless there's something

**NEAL R. GROSS**

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

1 you, Mr. Hart or Ms. John, want to talk about now?

2 VICE CHAIR HART: Or Commissioner Miller.

3 CHAIRPERSON HILL: Yes, or Commissioner Miller.

4 Exactly.

5 VICE CHAIR HART: No. I don't have anything that  
6 I'd like to discuss now. We can discuss the project and make  
7 our decision next week.

8 CHAIRPERSON HILL: Okay. So the decision for June  
9 24th? Okay, great. All right. Thank you very much, Ms.  
10 Brittingham and Ms. Carroll. And, Mr. Young, you can excuse  
11 them. And if you guys will just give me again one more  
12 moment. I apologize.

13 (Pause.)

14 CHAIRPERSON HILL: Okay. Can you guys hear me  
15 again? Okay, thank you. I truly am sorry to everyone. This  
16 is just going on and on in terms of -- again, the IT issues  
17 I'm having with these different laptops. And so since  
18 apparently we're going to be doing this again next Wednesday,  
19 the sooner I get it all fixed, the better it is for -- so  
20 there you go. Let's see. So, Mr. Moy, if you'd like to call  
21 our next case.

22 MR. MOY: Thank you, Mr. Chairman. So I believe  
23 the next case is application number 20178, I believe  
24 pronounced Murat, M-U-R-A-T, Kayali, K-A-Y-A-L-I.  
25 Advertising caption for special exceptions under the

**NEAL R. GROSS**

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

1 penthouse requirements Subtitle C Section 1504.1, from the  
2 setback requirements, Subtitle C Section 1502.18, Subtitle C  
3 1502.1(b) and Subtitle C Section 1502.1(c)(1)(A), and  
4 proceeding to Subtitle F Chapter 10 for a variance, for the  
5 maximum lot occupancy requirements, Subtitle F Section 604.1  
6 to construct a rear deck addition and an accessory structure  
7 in the RA-8 zone.

8           This is at 1738 Church Street Northwest Square  
9 153, rather 156 lot 313. And I guess as in our protocol  
10 would be the notice requirements. And I have to double check  
11 to see if the affidavit of posting maintenance is timely or  
12 not.

13           CHAIRPERSON HILL: Okay. I thought everything was  
14 good because this is continued, but we'll see what happens  
15 here. Mr. Sullivan, could you please introduce yourself?  
16 You're on mute, Mr. Sullivan.

17           MR. SULLIVAN: Thank you, Mr. Chairman, members of  
18 the Board, good to see you again. My name is Marty Sullivan  
19 representing the applicant. I think all of our stuff is  
20 timely, but we do have a request to waive a 21-day  
21 requirement because we made a change in the amount of relief  
22 requested, and it's something we had been working with the  
23 Office of Planning on and working with the applicant's  
24 contractor on. And that was just done I think last week, so  
25 we're asking for relief to accept that filing within the 21-

**NEAL R. GROSS**

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

1 day period.

2 CHAIRPERSON HILL: Okay. Does the Board have any  
3 issues with granting the waiver? I do not. Okay. There was  
4 not a no. Is it Mr. Pinto? Is that who's also with us?

5 MR. PINTO: Yes, that's me.

6 MR. SULLIVAN: Correct.

7 CHAIRPERSON HILL: Could you please introduce  
8 yourself for the record?

9 MR. PINTO: My name is Craig Pinto. I'm calling  
10 on behalf of Karma Home Designs, Karma Construction Group.  
11 And yeah, I'm here as a contractor.

12 CHAIRPERSON HILL: Okay. So, Mr. Sullivan, your  
13 client is not with us today, is that correct?

14 MR. SULLIVAN: I think he is as well.

15 CHAIRPERSON HILL: I don't see him on the screen.

16 MR. SULLIVAN: Okay. He may not. He may have had  
17 to jump off.

18 CHAIRPERSON HILL: Okay. So, Mr. Sullivan, I mean  
19 I guess if you could tell us a little bit about the case  
20 here.

21 VICE CHAIR HART: Mr. Chairman?

22 CHAIRPERSON HILL: Yes?

23 VICE CHAIR HART: It looks like they are. They're  
24 just an attendee right now. So if they could be moved into  
25 the -- it looks like it's the same, yeah, name. I think

**NEAL R. GROSS**

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

1 they're there now.

2 CHAIRPERSON HILL: Mr. Young, did you already move  
3 them in as an attendee? Let me see if I got them on the  
4 screen here.

5 VICE CHAIR HART: They're there now.

6 MS. KAYALI: Hello.

7 MR. KAYALI: Hello. We are here.

8 CHAIRPERSON HILL: Hi. If you could please say  
9 your name for the record.

10 MR. KAYALI: I am Murat Kayali and I am the  
11 homeowner.

12 MS. KAYALI: I am Katherine Kayali and also the  
13 co-homeowner.

14 CHAIRPERSON HILL: Okay, great. And thank you for  
15 muting your microphone. Mr. Sullivan, I guess if you would  
16 please -- and I guess Mr. Young was bringing up your slide  
17 deck. If you could again kind of walk us through the  
18 application. I mean, I'll cut a little bit to the chase with  
19 this.

20 I mean, for me I suppose really kind of going  
21 through how you believe they're meeting that first prong of  
22 the test, right, the exceptional condition for the variance.  
23 That's the real one that I'm kind of having a little bit of  
24 an issue with. And then if you can put some clarity around  
25 the one thing that, and I guess they're speaking from the

**NEAL R. GROSS**

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

1 second prong also, which is that the practical difficulty  
2 concerning the sliding door. And this may be something you  
3 can clarify for me. And then if they did put in a sliding  
4 door, would they be here for a special exception rather than  
5 a variance? So those are the two questions that I had.

6 Is there anything else anyone wants the attorney  
7 to address during the presentation that they'd like to bring  
8 up right now? If so, please raise your hand. Okay.

9 Then, Mr. Sullivan, you can go ahead and begin  
10 whenever you'd like.

11 MR. SULLIVAN: Thank you, Mr. Chairman. And I  
12 think based on your introduction, I'm probably going to --  
13 I'm not going to go through the entire slideshow, of course.  
14 This is a continued hearing. I think that the Board and the  
15 Office of Planning have always been -- I think we've talked  
16 about the special exception relief for the railing setback  
17 enough, and it doesn't sound like that's the issue.

18 So unless there's questions about that, I won't  
19 talk about that. So I'll get into your request to talk about  
20 prong one and prong two, and then the contractor is here to  
21 provide more detail on the sliding glass door issue and the  
22 practical difficulty.

23 So as you can see from this cover page, we have a  
24 deck that's going from the principle building to the  
25 accessory building, and you see the new accessory building.

**NEAL R. GROSS**

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

1 So the proposal's for a new accessory building and for the  
2 deck. In the original request to request 76% lot occupancy,  
3 Office of Planning was pushing us to get down to 70, in which  
4 we tried to do, and we managed to get to 72.5, and believed  
5 that going below that number presents practical difficulty.

6 So the unique condition, I would start with slide  
7 15, please. So you can see the configuration of the  
8 accessory buildings in the properties back here. They all  
9 have very high lot occupancies and they all have accessory  
10 buildings. And part of the unique condition presented here  
11 is that we do not have an accessory building, and it leads to  
12 that open tooth thing back here, which has presented issues  
13 with security, trash. And the construction of the garage  
14 itself of course would be well under the 70% lot occupancy.  
15 So if we had that approved separately, that would just be a  
16 special exception. So it's really the deck that connects the  
17 accessory building and the house.

18 So if we could go to slide 9. And you see the  
19 short distance between the accessory building and the house.  
20 This is similar to the other buildings on this row. And to  
21 go from the living level of the house, all the way down into  
22 the ground, and then back up to the roof deck is a -- that  
23 would be difficult, and that's an exceptional condition.

24 And then part of what we talked about at the  
25 hearing before too, if you could go to slide 17 and 18, those

**NEAL R. GROSS**

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

1 slides are photos that show the area that's sort of buried by  
2 this surrounding area here because of how the other house are  
3 located. And this area ends up being a canyon inside their  
4 accessory building and the principle building. So, in part,  
5 this is an effort to lift some of the recreation space up out  
6 of that and put it on the deck.

7           So in working with the Office of Planning, we did  
8 come to an agreement that the 72.5 percent is a number that's  
9 acceptable to the Office of Planning, which does show a  
10 practical difficulty in exceptional condition.

11           Slide 7, please. And I'll turn it over to Craig  
12 Pinto, the contractor, to talk more about the problem with  
13 the doors under a lot occupancy alternative that's less than  
14 72.5 percent. Craig?

15           MR. PINTO: Yeah. Thanks, Marty. Okay. So  
16 essentially what we did was we priced out to have a, you  
17 know, a sliding door there as a possible option. But let me  
18 just start off by just explaining how those doors are. They  
19 have an exterior part which actually opens out, and it has  
20 bars on there. That's for the security of the interior  
21 doors, which actually -- then, you know, you'd be able to  
22 access.

23           So with having the smaller deck there, you'd be  
24 trying to open the doors kind of onto yourself in order to be  
25 able to access the secondary door which gets you in. So, you

**NEAL R. GROSS**

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

1 know, that's where we got to the part of, like, you know, we  
2 need it to be a little bit bigger so that person could stand  
3 in front of the door, open the door, and still be able to  
4 reach the next door without having to go to the side or, you  
5 know, sort of be like -- not have a proper distance in front  
6 of them.

7           And then the secondary thing was we were able to,  
8 you know, price out, you know, an average price or having a  
9 tempered glass security door. Again, like, eliminating those  
10 bars but making it towards the sliding option. It's a little  
11 on the expensive end because again I priced out a standard  
12 door that was tempered glass, had essentially everything you  
13 need to have a good standard security door with a sliding  
14 feature.

15           And that came out to, you know, around, like, I  
16 think 5,000 or 6,000, something like that. I just see it as  
17 an added cost of business. And not even saying that their  
18 particular door is a custom door. I'm basing it off a  
19 standard door that I could get, you know, from a store. And  
20 if I would have to custom size that then that we're looking  
21 at, you know, much more money. And so I just feel like  
22 that's, you know, unreasonable, you know. We can get back to  
23 Marty now.

24           MR. SULLIVAN: Thank you, Craig. And the last  
25 thing I'll point out to the Board is just the minor degree of

**NEAL R. GROSS**

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

1 relief that we're talking about now. We're just talking  
2 about going 2.5% past the special exception number, and it's  
3 with a pervious deck as opposed to building itself. I think  
4 that that shows that it's a very minor degree of relief  
5 requested.

6 And we think the information submitted with the  
7 cost estimate of the sliding glass door and the practical  
8 difficulty, it comes down to having a usable deck  
9 essentially. And if the deck's not usable then it's not  
10 worth having, and it becomes a practical difficulty. And the  
11 issue with the door is about usability of the deck.

12 And I think we have shown that we have to have a  
13 deck if we want to get to the roof deck of the garage as  
14 well, and to have some usable outdoor space, especially on  
15 the main level.

16 If you have any questions for me or for Craig or  
17 for the applicant?

18 CHAIRPERSON HILL: Okay. Right. Thanks, Mr.  
19 Sullivan. Let's see. So does the Board have any questions  
20 for the applicant. I'll start with you, Mr. Hart.

21 VICE CHAIR HART: So, Mr. Sullivan, what the --  
22 getting to the first prong of the test, I still have a hard  
23 time with it I think, and I'm not exactly sure why. I think  
24 that it's -- I mean, well we deal with lot occupancy, you  
25 know, in many cases. And while I understand that you're

**NEAL R. GROSS**

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

1 stating that it's a minor, or what you're believe is a minor,  
2 increase in the lot occupancy, it still requires a variance.  
3 If this was .1% over 70% -- I'm sorry, if it was .1 over 70%,  
4 then it would still need a variance.

5 Or, you know, if it's even a smaller amount. So  
6 I'm not getting why this is -- I understand the points that  
7 Mr. Pinto brought up but I'm still not there yet. And I  
8 don't know if there's -- I don't know what my fellow Board  
9 members think about that. I just am having a difficult time  
10 with that aspect of it. I mean it's saying that it is, you  
11 know, kind of a different lot than other lots along that  
12 portion of the street or the alley. That's kind of one  
13 thing. But if you look at the other side of the alley, they  
14 don't have the accessory buildings either, at least they  
15 don't show on the image that you showed earlier.

16 So I guess that's where I am. I don't know if it's  
17 more of a question or a comment.

18 CHAIRPERSON HILL: Okay. Mr. Sullivan, give me a  
19 second. Ms. John?

20 MEMBER JOHN: So I have a similar question. I am  
21 really having trouble with that first prong, because I looked  
22 at that diagram again and the property is not unique in not  
23 having an accessory structure back there. And I understand  
24 the need to put one in for security reasons and for other  
25 reasons. But that in itself does not demonstrate to me that

**NEAL R. GROSS**

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

1 there's an exceptional condition.

2           And while I agree with Mr. Sullivan that the Board  
3 can look at the degree of the relief requested, there still  
4 has to be some showing that this exceptional condition  
5 exists. And I understand the practical reasons. But like,  
6 bless your heart, I am having a hard time with that. I am no  
7 quite sure why there has to be a need for a sliding door. So  
8 that's sort of where I am. Those are my thoughts.

9           CHAIRPERSON HILL: Okay. And, Mr. Miller, do you  
10 have any questions for the applicant?

11           COMMISSIONER MILLER: Thank you, Mr. Chairman.  
12 No, I don't have any questions. I am not uncomfortable with  
13 the bullet points raised by the applicant's attorney on page  
14 15 of the PowerPoint as to why this is an exceptional  
15 situation resulting in a practical difficulty. So I have no  
16 questions. I'm okay.

17           CHAIRPERSON HILL: All right. Mr. Miller, I'm  
18 sorry, I didn't hear that first part. Did you say you are  
19 comfortable?

20           COMMISSIONER MILLER: I did a double negative.  
21 I'm sorry. I am comfortable with the points that have been  
22 argued by the applicant, applicant's attorney, on page 15 of  
23 the PowerPoint as to why this is an exceptional situation.

24           CHAIRPERSON HILL: Mr. Young, could you pull up  
25 the PowerPoint again and go to page 15 for me? I don't have

**NEAL R. GROSS**

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

1 access. I apologize.

2 VICE CHAIR HART: I think it may be the next page.

3 COMMISSIONER MILLER: I'm sorry, I misstated,  
4 although that also helps.

5 CHAIRPERSON HILL: Which one were you looking at,  
6 Mr. Miller?

7 COMMISSIONER MILLER: I meant to reference page  
8 16, but I think page 15 also does show some.

9 CHAIRPERSON HILL: These are the bullet points  
10 you're speaking of?

11 COMMISSIONER MILLER: Yes.

12 CHAIRPERSON HILL: Okay. Would you mind just  
13 leaving this up, Mr. Young, for a moment. Can I turn to the  
14 Office of Planning, please?

15 MS. ELLIOT: Hello again. This is Brandice Elliot  
16 representing the Office of Planning for case BZA 20178. We  
17 have been instructed to go through some of the details  
18 concerning the variance for the justification that's been  
19 presented by the applicant and, you know, how it relates to  
20 our recommendation.

21 And so in particular, there is an extraordinary  
22 condition relating to the lot. We feel that given the minor  
23 degree of relief, it's enough of an extraordinary condition.  
24 Certainly the lot itself is very similar to other surrounding  
25 lots. I think what differentiates this one from other lots

**NEAL R. GROSS**

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

1 is the fact that it is not as developed. It has a smaller  
2 dwelling on the lot. The two flanking lots actually have  
3 significantly larger buildings because there are additions on  
4 the rear, and so the lot in particular to the west I think  
5 has about a 90% lot occupancy. And what that does is it  
6 casts shadows on this lot.

7           So once the garage is constructed, the center of  
8 this lot is going to be pretty well shaded by adjacent  
9 development and the garage. And so that creates a  
10 practically difficulty of ensuring there's sufficient light,  
11 you know, available to the homeowners. And so what they have  
12 proposed is to elevate as much of their open space as  
13 possible.

14           And so what they're doing is connecting their roof  
15 deck on the garage to the main dwelling with a deck, you  
16 know, that's basically just a passable deck that makes access  
17 to the roof deck a little bit easier. But it also, you know,  
18 creates more light for their rear yard. And so we feel  
19 that's the practically difficulty.

20           And of course the applicant has gone through some  
21 of the other details submitted to the record regarding the  
22 replacement of the doors. We feel that the -- it would be  
23 practically difficult to replace those security doors with a  
24 sliding door given the cost that would be incurred by the  
25 applicant, especially considering the degree of relief that

**NEAL R. GROSS**

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

1 is being requested. The 34 square feet is purely to allow  
2 the existing security doors to be fully functional. And so  
3 we feel that the existing conditions pertaining to the lot  
4 and the practically difficulties are sufficient to justify  
5 the degree of relief that's been requested.

6 And in terms of the other variance criteria, we  
7 don't think that the proposal would cause substantial  
8 detriment to the public good, as has already been sort of  
9 pointed out. There are other similarly sized structures  
10 along the alley that have similar or greater lot occupancy,  
11 so we don't feel that this is necessarily out of character  
12 with that.

13 And also, there have been several letters of  
14 support. I'm sorry, I think two letters of support in the  
15 record from adjoining neighbors that are okay with the  
16 development. And then we don't believe that the additional  
17 lot occupancy would cause harm to zoning regulations because  
18 the intent of the zoning regulations, the intent of providing  
19 lot occupancy is to ensure the sufficient open space on the  
20 property.

21 And we feel that, you know, the deck being open to  
22 the sky and permeable is still achieving that objective. And  
23 the relief in particular for this case would allow for the  
24 security door to be fully functional and increase the safety  
25 of the project.

**NEAL R. GROSS**

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

1           The second part of the request is special  
2 exception relief for the guard rail. And as the applicant  
3 discussed, we are recommending approval of that. We don't  
4 have any concerns about the guard rail particularly because  
5 it's not going to be visible from Church Street, but it's  
6 also within -- it's very similar to the established character  
7 of the rear alley.

8           I'm happy to answer any questions that you have.

9           CHAIRPERSON HILL: Okay. I'll ask mine real quick  
10 again. And I'm just kind of confused. I remember this when  
11 we were even going through it the first time. I mean, if  
12 they did a sliding door, they could have the exact same thing  
13 but not be before us for a variance, correct?

14           MS. ELLIOT: So that is correct. And part of our  
15 evaluation was that, you know, the cost of that sliding door  
16 was significant enough to pose a practical difficulty in  
17 providing the 70% lot occupancy. So yes, that is a  
18 possibility but we still think that the cost is significant  
19 given the scope of the project.

20           CHAIRPERSON HILL: The cost being the \$7,500?

21           MS. ELLIOT: Yes.

22           CHAIRPERSON HILL: Okay. All right. Mr. Hart?

23           VICE CHAIR HART: Thank you, Chairman Hill. So,  
24 Ms. Elliott, if we were looking at this as being 75 percent,  
25 I mean, what's the cutoff that we're talking about here?

**NEAL R. GROSS**

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

1           And that's part of the problem that I'm having is,  
2 while I understand that they're looking at, it's three  
3 percent that we're talking about, it does seem as though it  
4 is hard to figure out what that edge is. That upper limit  
5 is.

6           Because, in some ways they could have gone up  
7 more. They could have gone up to 75 or even higher  
8 percentage. So, that's the question. Do you have an upper  
9 limit for this?

10           MS. ELLIOTT: So, every project is evaluated on  
11 its own merits. It's really hard to say where there's a  
12 cutoff for variances.

13           I mean, I think that in this case we saw the  
14 difficulties with the operations of the door and then we  
15 thought that 36 square feet was sufficient enough to resolve  
16 that issue. So, I guess, yes, there is really not a good  
17 answer to that question because there is no limit. It  
18 depends on the scope of the project.

19           And we think that this is a small enough variance  
20 that's justified by those existing conditions on the lot that  
21 we could support it.

22           CHAIRPERSON HILL: Ms. John, do you have any  
23 questions? No? I can't see your face. Okay.

24           Actually, Mr. Young, if you would pull down the  
25 presentation so we can see the faces again? Great.

**NEAL R. GROSS**

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

1 Ms. John, I'm sorry, your microphone is muted.

2 MEMBER JOHN: Okay, so, I've been trying to figure  
3 out how to articulate my discomfort. It seems to me that the  
4 variances being driven by the need to change the door, and  
5 I'm not quite sure of the configuration of the deck at that  
6 point.

7 So that's just my discomfort. I understand the  
8 arguments that there is less light. I don't think that by  
9 itself supports the variance or the fact that the recreation  
10 space is in a canyon-like situation.

11 I totally understand all of that. I just don't  
12 know if I can get to the variance when the sliding door would  
13 not require coming to the Board.

14 And I'm concerned that even though we evaluate  
15 each case on its own merit, that we're still stuck with the  
16 decision where we say, you know, it's okay to get a variance  
17 if the cost of a sliding door is arguably too much.

18 And I'm not sure if the cost that we have been  
19 provided for the particular door is reasonable in light of  
20 the project. So, I'm still struggling. It doesn't mean I  
21 can't get there, but that's sort of where I am.

22 MS. KAYALI: May I try and address your concerns?  
23 Would that be okay?

24 CHAIRPERSON HILL: I'll give you a chance, we'll  
25 give you a chance --

**NEAL R. GROSS**

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

1 MS. KAYALI: Okay, sure, I don't want to speak out  
2 of turn. I apologize.

3 CHAIRPERSON HILL: Sure, that's all right. No  
4 problem. You know, you got to try. So, let's see. Right,  
5 Mr. Hart, you've already spoken, correct.

6 Mr. Miller, do you have anything you would like to  
7 ask the Office of Planning or add to the discussion?

8 COMMISSIONER MILLER: No. I want to thank Ms.  
9 Elliott for her report. Her multiple reports in this case.

10 I wasn't on the original hearing but I had  
11 reviewed the record. And that record does show that they did  
12 reduce the size, scale back the proposal, as a result of the  
13 concerns that the Office of Planning had about the proposal  
14 and that first prong.

15 So, I think given all those, I think it was at  
16 76.7 percent lot occupancy originally and it's now at 72.46.  
17 And yes, I understand what Mr. Hart is saying about what's  
18 too little, what's too late.

19 But I generally disagree with Ms. Elliott that  
20 there is a huge bunch of factors that are in play here.  
21 Including the condition of the, the existing condition of  
22 that space.

23 And so, anyway, no, I have no other comment.  
24 Thank you, Mr. Chairman.

25 CHAIRPERSON HILL: Okay, let's see. Ms. Kayali?

**NEAL R. GROSS**

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

1 And I don't know if I'm pronouncing that correctly.

2 MS. KAYALI: Yes, sir, that's correct.

3 CHAIRPERSON HILL: If you could go ahead and, what  
4 you'd like to say.

5 MS. KAYALI: Sure. And if I could ask for the  
6 PowerPoint presentation be shown where we show the schematic  
7 of the deck on the back of the house, I think that's the  
8 easiest way to illustrate the problem that we're having. I  
9 think it's the slide right before this.

10 Oh, I was incorrect. Marty, you might be able to  
11 help me.

12 MR. SULLIVAN: Is that it?

13 MS. KAYALI: No. Just the, there we go. Yes,  
14 thank you. So seven. I'm sorry, one more slide.

15 MR. SULLIVAN: Seven, yes. Yes, seven.

16 MS. KAYALI: Seven. Yes, thank you. So, as was  
17 just indicated, we had originally requested a much larger  
18 deck. So basically, we're constructing a garage and we're  
19 putting a deck on top of that and the garage is very much a  
20 safety issue. We're having problems with being the only  
21 person on our street that doesn't have one.

22 And I don't know if the lot diagram doesn't  
23 reflect it, but the people on the other side of the alley  
24 from us really all do have either decks or parking features  
25 of some sort. But the only ones that don't, people throw

**NEAL R. GROSS**

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

1 trash in our yard and it's becoming a problem. Especially  
2 under recent conditions.

3 We initially, you know, the goal then became, how  
4 do we connect our house, you know, you exit our house in the  
5 back on the second story, so how do we get from the kitchen  
6 doors to this new deck that we're constructing.

7 And the space is too short to sort of go down the  
8 steps and then go back up the steps. And you need some sort  
9 of landing.

10 So, while we initially did ask for a much bigger  
11 deck, because we knew our backyard was going to become a  
12 canyon and we wanted to elevate it, the Office of Planning  
13 indicated that that was a concern.

14 So instead of asking for a big deck to connect the  
15 two, we've basically just shrunk our requests to a landing  
16 that goes the width of the house and is only about four feet  
17 deep. So we can't really make it a whole lot narrower  
18 without sort of having to pirouette around. And then a  
19 walkway to connect the two decks.

20 Now, sort of sliding doors or no sliding doors,  
21 the only way to make this deck under 70 percent is not to  
22 mess with the deck but rather to not make the deck the entire  
23 width of the house. And then that's what's creating problems  
24 with the doors.

25 I recognize, to some extent, yes, sliding doors

**NEAL R. GROSS**

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

1 would fix that problem and we can set the cost to the side  
2 for the moment, but I think sliding doors present issues not  
3 only from a security perspective but also because this is the  
4 only place where we have a wide opening to our house.

5           So for instance, when we try to bring furniture  
6 inside, we have to open up both of those doors and bring  
7 things in that way. And so, sliding doors just present a  
8 number of problems from that perspective.

9           We're going to lose this wide access to our house  
10 with a sliding door that only opens, it can only open sort of  
11 one door width. And the difference we're talking about here  
12 is really a deck that would stay the same width but would be  
13 a few feet shorter than the width of our house. Making sort  
14 of the exit to the house and the turning to the deck just  
15 more awkward.

16           We had basically tried to shrink this to a small  
17 usable landing as we could think.

18           MR. KAYALI: And in addition to the, you know, you  
19 could have a sliding door that has tempered glass that would  
20 add a security benefit, but part of what we like about having  
21 the bars on the doors is everyone else has bars on the doors  
22 of their house so we want to be, so we want to have that as  
23 a deterrent.

24           So we wouldn't be able to have sliding bars, they  
25 would still have to open outward. So I think the deterrent

**NEAL R. GROSS**

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

1 effect of the bars to any kind of would-be intruders is going  
2 to be an additional safety consideration in addition to any  
3 kind of safety glass we might have on a sliding door.

4 MS. KAYALI: Right. Which we couldn't implement  
5 in a way that would cause this concern --

6 MR. KAYALI: Yes.

7 MS. KAYALI: -- I think is your point, yes. I  
8 don't think we have anything else to say, but thank you for  
9 listening.

10 VICE CHAIR HART: Mr. Chairman? So, thank you for  
11 that explanation. It is helpful to hear that. It does  
12 actually kind of raise a couple of questions.

13 Right now you have a security, and again, this is  
14 my assumption, so please correct me if I'm incorrect, you  
15 have a security gate on your door because there is no  
16 building behind you. Because you're open to the alley.

17 So when you put a building behind you, now  
18 somebody would have to, I guess, go through that building and  
19 then go up into the back gate. It's possible, I'm just  
20 saying that that's, there are changing conditions on the  
21 property that would not necessarily necessitate the gates,  
22 but I understand that your family is trying to make sure that  
23 you have a secure site.

24 But I'm just pointing out that there is a little  
25 bit of, there are some other things that are going on.

**NEAL R. GROSS**

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

1           The other part had to do with the, I understand  
2 that you may not have an ability to have doors wide enough to  
3 get in furniture in and whatever. But you're going to have  
4 to now go through the garage to get that whatever in,  
5 furniture in. And those doors are smaller as well.

6           I mean, what you are seeing on a plan that you  
7 show here, the door is a small door that's going from the  
8 garage into the back of your property. I'm just saying that  
9 I understand what you've raised, it's just that there are, we  
10 understand that variances are a higher threshold to be able  
11 to, for us to grant them, that's why we've been kind of  
12 probing and asking questions about the project.

13           And some of these may be more preferences than  
14 necessity. I'm not going to kind of quibble over that. But  
15 I guess I'm, that's why we're trying to understand this,  
16 because we know that the threshold is a much higher bar for  
17 the variance versus the special exception.

18           But I'll leave my question and just comment.

19           MS. KAYALI: Thank you for that. And actually,  
20 now that you've mentioned it, I should ask for the door to  
21 the garage to be much bigger so that we can fix that problem  
22 that you've just pointed out.

23           CHAIRPERSON HILL: Okay. All right, Paul, you can  
24 go ahead and pull that down again, if you wouldn't mind.  
25 Thank you.

1           Let's see. So, I guess, oh, so is there anyone  
2 wishing to testify in either support or opposition?

3           MEMBER JOHN: Mr. Chairman?

4           CHAIRPERSON HILL: Sure.

5           MEMBER JOHN: I have a quick question about the  
6 doors that open onto the proposed deck.

7           CHAIRPERSON HILL: Sure. Do you want to go back  
8 to that slide again or are you okay?

9           MEMBER JOHN: Well, I'm looking at it. It's the  
10 same slide.

11          CHAIRPERSON HILL: Oh, okay, you can see it.

12          MEMBER JOHN: So, my question is, do those doors  
13 open onto the deck or do they open into the space?

14          MR. PINTO: Can I answer that question?

15          MEMBER JOHN: Sure.

16          CHAIRPERSON HILL: Sure, Mr. Pinto.

17          MR. PINTO: So the door is two parts. One of them  
18 is the metal, which is basically the protection, the security  
19 part of the door, which opens out towards you. So that's the  
20 whole thing that we're trying to discuss here is that once  
21 you open that, you need to be able to reach in to open the  
22 glass door that's inside.

23                 So, in order for me to get to that, if I don't,  
24 like, the width of the door is basically going to hit you  
25 when you open the door and then you try to access the inside

**NEAL R. GROSS**

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

1 door. It's almost like, if can say like a screen door and  
2 then you have the actual door. But this is not a screen,  
3 this is a metal steel bar type of security door.

4 MEMBER JOHN: And is that a wood door? I missed  
5 that. Is it a wood door or is it glass?

6 MR. PINTO: I mean, the interior door, I believe  
7 it's wood and glass. I mean, it's like a six-light or  
8 something like that.

9 MEMBER JOHN: Okay.

10 MS. KAYALI: Yes, ma'am.

11 MEMBER JOHN: Thank you.

12 MS. KAYALI: The metal doors open, oh pardon me,  
13 I'm so sorry. The metal doors open outwards and then the  
14 glass doors open inwards.

15 MR. PINTO: Exactly.

16 MEMBER JOHN: Okay, thank you.

17 CHAIRPERSON HILL: Okay, Mr. Sullivan?

18 MR. SULLIVAN: Yes.

19 CHAIRPERSON HILL: You explained to your Client  
20 and the architect what a variance is, right, and what the  
21 three-prongs are?

22 MR. SULLIVAN: Yes.

23 CHAIRPERSON HILL: Okay, just curious.

24 MR. SULLIVAN: Of course.

25 CHAIRPERSON HILL: Just wanted to make sure.

**NEAL R. GROSS**

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

1 MR. SULLIVAN: Yes. And I wasn't on this case at  
2 the beginning of the case, but I think they have an excellent  
3 variance argument.

4 And I think the thing, why they're perplexed is,  
5 I think they're seeing an incredibly critical analysis. And  
6 if you remember the same day we had the Board approve two  
7 variance, lot occupancy variances, for properties that I  
8 would submit were identical to every other property around  
9 them.

10 And it was very difficult to find the unique  
11 condition on those properties. I'm talking about 20185 and  
12 20187. And the Office of Planning supported those. And that  
13 was for buildings.

14 And I'm still not sure what the exceptional  
15 condition and practical difficulty was in those cases. But  
16 after watching those cases, we all talked about how our case  
17 actually had a more defined unique condition, we thought, and  
18 a real practical difficulty.

19 I would just mention, there's been some discussion  
20 of need and the need for the sliding glass door and the need  
21 for this. Again, a variance request we don't have to show  
22 that it's impossible to do it otherwise, it's just that it's  
23 unnecessarily burdensome. And the word unnecessarily is key  
24 here.

25 There is no reason for them to be burdened here

**NEAL R. GROSS**

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

1 because --

2 CHAIRPERSON HILL: Okay, well --

3 MR. SULLIVAN: -- we've got a permit --

4 (Simultaneous speaking.)

5 MR. SULLIVAN: This responds to Board Member Hart

6 too and --

7 CHAIRPERSON HILL: Ah, all right. Okay.

8 MR. SULLIVAN: -- saying about the degree of  
9 relief. The reason degree of relief comes in, and this was  
10 something that the court of appeals introduced, is that  
11 degree of relief is something to be considered in the  
12 practical difficulty analysis. And I believe that ties into  
13 the term unnecessarily burdensome. Or practical difficulty.

14 CHAIRPERSON HILL: Okay. Yes, I mean, I think  
15 we're just, as I said for me at the very beginning, I was  
16 just talking about the first prong and trying to figure out  
17 the exceptional situation and exceptional condition.

18 I mean, again, when you start talking about, I'm  
19 just kind of stuck on, in the sliding door I supposed, in  
20 that if it, again, putting the price aside, I mean, I don't  
21 think, I mean, you're going to cost more than \$7,500 right?  
22 And so like, you know, the money is not, anyway. Okay.

23 So I don't know, I do have, I guess, this question  
24 for you, Mr. Sullivan. So if this gets rejected, right, then  
25 your Applicant can't come back again for anything or they

**NEAL R. GROSS**

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

1 would have to come back again for if they did do a sliding  
2 door, they wouldn't be here for the lot occupancy, but they  
3 would still need the other relief, right?

4 So that the variance could fail, but they would  
5 still be able to do what they wanted to do but with a sliding  
6 door. Do you know if that's correct?

7 MR. SULLIVAN: So, on that point, we would need or  
8 request the opportunity to amend the request to a 70 percent.  
9 I don't know if they'll do the project at all at that point,  
10 but we would still need relief. Special exception relief.

11 And of course, we're still requesting the relief  
12 for the garage railings --

13 CHAIRPERSON HILL: Right.

14 MR. SULLIVAN: -- so that we at least, we have  
15 that. If that answers your question.

16 CHAIRPERSON HILL: Right. I'm just trying to  
17 figure out where they might be. And so, I'm also trying to  
18 do this virtually and it's not necessarily the easiest thing  
19 to do virtually.

20 I guess we can, do you all need, Mr. Hart, I mean,  
21 I'll just be quite honest, I don't know where we are with it.  
22 So even if I got kind of convinced, we can wait a week and  
23 see where we are.

24 I'm now talking to my fellow Board Members, right?  
25 Mr. Sullivan, your microphone is still on, if you want to

**NEAL R. GROSS**

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

1 talk, just raise your hand.

2 MR. SULLIVAN: Sorry.

3 CHAIRPERSON HILL: We can wait a week, and I'm  
4 talking to my Board Members that are on mute, we can wait a  
5 week, think about it and then deliberate and see what happens  
6 because I don't really know where everybody is. I don't know  
7 if there is three yeses, let's put it that way also, right?

8 And so, we can either wait a week or we can try to  
9 ask for more information from the Applicant. Mr. Hart, are  
10 you kind of in the same place that you were before?

11 VICE CHAIR HART: I think that the week is fine.  
12 And I'll be ready to make a decision next Wednesday. I just,  
13 I need to mull some things.

14 CHAIRPERSON HILL: Okay. Mr. Miller?

15 COMMISSIONER MILLER: Yes, as my fellow Board  
16 Members are mulling between now and decision time, I just  
17 would ask them to take into account, which I know they will,  
18 the fact that this, we have support from the Office of  
19 Planning and the affected ANC, each of which were supposed to  
20 give great weight to. Of course we are an independent, make  
21 our own independent judgment, and the adjacent neighbors.  
22 And the de minimis relief. And all the other factors that  
23 are in play here and the reductions that have already been  
24 made by the Applicant.

25 So, I just would ask my fellow Board Members to

**NEAL R. GROSS**

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

1 take that into consideration. And I'm going to have to move  
2 because my granddaughter, my granddaughter, my daughter, has  
3 arrived with my grandson and with their mini Labradoodle, who  
4 I just heard barking loudly, so I think I need to move to  
5 another room.

6 CHAIRPERSON HILL: Okay. Well, go ahead, why  
7 don't you mute, before you leave, Mr. Miller, you can just  
8 mute for a while, we're going to wrap this up here in a  
9 minute, I think, I don't want you to lose any of this, and  
10 then we're probably going to take lunch, is that what's  
11 probably going to happen, and so then you can go ahead and  
12 move.

13 And we welcome to see the dog or children. I  
14 mean, anything that breaks this up is fine with me.

15 COMMISSIONER MILLER: The dog maybe. I don't  
16 think the grandson will be scampering over yet, but the dog  
17 may make an appearance.

18 CHAIRPERSON HILL: Well, you can pick up the  
19 grandson. At that age they don't have much choice, right?  
20 You pick them up and they're right there, that's it, right?

21 COMMISSIONER MILLER: Exactly.

22 CHAIRPERSON HILL: Okay. So, Mr. Miller has made  
23 his case. And now, I guess we're going to have this  
24 interesting video discussion which is that I'm kind of still  
25 on that slippery slope variance thing, right?

**NEAL R. GROSS**

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

1 I mean, we get yelled at all the time about the  
2 variance, right? All the time we get yelled at about the  
3 variance.

4 And so, I'm just, you know, I don't disagree that  
5 what the Applicant wants to do is de minimis. I am still a  
6 little confused as to the security question, I suppose, in  
7 that, again, there is now a garage there and so now the  
8 person, or people whatever, have to go over the garage, under  
9 the garage, through the garage. I still don't see how you  
10 get to that door, right?

11 And they'd have to like, anyway. So that is what  
12 I'm kind of struggling and confused with. And so I, again,  
13 don't know where we are. And so, I guess this is always the  
14 way I kind of do this is, I'm just giving, being as honest as  
15 I can, which is what the deliberations are doing right now,  
16 knowing that there is an outcome with someone's property and  
17 someone's life, right?

18 And, Mr. Sullivan, I always turn to the Attorneys  
19 to be like, you know, you can read the tea leaves with me at  
20 the same way, right?

21 And as you know, and whether the Applicant knows  
22 or not, that you can't come back to us for a year if you're  
23 rejected, right?

24 And so, that's why I'm having this discussion,  
25 right?

**NEAL R. GROSS**

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

1           You may not get rejected, I don't know. I mean,  
2 you may sway two people. It looks like you got one. So, and  
3 I don't know, I just don't know where we are.

4           So, I said all that. And, Ms. John, do you have  
5 anything to add?

6           MEMBER JOHN: Just that I will take a good hard  
7 look at what we heard today and to see if I can get there.  
8 But I'm always troubled by variances that do not have a  
9 particularly strong justification for that first prong.

10           And unless we get there, everything else sort of  
11 falls away. And I agree with Mr. Sullivan that we can look  
12 at the degree of relief that's requested.

13           And it seems that the Applicants have been  
14 cooperating with the Office of Planning and they reduced the  
15 size of the deck. So, I would like to think this through and  
16 deliberate next week.

17           CHAIRPERSON HILL: Okay. So do we need anything  
18 else from anybody? We don't need anything, right?

19           MEMBER JOHN: No. No --

20           (Simultaneous speaking.)

21           CHAIRPERSON HILL: Mr. Sullivan --

22           MEMBER JOHN: -- that's all.

23           MR. SULLIVAN: Thank you. I wanted to address the  
24 question of potential denial and having to wait for a year.

25           I mean, in all fairness, and this isn't a

**NEAL R. GROSS**

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

1 developer of course, it's a homeowner. Which is one of the  
2 things that should illustrate that they're doing this because  
3 they need it.

4           Whereas a developer it might be because they want,  
5 need some extra profit or some extra money and every  
6 additional, little bit that they get helps their bottom line.  
7 Whereas with a homeowner, if they could do 70 percent, they  
8 would have done it six months ago, three months ago and been  
9 done with it. And so, that little bit of difference makes a  
10 big difference to them.

11           But out of fairness, and this is something I  
12 struggle with often, we don't want to lose the ability to get  
13 the 70 percent. And I don't know what the Board has, so I'd  
14 like to make an alternative request that that be on the  
15 table.

16           And I don't know whether we need to do that with  
17 the writing or if the Board makes a decision next week of  
18 where they're going to go. And this is something that I  
19 think should be addressed, but usually I know what to do in  
20 that situation.

21           And there's been a couple of times where I don't  
22 know what to do, and it's a tremendous risk for my client.  
23 And I don't want to put them at risk.

24           CHAIRPERSON HILL: Yes, I mean --

25           MR. SULLIVAN: If you understand what I'm saying.

1           CHAIRPERSON HILL: -- Mr. And Ms. Kayali, I mean,  
2 I hope you hear me. I don't want you to be at risk either,  
3 okay.

4           And so, I'll let you talk in a second. I have to  
5 mute my microphone, something else happens. It's all right,  
6 I've had technical issues all day.

7           And again, I don't think that you're not hearing  
8 anything, we're all members of the community, and I don't  
9 think that you're not hearing that we don't want you to get  
10 what you want and that it's de minimis and even the bigger  
11 deck. I mean like, that's not why we're here. We are here  
12 as a Board because of these regulations, that's why we're  
13 here, right?

14           We don't care whether, well, whether you get your  
15 door that swings out, I wish you get your door that swings  
16 out, what do I care, right?

17           And so, it's just that this whole job that we got  
18 as to why we're deliberating through these prongs, right?

19           And so, that's why. And you haven't done this as  
20 many times as I have, and that's why Mr. Sullivan knows I  
21 also don't know what's going to happen right now because I'm  
22 also, I don't know what's going to happen. And it's pretty  
23 rare when I don't know what's going to happen.

24           Like sometimes I'll be like, Mr. Sullivan, I know  
25 what's going to happen, and Mr. Sullivan will be like, yes,

**NEAL R. GROSS**

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

1 I know what's going to happen too, and then we'll figure it  
2 out. But today I don't know what's going to happen.

3 So, Ms. Kayali, you wanted to say something? I'm  
4 going to mute myself real quick.

5 MS. KAYALI: I just want to make sure I  
6 understand, and I'm sure Mr. Sullivan is in the same boat.  
7 Is there a way to say this makes a really big difference to  
8 us, but we can't go another year without a garage, we're  
9 going to get broken into. And so, is there a way to say this  
10 is the sensible plan, this is what we're asking for, but if  
11 you say no to approve the 70 percent so that we cannot, we  
12 can put up that garage and not get broken into?

13 CHAIRPERSON HILL: Can you mute yourself again?  
14 Thank you. What was I going to say.

15 Mr. Bassett, right. Oh.

16 MR. BASSETT: Yes.

17 CHAIRPERSON HILL: Yes, you can hear me. Mr.  
18 Bassett, like, I don't know, this has never, I don't know if  
19 we've done this before or how we've done this before, like,  
20 there's usually been a submission that's kind of like an  
21 either, I know we're being very flexible even by having this  
22 discussion that we are, right, and whether there is an either  
23 or kind of way or do you have a thought?

24 MR. BASSETT: I am not certain with the new rules  
25 regarding virtual hearings and delayed submissions about

**NEAL R. GROSS**

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

1 whether they could submit something to change it. We could,  
2 if the Board wants to, send you guidance based on our  
3 understandings of the virtual hearing regulations and then  
4 you could --

5 CHAIRPERSON HILL: That's all right, let me  
6 interrupt you. So, Mr. Bassett, I guess Mr. Sullivan and Ms.  
7 Kayali.

8 So, Mr. Bassett, I guess what we'll go ahead and  
9 do is I think we'll go ahead and put this up for, and I'll  
10 get everybody, Mr. Sullivan at the end, I think we'll go  
11 ahead and put this up for decision, right, and then we'll see  
12 how we deliberate, we'll see what happens.

13 And then if at that time, anybody wants to reopen  
14 the record because they might want to see a different  
15 alternative, we can do it at that time, I suppose. Or, if we  
16 don't think we want to see another alternative then that will  
17 just be the discussion that we have. That's kind of where I  
18 am right now.

19 And I'm going to just let Mr. Sullivan have a word  
20 because he raised his hand.

21 MR. SULLIVAN: Thank you. And also, I don't know  
22 if we can pull it together in time but we could submit a plat  
23 in a submission asking for an alternative of the 70 percent  
24 special exception.

25 And hopefully the Board could see fit to waive

**NEAL R. GROSS**

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

1 filing deadlines and accept that information and then have  
2 that before them by next week. Rather than prolonging the  
3 process beyond next week.

4 CHAIRPERSON HILL: Okay, I --

5 MR. SULLIVAN: And one last thing. I would just  
6 ask the Board to look at their other decisions of that day of  
7 this original hearing, 20185 and 20187 for comparison on the  
8 standard for exceptional conditions.

9 CHAIRPERSON HILL: Mr. Bassett, if you can make a  
10 note of those two cases. Let's see. Okay, Mr. Hart and Ms.  
11 John, Mr. Miller, do you all need anything?

12 VICE CHAIR HART: No, I don't need anything. I'm  
13 a little bit concerned about the kind of either or. You  
14 know, we typically will have a proposal that is before us,  
15 and we are deliberating and voting on that proposal.

16 So I'm somewhat wary of having more than one  
17 proposal before us. And I understand that the virtual  
18 hearing is different than the in-person hearing where while  
19 we're having a, while we may be making a bench decision, the  
20 Applicant can kind of either raise their hand or do something  
21 that might curtail our discussion so that there may be some  
22 withdrawal or whatever.

23 But I don't know if we're there. I'm seriously  
24 not sure where I am. It's a possibility that I could be  
25 before this so I'm still kind of going through that. That's

**NEAL R. GROSS**

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

1 why I said I needed to mull for the week to be able to get  
2 there.

3 And I understand that there may be some other  
4 cases. I do remember one of the cases that Mr. Sullivan  
5 mentioned, 20185.

6 But I think that there were some very dissimilar  
7 things going on, but I do want to have the week to be able to  
8 make that decision so, I don't know, those are my thoughts.

9 CHAIRPERSON HILL: Okay. All right. Okay. So,  
10 Mr. Sullivan, we don't need anything from you, and let's just  
11 see what happens.

12 Okay, so is that it? Do we need anything? Oh  
13 yes, I'm sorry. So I think there is nobody wishing to speak  
14 in support or in opposition, is that correct, Mr. Young?

15 MR. YOUNG: That's correct, I don't have anyone.

16 CHAIRPERSON HILL: Okay. Okay. Then we'll go  
17 ahead and close the hearing. We'll set this for deliberation  
18 and decision on, next week, right? June 24th.

19 MR. MOY: Yes. So that would be next week, next  
20 Wednesday, June 24th, Mr. Chairman. Record is closed, no  
21 submissions.

22 CHAIRPERSON HILL: Okay, record is closed, no  
23 submissions, all right. Okay, Ms. John, do you have --

24 MEMBER JOHN: So, my question is, if Mr. Sullivan  
25 wanted to amend the application, he could still do that

**NEAL R. GROSS**

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

1 within the week by asking to reopen the record? If you've  
2 closed the record. I'm just --

3 CHAIRPERSON HILL: Sure.

4 MEMBER JOHN: -- wondering.

5 CHAIRPERSON HILL: And this is kind of a unique  
6 situation now because there's only four of us, right? There  
7 should be five of us, right?

8 MEMBER JOHN: Right.

9 CHAIRPERSON HILL: So there's only four. So three  
10 have to go in one direction, right?

11 And Mr. and Ms. Kayali, I mean, you're right  
12 there. We are struggling, you can see. So I normally, as  
13 I've said before, kind of know what's going to happen. I  
14 don't know what's going to happen. And so, we'll see what's  
15 going to happen next week.

16 And then in terms of your question, Ms. John, yes,  
17 Mr. Sullivan could ask to reopen the record to submit a  
18 revised plan. Because that is what Mr. Hart is saying, that  
19 they're not going to, and I also agree with Mr. Hart, it's  
20 not an either or.

21 I mean, I supposed, and I don't know what's going  
22 to happen next I guess as well. I mean if, and I'm going to  
23 take another hard look at this, and now we're hearing the  
24 case and Mr. Sullivan wasn't on the case at the beginning,  
25 but maybe I'll get there also, right?

**NEAL R. GROSS**

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

1           But I guess we could, as a Board, if we deliberate  
2 and determine that we'd like to see another alternative, we  
3 could, at that time I suppose, ask for it. But I'm not  
4 guaranteeing that, Mr. and Ms. Kayali.

5           I don't know if that's going to happen. I'm not  
6 saying I'm going to do that or that anybody else is going to  
7 do that. We might deliberate on this and that will be the  
8 deliberations and that will be the end of the case.

9           So the only way that that will change is if one of  
10 us asked for another proposal. So that's the only way that  
11 will change.

12           So, this is currently the deck that you're making.  
13 And so, you know, that's a lot of questions, I'm sorry. So,  
14 Ms. John.

15           MEMBER JOHN: Well, you know, Mr. Sullivan made a  
16 few points that I would like to review. Although, I mean,  
17 the rule is fairly consistent that we look at each case  
18 individually.

19           But I personally would be troubled if we appear to  
20 be irrational. Because that doesn't help the Board and it  
21 doesn't help the public.

22           So, I will break my rule and look at those two  
23 other cases. So that's sort of where I am.

24           CHAIRPERSON HILL: Sure. And that, Mr. Sullivan,  
25 I'll let you talk in a second but I want to let you know,

**NEAL R. GROSS**

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

1 you're still right back in the same place, I don't know where  
2 you are. So, Mr. Sullivan, what were you going to say?

3 MR. SULLIVAN: Just let the record be shown that  
4 I'm, I did not suggest that the Board was irrational.

5 CHAIRPERSON HILL: Okay.

6 MR. SULLIVAN: And also, I think the Board has  
7 considered alternative proposals before but I'll take a look  
8 at that myself, on my end, this week.

9 CHAIRPERSON HILL: We've asked for alternative  
10 plans, okay.

11 MEMBER JOHN: Yes.

12 CHAIRPERSON HILL: And I guess if, and that's what  
13 you were speaking to, Mr. Sullivan. You were saying if we  
14 wanted to ask for alternative plans.

15 So let's just stick with where we are, and then  
16 we'll go ahead and see if we need alt, I don't know what's  
17 going to happen. So I don't know what's going to happen.

18 Okay, so that's it. We're going to go ahead and  
19 break for lunch. And I think, what time is it? It's 1:00.  
20 You want to say like 1:35? Is that good with everybody?

21 MEMBER JOHN: Yes.

22 CHAIRPERSON HILL: Okay.

23 VICE CHAIR HART: I may be a bit late but I'll --

24 CHAIRPERSON HILL: Oh, you have --

25 VICE CHAIR HART: -- get here as soon as I can.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: You had something else going  
2 on. How much time do you need?

3 VICE CHAIR HART: Maybe 15 minutes, maybe a little  
4 longer. But it's, I'll be there as quickly as I can. You  
5 guys can start. I should be there definitely by 2:00.

6 CHAIRPERSON HILL: Okay then, let's do 1:35, we'll  
7 stick with 1:35, we'll see what happens.

8 VICE CHAIR HART: Okay.

9 CHAIRPERSON HILL: Okay.

10 VICE CHAIR HART: Yes.

11 CHAIRPERSON HILL: All right, thank you all.

12 (Whereupon, the above-entitled matter went off the  
13 record at 1:03 p.m. and resumed at 1:45 p.m.)

14 MR. MOY: Yes, thank you. Thank you, Mr.  
15 Chairman. So the Board's back in session after its lunch  
16 break. And for the record the time is at or about 1:45 p.m.  
17 So I believe Mr. Chairman, the next case before the Board for  
18 a hearing is case Application Number 20230 of 3232 13th  
19 Street, Northwest, LLC.

20 This is captioned and advertised for a special  
21 exceptions under Subtitle E, Section 205.5 from the rare  
22 addition requirements of Subtitle E, Section 205.4 and  
23 Subtitle E, Section 303.3 from the height requirements  
24 Subtitle E, Section 303.1 which would construct a new  
25 attached, three-story flat, RF-1 Zone.

**NEAL R. GROSS**

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

1                   This is at 3230 13th Street, Northwest, Square  
2 2843, Lot 84.

3                   CHAIRPERSON HILL:   Okay.   Great.   Oh sorry.   Is  
4 that it, Mr. Moy?

5                   MR. MOY:       Yes.   Unless there are preliminary  
6 matters, but I forgot to check that.

7                   CHAIRPERSON HILL:   Yes.   They're just, we're  
8 talking about the notice. Mr. Young, could you let everybody  
9 in, please?

10                  MR. YOUNG:   Yes, they're in.

11                  CHAIRPERSON HILL:   Okay. Mr. Sullivan, could you  
12 please introduce yourself for the record?

13                  MR. SULLIVAN:   Hello again.   This is Marty  
14 Sullivan on behalf of the applicant.

15                  CHAIRPERSON HILL:   And who do you have with us,  
16 Mr. Sullivan? Oh, I think I, is Mister, I'm just going to go  
17 in order of what I see here. Is Mr. Roffe, is it Roffe?

18                  MR. ROFFE:   Yes. It's Roffe. Thank you.

19                  CHAIRPERSON HILL:   Could you please introduce  
20 yourself for the record?

21                  MR. ROFFE:   Yes. My name is Abdo Roffe. I'm a  
22 development manager for the property owner.

23                  CHAIRPERSON HILL:   Okay. And it looks like Mr.  
24 Buehler?

25                  MR. BUEHLER:   Yes.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Mr. Buehler, could you  
2 introduce yourself for the record, please?

3 MR. BUEHLER: My name is Shawn Buehler and I'm  
4 with Bennett Frank McCarthy Architects.

5 CHAIRPERSON HILL: Okay. And I see a, is it Ms.  
6 Khuu?

7 MS. KHUU: Yes. It's Lynn Khuu, and I'm with  
8 Bennett Frank McCarthy Architects as well.

9 CHAIRPERSON HILL: Okay. Great. Ms. Khuu and Mr.  
10 Buehler, if you don't mind muting your microphones there,  
11 unless we need or when we're asking direct questions to you,  
12 that way we won't get feedback.

13 And then Mr. Sullivan, I assume you're going to be  
14 presenting to us, correct?

15 MR. SULLIVAN: That's correct.

16 CHAIRPERSON HILL: Okay. If you could please kind  
17 of just walk us through the application and what your client  
18 is trying to achieve and why you believe that they meet the  
19 standard for us to grant the application?

20 A couple of quick questions, I guess. I did see  
21 that the ANC had a bunch of conditions or things that they  
22 were in agreement, or it seems that the applicant and the ANC  
23 were in agreement, too.

24 I'll just say that I think that some of those are  
25 outside of the Board's purview. But if you could at least

**NEAL R. GROSS**

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

1 speak to what the applicant and the ANC have agreed to, and  
2 just making sure that they're the same list.

3 And then also that this is something that the  
4 office of planning has spoken to, and then also as a  
5 condition that they're raising, you're raising the building  
6 there that.

7 And so if you could just kind of speak to the  
8 raise and whether the raise is actually taking place or not,  
9 or if they've applied for the raise. And that will probably  
10 be something that would be part of an order, if we did get to  
11 that in any case.

12 Other than that I don't have any other specifics.  
13 Ms. John or Mr. Miller, if you want to raise your hand if you  
14 have anything specific that you want to hear ahead of time.

15 Okay. So then Mr. Sullivan, I am going to put 15  
16 minutes on the clock. If Mr. Young has that just so I know.  
17 All right. Great, perfect. And you can begin whenever you'd  
18 like.

19 MR. SULLIVAN: Thank you, Mr. Chairman and members  
20 of the Board. I'll wait for the presentation. Is Mr. Young  
21 going to post that? Yeah. I'm happy to say we're merely  
22 requesting special exception relief for this case, 3230 13th  
23 Street, Northwest.

24 And so this is the -- you see the arrow pointing  
25 to the building, that's the subject building. The property

**NEAL R. GROSS**

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

1 owner happens to own the building next door and they're  
2 redeveloping that as well. But that's not part of this case.  
3 So next slide, please.

4 An overview, constructing a new flat. There's  
5 currently nothing there now. There is a two-story carriage  
6 house in the back, or there was, I'm sorry. There was a two-  
7 story carriage house in the back.

8 That has been razed, so that's gone. That  
9 carriage house was on portions of both properties, 3230 and  
10 3232. The new building goes on 3230 13th Street. This  
11 building will extend 13'3" past the rear wall of the building  
12 to the north, which is again owned by this same owner.

13 And it will extend 10' past the rear wall of the  
14 building to the south. So we're asking for 10-foot rule  
15 relief for that 3'3". The other relief relates to height.  
16 We're asking for special exception relief to go beyond 35  
17 feet.

18 We would like to go an additional 2'1-1/2", and  
19 you'll see when we show the elevation that the purpose of  
20 this request is just to make it more compatible with the two  
21 neighboring buildings, which will still be a little bit  
22 higher, but it looked very out of place at 35'.

23 So next slide please. Here's the plat. So Lot 84  
24 is our lot. There's the footprint of the proposed building.  
25 You'll see that the carriage house in the back is gone.

**NEAL R. GROSS**

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

1           The neighboring building, which is owned by this  
2 property owner is to the north and we go 13'3" past that and  
3 you'll note the large court. And there's actually an  
4 easement, there will be an easement between them to make sure  
5 that, that area stays open.

6           And in fact, DCRA's requiring that area to stay  
7 open as well for egress purposes and for window purposes. So  
8 there's quite a bit of separation there as well. Next slide  
9 please.

10           There's the front elevation. You can see how the  
11 additional height makes this building more compatible with  
12 the two adjacent buildings. Next slide please. Side  
13 elevation. Next slide please. I'm sorry, that's a rear  
14 elevation.

15           So the general special exception requirements, we  
16 believe we meet those. It's a relatively minor request at  
17 3'3". We're safely within the lot occupancy. The rear yard  
18 is quite large, and the height requested is minimal as well.  
19 Next slide, please.

20           So 10-foot rule relief under E 205.4 for the 3'3".  
21 Next slide please. Specific requirements for this are the  
22 light and air test that you're very familiar with. We have  
23 submitted shadow studies. Again as you would expect, the  
24 3'3" is rather immaterial.

25           And again, it's impacting the property to the

**NEAL R. GROSS**

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

1 north owned by this property owner. Next slide, please. So  
2 the shadow studies, I won't go through them specifically, but  
3 you'll see there's very minor areas of additional shadow that  
4 we've crosshatched --

5 VICE CHAIR HART: Mr. Sullivan?

6 MR. SULLIVAN: -- at different times. Yes?

7 VICE CHAIR HART: This is Vice-Chair Hart. Can  
8 you kind of talk a little bit about why the rear stairs are  
9 not included in the shadow study?

10 MR. SULLIVAN: Well the rear stairs are not part  
11 of the requested relief because the 10-foot rule relief only  
12 applies to the building itself.

13 VICE CHAIR HART: Yeah, but you didn't --

14 MR. SULLIVAN: And I hadn't thought of that  
15 before.

16 VICE CHAIR HART: They're fairly, and the only  
17 reason I bring it up is that typically you have, you know,  
18 you, well, you might see some stairs that are on the back  
19 that are a spiral or whatever.

20 But these stairs, they're actually fairly  
21 significant. They're a large, they go from the top of the  
22 building, all the way down to the third floor to the, to the,  
23 you know, to the ground.

24 And they are at, perpendicular to the, to the rear  
25 of the building. And so they seem to, they were pronounced

**NEAL R. GROSS**

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

1 when I looked at the, at the floor plan. And so I was a  
2 little bit unsure of, you know, when they didn't show up in  
3 the, in the, in these, the sun study, the shadow study.

4 MR. SULLIVAN: Okay. And I can have the architect  
5 speak to that, but I guess, I hadn't noticed that. And  
6 since, I think they're on the south end of the property, so  
7 they're, they're not impacting. Their shadow I didn't think  
8 would reach the north property anyway.

9 But I can, I can certainly revise that if we need  
10 to. I just, I didn't, I guess I, we probably figured it  
11 wasn't material, but I didn't notice that, so. But we can  
12 revise that if we need to.

13 You'll see here, the 9 a.m., the additional shadow  
14 from this goes into the neighbor, into one of the properties  
15 next door, but that's it. That's of course gone shortly  
16 after 9 a.m., and that's the only time of the year where the  
17 additional shadow has any impact at all.

18 Next slide, please. Again, you see the minor  
19 amount of the additional shadow. Next slide, please. And  
20 next slide. So I'll go through the specific requirements of  
21 the relief beyond the light and air test.

22 Privacy of use and enjoyment. There are some  
23 windows on the north side of the building, but they're near  
24 the back. And they aren't in the area of the additional  
25 3'3". Next slide, please.

**NEAL R. GROSS**

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

1           No windows facing the south, by the way. You  
2 cannot see the rear portion of the building from the street  
3 frontage and there is no alley. So this provision is not  
4 applicable. Next slide, please.

5           The height relief requested again is special  
6 exception to go to 37'1-1/2". Next slide, please. Next  
7 slide, please. That was repetitive. Specific requirements,  
8 buildings not on an alley lot. The addition, or the new  
9 construction will not impede the functioning of a chimney or  
10 other external vent, or solar panels.

11           And of course the roof top architectural element  
12 doesn't apply because this is a new building. Next slide,  
13 please. And this is for the, it's a similar test but,  
14 similar criteria, a different test.

15           Obviously light and air is not impacted by going  
16 up to a height that's just matching the adjacent buildings.  
17 Next slide, please. And no impact on privacy of neighboring  
18 properties.

19           We're not going above the neighboring buildings.  
20 It doesn't create any issue of privacy. Next slide, please.  
21 I will address, there is a letter of opposition in the file.  
22 And I just want to point out -- if you can go to the next  
23 slide, please.

24           That letter came from the property with the arrow  
25 on. See, it's not adjacent. It's actually behind 3232.

**NEAL R. GROSS**

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

1 And, so first of all its not adjacent. Second of all, we're  
2 asking for relief from the 10-foot rule, which applies  
3 principally to the adjacent building and its impact on the  
4 adjacent building.

5 And then finally that carriage house there has  
6 been removed. That's a two-story carriage house. So their  
7 light and air situation has significantly improved as a  
8 result of this project. Next slide, please.

9 Conclusion, Office of Planning is in support, as  
10 is DDOT. And 1-A unanimously supported this and Mr.  
11 Chairman, I was a little bit -- I need to take a look at the  
12 ANC report real quick because I don't recall any conditions.

13 They were wholeheartedly in support of this and I  
14 don't think there was much negotiation on that point.  
15 Provided that the design and material used on the third story  
16 addition façade give the appearance of a mansard roof.

17 Okay. So that's a comment that we did respond to.  
18 And the architect can talk about that. They asked that the  
19 design and material used on the third-story addition façade  
20 give the appearance of a mansard roof because it, an original  
21 drawing wasn't clear, or they were just questioning it.

22 I'm not sure if we even changed the drawing or we  
23 just clarified for them verbally. Shawn, do you have  
24 anything to add to that? Mr. Buehler?

25 MR. BUEHLER: I'm just making sure. Are you

**NEAL R. GROSS**

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

1 hearing me, Marty?

2 MR. SULLIVAN: Yes, we heard you.

3 CHAIRPERSON HILL: Mr. Buehler, your mic might be  
4 muted now. I can't see you, so.

5 MR. BUEHLER: There, are you hearing me?

6 CHAIRPERSON HILL: Yes, we can.

7 MR. BUEHLER: The two issues there to respond to,  
8 the, we did not change the design at the front. We just had  
9 not clearly described the materials when we, when we  
10 presented it to the ANC, and they were asking if it was  
11 mansard and we were confirming it was.

12 And so they just noted that they would like it to  
13 be detailed that way. And so it's, it's as currently drawn,  
14 but it's also as it was drawn when they saw it. It just the  
15 material hadn't been called out in their exhibit.

16 And then to address the question about the stair.  
17 When we drew the shadow study, our intent was to demonstrate  
18 the difference between what we could do by right, and what we  
19 could do with the relief.

20 The stair would be in the same location in either  
21 scenario, and it's an uncovered stair, and it's not covered  
22 by the relief, and so it was our intention not to include it  
23 because it would, it would muddy up the drawing since the  
24 stair is actually behind the part of the building that's  
25 seeking relief.

**NEAL R. GROSS**

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

1           And so our goal was just to show what the  
2 difference in shadow would be if we were not given the  
3 relief.

4           VICE CHAIR HART: Yeah. I understood that. What  
5 I was more concerned about was that we are, it was an element  
6 that was a, if it were, you know, kind of attached to the  
7 building, if it were parallel, I guess, to the, to the back  
8 of the building, it didn't kind of jut out so much.

9           It was, it's fairly significant and it, while it  
10 shows up in, I think some of the plans, it doesn't show up in  
11 the elevations, per se. And so it was really hard for me to  
12 get an understanding as to what was being proposed there.

13           And then when it didn't show up in the sun study,  
14 it's like, well now I still don't know what's, what's there.  
15 So that was the issue. The drawings actually cut off, if I  
16 remember correctly, just at the end of the building or they  
17 may show a portion of the, you know, of how you get to the  
18 stair.

19           But because it's at a perpendicular, you know,  
20 angle to the, to the rear of the building, it just seems like  
21 it was a significant element that was not included in the, in  
22 the shadow study.

23           And I understand that it may be uncovered, but the  
24 stairs themselves would, will still cast some shadow that's  
25 there. So it would be, that's why I was wondering if it

**NEAL R. GROSS**

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

1 could be added to the, to the drawings.

2 MR. BUEHLER: Yeah. I mean it wouldn't be  
3 difficult to add it. I'd like to think if we added it, it  
4 would only strengthen our case because it would show that the  
5 bulk of the additional shadow that the relief is giving us is  
6 already been cast by the stair anyway.

7 VICE CHAIR HART: Then that's, that would be, that  
8 would be helpful for me, I think.

9 MR. BUEHLER: Okay.

10 VICE CHAIR HART: I don't have any other  
11 questions.

12 CHAIRPERSON HILL: Okay. Mr. Sullivan, are you  
13 finished with your presentation?

14 MR. SULLIVAN: Yes.

15 CHAIRPERSON HILL: Okay. Ms. John, do you have  
16 questions for the applicant?

17 MEMBER JOHN: No questions.

18 CHAIRPERSON HILL: Mr. Miller, do you have any  
19 questions for the applicant?

20 COMMISSIONER MILLER: No questions. Thank you.

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

23 MS. VITALE: Good afternoon, Mr. Chair, members of  
24 the Board, Elisa Vitale with the Office of Planning. The  
25 Office of Planning is recommending approval of the requested

**NEAL R. GROSS**

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

1 relief to construct a new flat.

2           And notes that in a supplemental filing, the  
3 applicant addressed OP's question regarding materials and the  
4 applicant also provided a rear elevation as the Board has  
5 discussed that elevation does not show the rear stair.

6           And it may be helpful for the Board to have an  
7 updated elevation that provides that information. Otherwise,  
8 this concludes my report and I'm happy to answer any  
9 questions. Thank you.

10           CHAIRPERSON HILL: Okay. Thank you. Ms. Vitale,  
11 this is the first time we're seeing you, correct?

12           MS. VITALE: That is correct. Good to see  
13 everyone.

14           CHAIRPERSON HILL: Nice to see you. And every  
15 time we see somebody, we're like, oh wow, they're still  
16 alive. Okay. Does anybody have any questions for the Office  
17 of Planning? Mr. Hart?

18           VICE CHAIR HART: Just so that I can kind of close  
19 the loop. Ms. Vitale, it is very good to see you. Did you,  
20 did you have any opinions on the rear stair, the sun study,  
21 even though it doesn't show them, do you have an opinion on  
22 whether or not you think it would affect the, how it would  
23 affect the neighboring properties?

24           MS. VITALE: I think I would have to see those  
25 drawings in order to respond to them. I don't want to

**NEAL R. GROSS**

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

1 hypothesize.

2 VICE CHAIR HART: That's fine. I just didn't know  
3 if that was, if you thought that might change your  
4 recommendations that you, that you would have.

5 MS. VITALE: I would need to see revised drawings.

6 VICE CHAIR HART: Thank you.

7 CHAIRPERSON HILL: Mr. Miller?

8 COMMISSIONER MILLER: No questions, Mr. Chairman.  
9 Thank you, Ms. Vitale for your report.

10 CHAIRPERSON HILL: Ms. John?

11 MEMBER JOHN: No questions, Mr. Chairman.

12 CHAIRPERSON HILL: Mr. Sullivan, do you have any  
13 questions for the Office of Planning?

14 MR. SULLIVAN: No, thank you.

15 CHAIRPERSON HILL: Okay. Mr. Young, is there  
16 anyone here that is willing to testify in support or in  
17 opposition? Do you know?

18 MR. YOUNG: Yeah. I have two people on my list.

19 CHAIRPERSON HILL: Do you know the names?

20 MR. YOUNG: Yes. One is Lisa Woodbury, and she's  
21 on now.

22 CHAIRPERSON HILL: Okay. And then one moment, Ms.  
23 Woodbury. And then who's the other name?

24 MR. YOUNG: The other is Tseday Mekbib.

25 CHAIRPERSON HILL: Ms. Woodbury, would you mind

**NEAL R. GROSS**

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

1 just muting your microphone for a moment. Thank you. You're  
2 still not muted Ms. Woodbury.

3 MS. WOODBURY: I'm showing muted. Okay. Let's  
4 see. Sorry about --

5 MR. YOUNG: I've got it. I can do it. There you  
6 go.

7 CHAIRPERSON HILL: Okay. Are you trying --

8 MR. YOUNG: I'm not, I'm not seeing the other  
9 person in here.

10 CHAIRPERSON HILL: Okay. All right. Well if you  
11 find the person just let me know, okay?

12 MR. YOUNG: Will do.

13 CHAIRPERSON HILL: Ms. Woodbury, could you please  
14 unmute your microphone and introduce yourself for the record?

15 MS. WOODBURY: Okay. Am I unmute now?

16 CHAIRPERSON HILL: Yes.

17 MS. WOODBURY: Okay. My name is Lisa Woodbury.  
18 I'm the owner/occupant of 1316 Park Road, Northwest. I am  
19 behind this lot and actually I am sitting in my daughter's  
20 bedroom on the second floor.

21 To give you a better view, you really don't need  
22 to see me. You need to see how this is not very private for  
23 my 11-year-old daughter.

24 CHAIRPERSON HILL: Okay. Ms. Woodbury?

25 MS. WOODBURY: Yes.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: We don't, we don't have, your  
2 camera's not on.

3 MS. WOODBURY: My camera's not on? Okay. Well  
4 does not help.

5 CHAIRPERSON HILL: Okay. And also then, that's an  
6 interesting concept. You're bringing in a new concept.  
7 Okay. So --

8 MS. WOODBURY: So I'm sitting on the second floor  
9 --

10 CHAIRPERSON HILL: Ms. Woodbury? Ms. Woodbury?

11 MS. WOODBURY: -- of my daughter's bedroom. I'm  
12 sitting at her desk. And this is a view from her room to the  
13 excavated lot that we're talking about. Mr. Sullivan  
14 indicated that I don't really abut this lot, but I do.

15 And I'm glad that the carriage house is gone but  
16 at least with the carriage house, we didn't have windows  
17 facing our property. The only time we actually saw the  
18 occupants of 3232 is when they were on their staircase that  
19 extended out of the backside of their home.

20 Or when their clothes were hanging from there, or  
21 when there was a huge icicle which we all used to marvel at.  
22 They used to cascade off there when it snowed. So what is  
23 happening now is, you know, I get as a matter of right, they  
24 can build this lot.

25 But you see here, there's a blue extension on the

**NEAL R. GROSS**

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

1 end of 3232. They want to go beyond that. So that makes  
2 them closer to us. Our lot is at an angle, so it makes them  
3 closer to us.

4 I, at the last-minute asked Mr. Lee to put  
5 additional pictures into the record. I don't know if you can  
6 pull those up now. But during the excavation, I snapped some  
7 pictures to kind of get a better perspective of, you know,  
8 what it would look like possibly.

9 Now it's a picture of an excavator and that's,  
10 that's a view from my daughter's room on the second floor.  
11 Off the first-floor deck, I just happened to be drinking my  
12 coffee one day and I see this guy coming like right up off  
13 the top of the fence.

14 So it is very close to us. You know, I don't know  
15 what else to say. There's going to be stairs on the, on this  
16 extension as well. I don't know whether this variance  
17 accounts for this additional footage for the stairs.

18 And if so, folks are going to be on those stairs  
19 and they're going to be looking right into our backyard. Now  
20 I tried to work through this say, well maybe, you know, we  
21 can put up some privacy trees.

22 But if we do that, that's going to, that's going  
23 to kind of kill the airflow for us and it's also going to  
24 take out square footage on my, in my, in my little itty-bitty  
25 yard.

**NEAL R. GROSS**

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

1           So, you know, where, you know, there's this, you  
2 know, this conclusional statement that there is not going,  
3 it's not going to impact our privacy, I strongly disagree  
4 with that.

5           I've provided several pictures in my submission,  
6 so I don't want to regurgitate or walk you through that. You  
7 can look at the pictures yourself and ask me questions. And  
8 I would be glad to give anyone tour.

9           But those are, those are, those are our concerns.  
10 And especially in a roof deck that's going to be to the rear  
11 or any windows that are going to be facing our property, it's  
12 just not going to make it very private, and it's going to be  
13 very close to us.

14           CHAIRPERSON HILL:    Okay.    Okay, Ms. Woodbury.  
15 Let's see, Mister -- Board members, do you have any questions  
16 for the witness?   Okay.   No.   No.   Ms. John?   No questions?  
17 Okay.   All right.   Ms. Woodbury, well thank you for your  
18 testimony.   I know that they are here, just to be clear, they  
19 are here for a special exception.

20           You used the word, variance.   They're here for a  
21 special exception and so, but I appreciate your testimony  
22 today.   And thank you for your participation.   And thank you.

23           Paul, if you could go ahead and make this Ms.  
24 Woodbury -- thank you so much.   Let's see.   That does, Ms.  
25 Woodbury made, gave me a question now for even Ms. Cain in

**NEAL R. GROSS**

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

1 terms of, so how are we going to do that?

2           Is that video testimony? So that's how people can  
3 give video? I mean it just is what it is? I mean do you, I  
4 mean, Ms. Cain, I guess you can comment upon that at another  
5 time or think about it.

6           I mean it's just kind of, it's odd.

7           MS. CAIN: I think it's something that we're going  
8 to have to look at in a little bit more in depth. In this  
9 specific case, the views that she was showing are more or  
10 less the same as the photos that were previously uploaded to  
11 the record.

12           So I don't think it's necessarily any new  
13 information. I mean the video is being recorded so it also  
14 sort of functions as effectively, you know, photos that would  
15 be given.

16           And then of course the testimony that would be  
17 distributed to the Board and then subsequently uploaded to  
18 the record. But I think it's something that we're going to  
19 have to sort of flush out a little bit more as to how we  
20 handle it going forward.

21           CHAIRPERSON HILL: Okay. All right. Thank you.  
22 All right. Let's see. So does the Board need anything else  
23 from the applicant? I guess, Mr. Sullivan, we wanted to see  
24 what the shadowing was going to be like with the stairs. Is  
25 that correct? Do you understand that?

**NEAL R. GROSS**

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

1 MR. SULLIVAN: I do, yes. And I want to think  
2 about how we show an additional 3' stairs, because the stairs  
3 can be, I think the additional shadow will just be the last  
4 3' of stairs.

5 But they're within the rear yard requirement  
6 anyway, and the stairs just, they don't, we can put the  
7 stairs anywhere without regard to the 10-foot rule. So if  
8 we're asking for relief from the 10-foot rule, the stairs  
9 really don't come into play as far as the relief requested.

10 The stairs could be, could be that long, as long  
11 as they meet the rear yard requirement even if the building  
12 was shorter. That's, that's what I'm struggling with. But  
13 I'll think about, we can certainly show the --

14 CHAIRPERSON HILL: Yeah. Mr. Hart may say  
15 something. But I have, I have, I have an also, another  
16 thought because I am kind of curious, is that you could show  
17 the shadowing with the stairs, with the 10', and then you can  
18 show the shadowing with the stairs with the 13'.

19 MR. SULLIVAN: Right.

20 CHAIRPERSON HILL: And then you can --

21 MR. SULLIVAN: But either way the stairs don't,  
22 are not applicable to the 10-foot rule, either way. So I'm  
23 not sure what's, either way, when we'll, I think, I think of  
24 the most legitimate way or the most effective or helpful way  
25 to illustrate that.

**NEAL R. GROSS**

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

1           But at any rate they don't, they could be longer.  
2 The matter of right number for the stairs is the 20-foot  
3 setback, which is what we have.

4           VICE CHAIR HART: Okay. But I understand that.  
5 I think, Mr. Sullivan, the concern was that because they were  
6 there and not shown, it's a little bit hard to fully  
7 understand what the shadow impact is for the rear of the  
8 building.

9           I understand what your point is about the stairs  
10 could actually be the -- the end of the stairs could be the  
11 same extent that they are now even with a matter of right  
12 building.

13           So if you had a matter of right, you know, 10-foot  
14 setback and then you added on stairs that went to, as far as  
15 they go now, they could still do that. And that would not  
16 affect the, what is, that would -- they could be done as  
17 actually as a matter of right, which I get.

18           It's, it is, if they, if they weren't as large as  
19 they are, then I think I would not have been as curious about  
20 this. If they were, you know, not at a perpendicular and  
21 kind of jutting out to the back and several stories tall,  
22 then I, again, I think I wouldn't have been, it wouldn't have  
23 caught my attention as much.

24           And so once it caught my attention, then I was  
25 like, well I don't know why this, why these are not shown.

**NEAL R. GROSS**

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

1 But I understand your point. So that's, that's what it is.  
2 If you, if you, I'll give you this.

3 If you feel that you don't need to submit them,  
4 that's up to you. I think you would help me to be able to  
5 understand where those are, so that's, that's where I am.

6 MR. SULLIVAN: We're happy to submit them, too.  
7 I just, I wanted to just get clear from my purposes how I  
8 describe it or how we illustrate that. Thank you.

9 VICE CHAIR HART: Thank you. No more comments.

10 CHAIRPERSON HILL: Okay. So when can you give  
11 that to us, Mr. Sullivan?

12 MR. SULLIVAN: Mr. Buehler?

13 MR. BUEHLER: I think we can get something to you  
14 this week.

15 CHAIRPERSON HILL: So Mr. Moy, that will, how  
16 would that work in terms of the, when we could get back here  
17 with decisions?

18 MR. MOY: Well as you did with the other case  
19 regarding more procedures, if the applicant makes their  
20 filing into the record this Friday, by this Friday, which was  
21 the June the 19th, it will allow the parties, including the  
22 ANC, which is probably only the ANC to respond or not respond  
23 by the following Friday, June 26th.

24 Then the Board can make a decision, if you like,  
25 on July 1st.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Mr. Sullivan, you have your  
2 hand up?

3 MR. SULLIVAN: Yes. I guess we need to make a  
4 decision on this, but we've, we've been, obviously we've been  
5 delayed as everybody has been for a long time. And it's put  
6 the project at risk as it has many other projects.

7 And I just, I wanted to make sure that this is  
8 necessary for the Board to determine whether or not granting  
9 relief itself causes a substantial negative impact.

10 So I just, I don't want to delay it longer than we  
11 have to.

12 CHAIRPERSON HILL: So --

13 MR. SULLIVAN: Obviously, we need to do what's  
14 necessary.

15 CHAIRPERSON HILL: Mr. Sullivan, that's what you  
16 said to Mr. Hart's originally comment. He said, you could  
17 submit it, or you don't have to submit it. And so you are,  
18 you would prefer not to submit it, is what you're saying?

19 MR. SULLIVAN: If we can, can we, if we can submit  
20 and get the ANC commissioner to weigh in, could we possibly  
21 get the decision next week?

22 CHAIRPERSON HILL: And the reason, you're trying  
23 to get it before July 1st because the additional two -- okay.  
24 Mr. Hart, what do you need to make a decision?

25 VICE CHAIR HART: Again if they do not want to

**NEAL R. GROSS**

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

1 submit it, that's fine. I'll decide. I can decide next  
2 week.

3 CHAIRPERSON HILL: Okay. Then Mr. Sullivan, I  
4 don't think, if you submit something then the ANC has to have  
5 enough time to, there's a, there's a time problem. And so,  
6 you know, so we are not, so you -- if you want to submit it,  
7 you're welcome to.

8 And if you do, then it will be July 1st. If you  
9 don't submit anything, we will decide this next week. Okay?

10 MR. SULLIVAN: Fair. Thank you.

11 CHAIRPERSON HILL: So all right, so Mr. Moy, so  
12 I'm going to close the hearing. I'm going to close the  
13 hearing and we'll set this for a decision next week, unless  
14 Mr. Sullivan submits something into the record, which case  
15 we'll end up giving them the timeframe and doing it on July  
16 1st.

17 MR. MOY: All right. Thank you, Mr. Chairman. So  
18 for now it's tentatively being scheduled for decision next  
19 week --

20 CHAIRPERSON HILL: Yes.

21 MR. MOY: -- June the 24th?

22 CHAIRPERSON HILL: Yes. Okay. All right. Thank  
23 you, gentlemen, ma'am. Ms. John, as our representative for,  
24 on the, on the Board of the female class, is ma'am, I mean  
25 gentlemen always sounds something, and then ma'am seems a

**NEAL R. GROSS**

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

1 little like, it's ma'am. Ma'am's the -- gentlemen and  
2 gentleladies?

3 MEMBER JOHN: I'd prefer Ms. John.

4 CHAIRPERSON HILL: I'm not saying you. I'm saying  
5 in general, the gentleman versus ma'am. Yes?

6 MEMBER JOHN: I would say we would, we should just  
7 move on.

8 CHAIRPERSON HILL: Okay. All right. Okay. Okay.  
9 Okay.

10 MEMBER JOHN: Now I'm being just --

11 CHAIRPERSON HILL: Okay. All right. I agree. I  
12 agree. As I said it's a peculiar, a peculiar thing. All  
13 right. Mr. Moy, if you want to call our next case.

14 MR. MOY: Thank you, Mr. Chairman. So I believe  
15 that would be case application number 20231 of 5022  
16 Cathedral, LLC. Captioned advertised for a variance on the  
17 side yard requirements, Subtitle A, Section 206.2.

18 As would replace the existing building with a two-  
19 story, detached principal dwelling unit, R-1-B Zone at  
20 premises 5022 Cathedral Avenue, Northwest, Square 1439E, Lot  
21 6.

22 CHAIRPERSON HILL: Okay. Paul, could you let in  
23 the people, please? Let's see, is the applicant with us? Is  
24 it Mr. Ballard or -- can you guys hear me? Mr. Hart, can you  
25 nod? Can you all hear me? Okay. Mr. Ballard, are you

**NEAL R. GROSS**

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

1 there?

2 I think you have to turn your, there you go.

3 MR. BALLARD: Okay. Yes. I'm here.

4 CHAIRPERSON HILL: Okay. Is there anyone joining  
5 you, Mr. Ballard?

6 MR. BALLARD: I'll be the one speaking on behalf  
7 of the applicant.

8 CHAIRPERSON HILL: Okay. All right. If you could  
9 please introduce yourself for the record?

10 MR. BALLARD: Yes. My name is Seth Ballard. I'm  
11 the principal of Ballard & Mensua Architecture. I'm the  
12 architect to the project.

13 CHAIRPERSON HILL: Okay. You guys, I heard Mr.  
14 Moy, I just want to make sure, this is 20231, correct, Mr.  
15 Moy?

16 MR. MOY: Yes, that's correct, 20231.

17 CHAIRPERSON HILL: Okay. So before we start in  
18 terms of the Board, I guess, you know, we did, in terms of  
19 notice, there was the letters from the Office of Zoning that  
20 went after the 200 footers.

21 There was the Office of Zoning letter to the  
22 parties at unit 45 that went out. The affidavit posting and  
23 maintenance has been done. Mr. Ballard, do you know, would  
24 the posting, did it have today's video hearing date on it?

25 MR. BALLARD: Just, yes, it did.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay. Okay. All right. So  
2 Mr. Ballard, if you want to go ahead and walk us through your  
3 project and why you think -- are you the architect? Is that  
4 what you said, Mr. Ballard?

5 MR. BALLARD: I'm the architect, yes.

6 CHAIRPERSON HILL: Okay. And why do you think  
7 your client is needing the standards by which we should grant  
8 this request, relief requested? I guess, you know, I don't  
9 know if you heard, saw the previous one when there was a  
10 variance before with us, earlier in the day.

11 If you could please, I guess speak to the prongs  
12 to the test, in particular the first prong, how you're  
13 meeting the exceptional condition, which is then leading to  
14 the practical difficulty.

15 And I'll put 15 minutes on the clock there for  
16 now, and you can begin whenever you'd like.

17 MR. BALLARD: Okay. All right. Well, first of  
18 all, actually, I need to pull up the letter to give the more  
19 specific, exact terms. But, in general, we have kind of an  
20 unusual lot in that, that lot had been subdivided before my  
21 client actually purchased both Lot 6 and Lot 7 of what was  
22 formally 5022 Cathedral Avenue, Northwest.

23 And the lot was subdivided years ago by the  
24 original homeowner of the property. They, in doing so  
25 there's actually they ended up with an angled property line.

**NEAL R. GROSS**

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

1 In fact if we could have the next slide, the SP-1, I believe.

2           You can see there's an angled property line that  
3 is actually on the front lot, Lot 6 and when we were first  
4 doing the zoning, checking with Matt LeGrant in the Zoning  
5 Office on what our setback requirements were, I originally  
6 had thought that we would end up with that angled property  
7 line being a front line setback.

8           And then we later learned that we needed to  
9 maintain the side yard setback from that angled property  
10 line. In doing so that led to the need to back any project  
11 that we do up quite a bit from the street and back from the  
12 established building line.

13           And so kind of unusually, while there is a way to  
14 build plenty of houses that are by right, because of the fact  
15 that the neighboring lot is a pipe-stem, I mean with three  
16 lots.

17           And, you have two lots that come into the side of  
18 the property on the other side, I raised the idea to my  
19 client that, especially since the other unusual situation is  
20 that the client also owns the property behind.

21           And it will be a future development that he'll be  
22 doing, that it would be a more valuable development for the  
23 neighbors and for Lot 7 to actually pull the house forward  
24 and have more air or more space both for the neighbors and  
25 for the future of Lot 7.

**NEAL R. GROSS**

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

1           So we're actually sort of a self-created situation  
2 of asking for this relief, but because I believe it's better  
3 zoning, we had brought this to OP and to neighbors first and  
4 actually worked closely with the neighbors to show them why  
5 we were doing this and gain their support.

6           And then when we brought it to OP, they worked  
7 with us closely to basically, they were in support in my  
8 understanding. Hang on. If you could give me one second,  
9 I'm just going to, you know, speak a little bit more  
10 specifically to the zoning.

11           Sorry. I just had a document get lost.

12           VICE CHAIR HART: Mr. Ballard, this is Vice Chair  
13 Hart. Just while you're looking for that, was there, is  
14 there a, and I don't remember what we call this. Is there a  
15 necessity to have the frontage for the pipe-stem lots so  
16 large --

17           MR. BALLARD: Yeah. Yes. But what created it?  
18 When they originally created the, when they originally  
19 created the subdivision, they actually, due to a code that  
20 needed a minimum width in the front, that's what actually,  
21 what created the, for a nonconforming lot, you need to  
22 maintain, you know, a certain amount of frontage.

23           So in order to give Lot 7, you know, the lot in  
24 the back, added frontage, they created that angled property  
25 line. And so that angled property line, which is a little

**NEAL R. GROSS**

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

1 bit unusual, and then secondarily in terms of, you know,  
2 zoning in general, we're trying to provide, you know, side  
3 setback, which would normally be 8', you know, on the, on the  
4 left side property line.

5           RECORDING: In order to understand much better if  
6 I can get familiar with the --

7           MR. BALLARD: Hello?

8           VICE CHAIR HART: Was that me?

9           MR. BALLARD: It sounded like a Siri.

10          VICE CHAIR HART: Yes, it was. And I couldn't  
11 figure out why that came on.

12          MR. BALLARD: Okay. I'm sorry, I -- so anyway,  
13 the angled property line and the side property line over  
14 there are resulting in actually a requirement on the side  
15 yard setback that's actually, because we have 12, more than  
16 12' on the side.

17                 So we're actually at 21.9', you know, from the  
18 left property line to the edge of our building to have an 8'  
19 setback from the property line here. And then it becomes  
20 greater as you follow the angled property line.

21                 You know, but again then that result is, because  
22 of that, is that if push back to our rear setback, and we end  
23 up with losing 10' that by doing what we're doing now, we can  
24 actually have a larger setback at the back, which gives more  
25 air and space for the neighboring properties.

**NEAL R. GROSS**

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

1 Which was our point the neighbors, which they  
2 actually agreed with when we showed them what the, what the  
3 alternative would be. I'm sorry. I'm having technical  
4 difficulties with the, with the document that I was trying to  
5 read off of.

6 But do you need me to go through the burden of  
7 proof? If you do, I just need one second and I can pull it  
8 back up. I'm just going to have my -- hello?

9 VICE CHAIR HART: We can, we can hear you.

10 MR. BALLARD: Okay.

11 VICE CHAIR HART: I would like to go through the  
12 burden of proof. I'm --

13 CHAIRPERSON HILL: I'm sorry. I was on mute. I  
14 said, yes, please take your time.

15 MR. BALLARD: Okay. Thank you.

16 CHAIRPERSON HILL: And we'll, we'll wait for you  
17 to be ready. Yes.

18 MR. BALLARD: Okay. Okay. Sorry. Finally got  
19 it. Okay. Sorry. So the proposed work will require the  
20 following relief, Subtitled D 206.2, side yard setback.  
21 We're proposing a setback of 1.29' at the west diagonal side  
22 property line adjacent to Lot 7. This is a deviation of  
23 6.71' from the requirement.

24 We'll maintain the required 8-foot side yard  
25 setback at the west property line where it runs parallel to

**NEAL R. GROSS**

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

1 Lot 5. And to the 14.15' wide stem of Lot 7 and the 8.0  
2 required side yard setback effectively creates a setback of  
3 22.15' from the neighbors on Lot 5, where the property line  
4 runs parallel.

5 This proposal maintains that 22.15' setback from  
6 Lot 5 the west at all points. An exception to the applicant  
7 requires an area variance pursuant to Subtitle X-1001.2 for  
8 the following.

9 Encroachment onto the diagonal side yard setback  
10 requirement that does not comply with Subtitle D 206.2. And  
11 please find this application suitable to meeting minimum  
12 requirements to grant an area variance from the  
13 aforementioned zoning regulations.

14 And pursuant to Subtitle X-1001.1 in zoning  
15 regulations, the Board is authorized to grant variances where  
16 in the judgment of the Board, due to the attributes of a  
17 specific piece of property, strict application of the zoning  
18 regulation would result in peculiar and exceptional practical  
19 difficulties to the owner of the property.

20 And provided that the relief can be granted  
21 without substantial detriment to public good and without  
22 substantially impairing the intent, purpose and integrity of  
23 the zone plan, as embodied in zoning regulations met.

24 Subject also in this case by the specific  
25 requirements for relief under Subtitle X-1002.1 of the zoning

**NEAL R. GROSS**

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

1 regulations. Requirements of Subtitle X-1000.1, the granting  
2 of a variance in this case meets with the requirements of  
3 Subtitle X-100.1.

4 As the lot in question, Lot 6 at square 1439 has  
5 been narrowed at the front to allow access to Lot 7 of the  
6 same square to its rear.

7 As no structures can be built within this access,  
8 a setback less than 8' required by the R-1-B zone relatively  
9 to the property line shared by Lot 6 and Lot 7, would not  
10 substantially impair the intent, purpose and integrity of the  
11 zone plan as a separation to the next neighboring property  
12 line in practice would never be less than 14.15' or the  
13 minimum width of the Lot 7 access.

14 The access aisle for Lot 7 provides a separation  
15 between Lot 6 and Lot 5 that is greater than 8' feet  
16 requirement set forth in R-1-B, much greater as you see.

17 Furthermore, the encroachment into the diagonal  
18 yard allows the proposed building to sit forward on the site  
19 in line with its neighbors to the east and west, which is in  
20 harmony with the zoning regulations and the neighbor.

21 Note that the proposed building will not sit  
22 further forward than the existing structures and conforms  
23 with the existing building line along the street block.  
24 Several lots within the block are similarly laid out as pipe-  
25 stem lots.

**NEAL R. GROSS**

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

1           They're not however, constricted with the diagonal  
2 side setback as seen in our case, see Lots 34 and 33, Lots 3,  
3 4 and 5 on the attached block plan. Requirements of Subtitle  
4 X-1002.1, the proposal in this application satisfies the  
5 requirements of Subtitle X-1002.1 as follows.

6           Section 5201.1(a), an applicant for area variance  
7 must prove that as a result of the attributes of a specific  
8 piece of property described in Subtitle X-1000.1, the strict  
9 application of the zoning regulation would result in peculiar  
10 and exceptional practical difficulties to the owner of the  
11 property.

12           The applicant requests an area variance for  
13 encroachment in the side yard requirement that does not  
14 comply with Subtitle D-206.2. The requested deviation that  
15 extension of nonconforming side yard is 6.71' at the west  
16 diagonal property line.

17           The required 8' side yard setback will be  
18 maintained if the property line runs parallel to Lot 5. Lot  
19 6's street frontage is narrower than the rest of the lot due  
20 to the adjacent pipe-stem lot, Lot 7.

21           Lot 7 is governed by Subtitle C-303.2 of the  
22 zoning regulations that states, where minimum lot width is  
23 required, the length of at least one street lot line shall be  
24 at least 75 percent of the required lot width.

25           Therefore, Lot 7 increases its width east into Lot

**NEAL R. GROSS**

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

1 6. Note, the lots were subdivided into this arrangement  
2 prior to our involvement. The resulting shape creates a  
3 buildable area that would sit farther back on the site and  
4 provide less space between the proposed structure on Lot 7.

5 The proposed setback deviation still maintains the  
6 setback from existing structures to the west that is greater  
7 than the required minimum AT. Therefore we feel it's in  
8 keeping with the neighborhood and aligns with the spirit of  
9 zoning regulations.

10 All adjacent neighbors and ANC 3D are in support  
11 of the project and have signed off with their approval.  
12 Everyone, neighbors and the ANC agrees that moving the  
13 building forward to the established building line is more  
14 appropriate from the street, first of all.

15 Second of all, providing more space between the  
16 proposed front house on Lot 6 and the rear house in Lot 7  
17 results in more open space and light, and view from the  
18 existing neighbor's windows.

19 I point out again on the block plan that because  
20 of the fact that we're two and three deep on the side yards,  
21 you know, this really is a big and important mission.

22 The remaining side setback to Lot 5 is still over  
23 22', so the area of relief granted has no negative effect on  
24 anyone. So since we have the block plan up, I think you can  
25 see, you know, that, where the houses are in relationship to

**NEAL R. GROSS**

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

1 the property.

2 And the importance of and benefit of moving the  
3 house forward.

4 CHAIRPERSON HILL: Okay. Mr. Ballard, is that, is  
5 that, are you complete?

6 MR. BALLARD: Just one more comment. I'd just  
7 like to mention for the record, I'm not sure if we haven't,  
8 one of the neighbors had, we did check with OP and they said  
9 that it's not relevant to the case.

10 But just to, just mention a little bit of history,  
11 as we are also separately developing Lot 7, there was a  
12 change during the development from the early paperwork that  
13 was submitted to neighbors in terms of the citing of Lot 7.

14 In fact the earlier documents that were submitted  
15 to the BZA did have Lot 7 set further back. But as it turns  
16 out we ran into four heritage trees that, from our original  
17 survey that we had from the property to when we resurveyed.

18 We found out that the trees had gotten thrust  
19 into a larger size, so we ended up having to move the  
20 property forward. That does affect one of the neighbors to  
21 where they may be speaking up about it.

22 But even that same neighbor in the event that they  
23 spoke up and we didn't get relief, I don't still see how that  
24 would benefit him. So I don't believe it's relevant to the  
25 case.

**NEAL R. GROSS**

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

1 But I just wanted to just mention it and also  
2 mention that we have submitted the updated site plan where  
3 Lot 7 moved forwards to get away from those trees.

4 VICE CHAIR HART: Right. You're speaking of the  
5 heritage trees in terms of it not being before us in terms of  
6 what you spoke with the Office of Planning meeting. Correct?

7 MR. BALLARD: Yeah. Basic, we did, we updated the  
8 site plan with the current location of the Lot 7 house. And  
9 it does related in that if one of our arguments is that we're  
10 trying to have a greater amount of space between all of the  
11 houses, and then we end up moving a house to have less space,  
12 you know, I'd want to make sure that it's not, that we didn't  
13 misrepresent something.

14 It's just that the facts changed when we were  
15 planning Lot 7, yeah, since that's our project as well, which  
16 itself is far back as --

17 CHAIRPERSON HILL: Okay. Okay. Mr. Hart, you had  
18 the mic. Do you have questions?

19 VICE CHAIR HART: Yeah. I just had a couple of  
20 questions. One, Lot 6 is what's before us now. Correct?

21 MR. BALLARD: Yes.

22 VICE CHAIR HART: Okay. So we're not, we're not  
23 looking at Lot 7?

24 MR. BALLARD: No. In fact, I hesitated even  
25 mentioning it, but no, we're not looking at Lot 7 at all and

**NEAL R. GROSS**

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

1 that development will be right, so it will not even be a  
2 question.

3 VICE CHAIR HART: Okay. So the property, you  
4 showed that there are, that there is this, it looked like a  
5 building restriction line.

6 MR. BALLARD: Yes. The angled line?

7 VICE CHAIR HART: Yeah. That's along, that's  
8 along Cathedral Avenue.

9 MR. BALLARD: Yes.

10 VICE CHAIR HART: There's also the property that  
11 is to the east of the, of, the existing property that's to  
12 the east is in line with the existing building on Lot 6. Is  
13 that correct, currently?

14 MR. BALLARD: The --

15 VICE CHAIR HART: Not the, not what you're  
16 proposing. But the project that's to the, if you're looking  
17 at your project, the project that's to the left.

18 MR. BALLARD: The project that's to the left is in  
19 line, yes. And in fact, also the immediate house to the, to  
20 the right as you're looking at the project, is set a little  
21 further back.

22 But the rest of the way down the block, everything  
23 is pulled pretty far forward. But yes, the project  
24 immediately to the, to the east, or to the left on the plan,  
25 we're right in line with them.

**NEAL R. GROSS**

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

1           And in fact we really spent time making sure  
2 they'd understand exactly where our house would be and  
3 they're in support on that side.

4           VICE CHAIR HART: Okay. And the drawing that you  
5 have in the presentation on SP1, I think.

6           MR. BALLARD: Yes.

7           VICE CHAIR HART: Which I think is the second  
8 page.

9           MR. BALLARD: Yes.

10          VICE CHAIR HART: It shows the existing building  
11 in dotted line, and then it shows the, what's being proposed  
12 in a darker black line, what's on the screen now, and is that  
13 also showing where the building would have to be if it were  
14 in compliance with the 8' setback?

15          MR. BALLARD: No. We haven't shown that yet.  
16 What we'd have to do is essentially offset. I think that is  
17 shown on a different, on the other site plan. I believe  
18 those setback lines are on the other site plan, I think it's  
19 SP2.

20                 If you could change the slide? No. It's not on  
21 there. There's, from the diagonal line, what is required is  
22 an 8' setback line from that diagonal line and that's, that  
23 clips the corner of the building, you know, where, I mean we  
24 don't have that.

25                 But we've, that's what, that is exactly what, if

**NEAL R. GROSS**

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

1 we had to maintain the side setback, then it forces the  
2 building back and then we would --

3 VICE CHAIR HART: Yes.

4 MR. BALLARD: There's a lot of different designs  
5 we could do that would work within the, within the by right.  
6 But every one of them pushes the building back, you know,  
7 which is essentially why we're here.

8 I mean it's obviously more difficult to go through  
9 the hearing, but we believe it benefits the neighbors and  
10 benefits the development to have here and the street.

11 VICE CHAIR HART: It's a little bit hard with this  
12 because you have a project that's not actually before us that  
13 is actually, which is Lot 7, which is affecting what is, what  
14 can be, what is being proposed on Lot 6.

15 MR. BALLARD: How is that?

16 VICE CHAIR HART: I said, Lot, what's happening on  
17 Lot 7 is affecting what is happening on Lot 6.

18 MR. BALLARD: It's not.

19 VICE CHAIR HART: It is because you've now said  
20 that you want to move the building back, the Lot 6 building  
21 back because it would provide less space for the building on  
22 Lot 7. So that building in effect is making an impact on  
23 what it is that you're proposing for, on Lot --

24 MR. BALLARD: Well but technically, you have to  
25 really look at it separately because really Lot 7 is just one

**NEAL R. GROSS**

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

1 other neighbor on this project. I mean the projects are  
2 totally disconnected. So it's like one other neighbor on the  
3 project.

4 VICE CHAIR HART: Well and that's, that's the way  
5 that I would like to think about it, which is why I have a  
6 hard time with the, with the, thinking that the building  
7 cannot move back towards the, towards the rear of the, of the  
8 property, of the Lot 6 property.

9 I understand that there's some, you know, that  
10 there's another project that's going on, but --

11 MR. BALLARD: But it's not --

12 VICE CHAIR HART: -- is that it's safe, that's,  
13 that's the --

14 MR. BALLARD: Honestly, truthfully that project  
15 and what happens there, I mean that was one of the reasons  
16 why I was able to make it a priority for the client, you  
17 know, who's, you know, building the two projects.

18 But the neighbors on both sides will benefit. And  
19 it's not -- there's more than one neighbor because of the  
20 fact that when you look at the block plan, each one on both  
21 sides will benefit in the event we bring the building  
22 forward.

23 So while, in the event that we didn't get the  
24 approval that we're, you know, or the relief that we're  
25 looking for, I believe it actually hurts the neighbors. I

**NEAL R. GROSS**

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

1 understand your point is, you can't do it just for the  
2 benefit of my client, who's at the back.

3 But I'm, it's the neighbors on either side, in the  
4 event we didn't get the relief, they're going to be the ones  
5 that suffer.

6 VICE CHAIR HART: That's, that's debatable but I  
7 understand your point.

8 MR. BALLARD: Okay.

9 CHAIRPERSON HILL: Okay. Mr. Ballard. Ms. John,  
10 do you have questions? And actually, Paul, if you don't mind  
11 pulling down the presentation so I can see everybody. Thank  
12 you. Ms. John, do you have any questions?

13 MEMBER JOHN: No questions.

14 CHAIRPERSON HILL: Mr. Miller, do you have any  
15 questions?

16 COMMISSIONER MILLER: No questions, Mr. Chairman,  
17 thank you.

18 CHAIRPERSON HILL: May I turn to the Office of  
19 Planning, please?

20 MS. MYERS: Hello. Crystal Myers for the Office  
21 of Planning. The Office of Planning is recommending approval  
22 of this variance relief. And I know that we're going to  
23 explain a little bit further about that.

24 The project is exceptional, well the lot is  
25 exceptional because I, we only reviewed Lot 6, and as has

**NEAL R. GROSS**

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

1 been thoroughly discussed here, Lot 6 has a very narrow width  
2 at the front.

3           So in order to meet the side yard requirements of  
4 the R-1-B zone, the house would have to be reduced in size at  
5 that point, which would be less than what is allowed or what  
6 is expected from the R-1-B zone.

7           So the other alternative would be to push it back  
8 into the lot and as has been discussed that would cause to be  
9 the rear. And I also would like to note here that in the  
10 rear, they are at the, at the 25', which is the minimum  
11 requirement for the rear yard.

12           So if they were to go further back, it would  
13 actually need relief for the rear. The existing house is  
14 actually not in conformance currently. So it's a very  
15 challenging lot because of these factors.

16           And we consider that the relief being requested is  
17 supportable because of the dimensions in the front. So, and  
18 also, I'd like to also point out that the 8' on the side yard  
19 is going to be maintained on the majority of the lot.

20           So the applicant was able to revise their drawings  
21 to provide 8' on both sides, for most of the lot just on that  
22 one little corner, where they need the variance relief  
23 because the lot is under the width requirement or the, yes,  
24 the required width of 50' at that point.

25           So that is the point that we are supporting relief

**NEAL R. GROSS**

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

1 for. So with that, Office of Planning recommends approval  
2 and stands on the record on the staff report.

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

5 VICE CHAIR HART: Yes I have one questions, Mr.  
6 Chairman. Ms. Myers, thank you very much for your, for your  
7 report. I had the question, I had one question about a  
8 statement you made regarding rear yard setback.

9 I thought they were, where they're proposing the  
10 building now is -- it looks like they have like 20, almost 35  
11 feet from the back of the property to the, from the rear of  
12 the property to the, to the rear of the house. Am I mistaken  
13 in that?

14 MS. MYERS: We have --

15 VICE CHAIR HART: So it looks like it has a

16 MS. MYERS: -- actually 25'. I'm not sure if  
17 something changed then.

18 VICE CHAIR HART: I'm looking at drawing SP3 in  
19 Exhibit -- I don't what exhibit it is -- 48. So it's the  
20 fourth drawing in their exhibit.

21 MS. MYERS: All right. Can we get it up?

22 MR. BALLARD: Is it okay for me to speak?

23 CHAIRPERSON HILL: Give me one second, Mr.  
24 Ballard.

25 VICE CHAIR HART: So that was, Ms. Myers, that's

**NEAL R. GROSS**

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

1 why I was ask, that's why I was wondering. It seemed like  
2 they had the space to be able to do that, but if it's going  
3 to push them into a special exception, then it seems like  
4 it's, you know, I mean, well it's a little better than having  
5 to deal with a variance. It's just --

6 MS. MYERS: Well actually they are doing a new  
7 house so it would be a variance.

8 VICE CHAIR HART: But it is 25' that they --

9 MS. MYERS: But, that's why I'm like, I'm checking  
10 here at mine. It looks like 25', but if it's actually 35'  
11 that's a different scenario then, and they would be able to  
12 do that.

13 I'm having --

14 CHAIRPERSON HILL: You guys, Ms. Myers, while you  
15 just are taking a look at that, there seems to be a request  
16 to take a break. So can I go ahead, and I'll just take a  
17 break real quick, and then we'll come back in like, let's say  
18 ten minutes.

19 And then Ms. Myers, that will give you an  
20 opportunity to look that up. Okay?

21 MS. MYERS: Okay.

22 CHAIRPERSON HILL: Thank you.

23 (Whereupon, the above-entitled matter went off the  
24 record at 2:51 p.m. and resumed at 3:03 p.m.)

25 CHAIRPERSON HILL: Okay. We're all back. Can I

**NEAL R. GROSS**

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

1 mention something actually now, primarily just to Ms. John  
2 and Mr. Hart. Mr. Miller, obviously you're with us every  
3 however many times you're going to be with us.

4 But in this virtual world, if you guys got to  
5 stand up or if like, you know, and even myself, now if I've  
6 got to stand up, if I, if I leave the picture for a minute,  
7 it doesn't mean I'm gone.

8 I can hear everything. It just means, just means  
9 I stood up for a minute so, just to let everybody know. But  
10 I will speak out if anybody has any questions. So okay, so  
11 Ms. Myers, right, you were responding to something Mr. Hart  
12 had.

13 MS. MYERS: Yeah. So I'm sorry that, for the  
14 confusion. I took the moment to look up the information.  
15 There's some, unfortunately, incorrect information, the  
16 zoning information that I didn't catch in time.

17 But the, but I do see on the plans that it is 35  
18 feet and I'm still comfortable in, you know, the Office of  
19 Planning is still comfortable recommending the variance  
20 relief because the main thing that we were concerned about is  
21 that it's a substandard record lot in the front, which  
22 prevents them from providing the full side yard in the front,  
23 as you would normally be able to do if this was a normal  
24 sized record lot with the dimensions. But yes, you would  
25 have the option to move the house back a little bit and still

**NEAL R. GROSS**

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

1 maintain the minimum rear yard requirement.

2           And like I said, I just didn't catch that there  
3 was some number differences in the record. But I think that  
4 the plans are the appropriate one to base our analysis on.

5           VICE CHAIR HART: I appreciate that. It was less  
6 trying to catch somebody. I was more just trying to  
7 understand and you've, you've been very informative, and I  
8 appreciate it. Thank you.

9           CHAIRPERSON HILL: Okay. Mr. Ballard, you had had  
10 something you had wanted to ask about or comment towards.  
11 Was that correct or is it now been resolved?

12           MR. BALLARD: It's, it's now been resolved. I  
13 mean actually I was just going to give the information about  
14 what the setback was and just to --

15           CHAIRPERSON HILL: Okay.

16           MR. BALLARD: -- clarify for Ms. Myers.

17           CHAIRPERSON HILL: All right.

18           MR. BALLARD: That was all.

19           CHAIRPERSON HILL: Mr. Young, is there anyone here  
20 that was wishing to have, speak in either support or  
21 opposition?

22           MR. YOUNG: Yeah. I have two people. I have one  
23 that's opposition and one undeclared.

24           CHAIRPERSON HILL: Okay. Let's go with the  
25 undeclared first. Well actually bring them both in, I guess,

**NEAL R. GROSS**

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

1 and I can figure it, we can figure it out. Okay. I see a  
2 Mr. O'Neill. And I don't see another one yet.

3 MR. YOUNG: Yeah. I had a John Jepsum that was  
4 undeclared. But I'm not seeing him in there.

5 CHAIRPERSON HILL: Are you still looking? Okay.  
6 Well let me go ahead. I'll talk to Mr. O'Neill, and then if  
7 you do find him, Mr. Young, please let, allow him to join.  
8 Mr. O'Neill, can you hear me?

9 MR. O'NEILL: Yes, I can hear you.

10 CHAIRPERSON HILL: Okay. Great. Could you please  
11 state your name and address for the record?

12 MR. O'NEILL: Yeah. My name's Andrew O'Neill.  
13 It's 5020 Cathedral Avenue, N.W.

14 CHAIRPERSON HILL: Okay. And where, Mr. O'Neill,  
15 where are you in relationship to the applicant?

16 MR. O'NEILL: I am Lot 6, so facing the property,  
17 I am adjacent facing to the left, or if you're looking at his  
18 plan, I'm immediately to the right as it appears on the  
19 documents that you guys have.

20 CHAIRPERSON HILL: Okay. Okay. Great. All  
21 right. So Mr. O'Neill, as a member of the public, you'll go  
22 ahead and get three minutes to present your testimony. I'm  
23 going to go ahead, I mean we're, we're kind of working in a,  
24 in again this virtual world.

25 So just try to adhere as best you can. I don't

**NEAL R. GROSS**

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

1 know, Mr. Young, if you can put three minutes on the clock  
2 there? Okay. Wonderful. And Mr. O'Neill, you can begin  
3 whenever you'd like.

4 MR. O'NEILL: Okay. Thanks very much. I  
5 appreciate the opportunity in these troubling times. So just  
6 to set the record a little bit, Mr. Ballard stated that most  
7 if not all the neighbors are in support of it.

8 And I don't know that statement to be true. But  
9 I initially supported the proposal that they submitted to the  
10 ANC. At that time it was in light of the collective plan,  
11 which encompassed both Lot 6, the front lot and Lot 7, the  
12 back lot.

13 And just for a little history, this subdivision  
14 for the pipe-stem, which are challenging lots and impact and  
15 effect neighbors dramatically in my view. This pipe-stem,  
16 you know, the zoning administrator approved.

17 But he approved it by widening the apron in the  
18 front yard, which, you know, sort of changed the goal post so  
19 to speak for pipe-stem lots. And so from my view, I think  
20 the Board needs to look at this, as Mr. Hart pointed out,  
21 collectively, both Lot 6 and Lot 7.

22 Because what you do in Lot 6 dramatically impacts  
23 Lot 7. And so when the applicant, who's a developer, just so  
24 the record states. It's not the prior homeowners which were  
25 listed on the application prior.

**NEAL R. GROSS**

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

1           It's actually a developer, I think you guys  
2 realize now. But at any rate, the, what was proposed to me  
3 originally at the ANC meeting was a plan for Lot 6 and Lot 7.

4           Subsequently due to the heritage trees issues that  
5 the applicant finally researched and uncovered, they've  
6 changed the back, the plan for the back Lot 7, which does  
7 push the back footprint of the back Lot 7 closer to the  
8 street than I would prefer because it would impact me both  
9 from shadowing and natural light. So I was in favor at the  
10 ANC meeting in terms of pushing the front Lot 6 forward for  
11 the variance, but since that ANC meeting, the plans, the goal  
12 posts have changed, in other words.

13           And I, you know, I don't know if you guys have  
14 seen the full set of plans, SP3 in the revised plan. But it  
15 definitely changes things by not only, they've not only  
16 rotated the footprint of Lot 7 in the rear.

17           But they've also pushed it forward by my  
18 estimation, six -- four feet. So the crux of the issue here  
19 in my view is, what is the setback, both side and front for  
20 a pipe-stem in the District of Columbia? And I can get a  
21 definitive answer on that.

22           But it appears on their plan as though the setback  
23 is, I think 21 feet from the rear of the Lot 7 lot line. But  
24 if you look at their drawing SP3 revised, they have a 21 foot  
25 setback.

**NEAL R. GROSS**

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

1           And I just don't, you know, so that's really the  
2 testimony I wanted to give, is that, yes, we're here to  
3 discuss Lot 6, but what happens on Lot 7 to Mr. Hart's point  
4 dramatically impacts the adjacent area.

5           CHAIRPERSON HILL: Okay. Mr. O'Neill, which lot  
6 were you on again?

7           MR. O'NEILL: It would be best if you could pull  
8 up --

9           CHAIRPERSON HILL: No. That's, no, I'm looking,  
10 I'm looking at the records. Just what number lot are you in?

11          MR. O'NEILL: I'm 65.

12          CHAIRPERSON HILL: That's what I thought. Okay.  
13 That's all I wanted to know.

14          MR. O'NEILL: Which by the way on their plans is  
15 not accurately depicted via PropertyQuest because my side  
16 yard setback to subject Lot 6 is not that wide. It's closer  
17 than that.

18                 But the view they're giving you from PropertyQuest  
19 connotes that it's a lot bigger setback, which it's not.

20          CHAIRPERSON HILL: Okay. Okay. Let's see, so I'm  
21 going to ask the Board members if they have any questions for  
22 Mr. O'Neill, but I'm going to ask you then, so what is it  
23 that -- you would have wanted the building to be pushed back  
24 farther, on Lot 6? The one, because we're here for Lot 6.

25          MR. O'NEILL: I understand that. But the whole

**NEAL R. GROSS**

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

1 point I'm trying to raise is that Lot 6 and Lot 7 need to be  
2 addressed to Mr. Hart's point earlier. They need to be  
3 addressed collectively even though we're not here to discuss  
4 Lot 6. It is a pipe-stem lot and the pipe-stem --

5 CHAIRPERSON HILL: You know, Lot 6 is the lot  
6 we're discussing.

7 MR. O'NEILL: And my point is, is that it really  
8 can't be discussed in my view fairly unless --

9 CHAIRPERSON HILL: So what, I'm trying to ask you  
10 what you would like to see happen. You want the matter of  
11 right project for Lot 6, as I understand it would push that  
12 home back. And that's what you're more in favor of?

13 MR. O'NEILL: No. I'd prefer, I'd prefer them to  
14 get their variance on the front lot.

15 CHAIRPERSON HILL: Okay. All right. Does anybody  
16 have any questions for Mr. O'Neill? Okay. All right. Mr.  
17 O'Neill, I'm going to put you on mute --

18 MEMBER JOHN: Just to clarify so --

19 CHAIRPERSON HILL: Sure.

20 MEMBER JOHN: -- Mr. O'Neill, so I'm looking at  
21 SP1, and that's Exhibit 48. And you're saying that the  
22 location of the house at 5022 now with the need for the  
23 variance is what you would prefer instead of pushing it back  
24 10 feet, which would still provide the 25-foot rear setback?

25 MR. O'NEILL: I can't comment on that until I'm

**NEAL R. GROSS**

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

1 able to see what you're looking at.

2 MEMBER JOHN: Okay.

3 MR. O'NEILL: Is SP1 available for me to view?

4 MEMBER JOHN: Mr. Young, can you pull that up?

5 It's the same one we've been looking at. It's in the  
6 PowerPoint, Exhibit 48. Perhaps the second slide.

7 CHAIRPERSON HILL: I don't know if Mr. Young is  
8 hearing you or not, so let's, let's just be -- oh there we  
9 go.

10 MEMBER JOHN: So just to add to that, this is the,  
11 this is the plan as presented to the Board where the house is  
12 pushed towards the front and requires the side yards. No,  
13 that's not the one.

14 That's SP2. Let's go one slide before that, I  
15 think. That's the one.

16 MR. O'NEILL: Yeah, I mean I'm in favor of pushing  
17 the Lot 7 -- the Lot 6 house forward, closer to Cathedral.  
18 And it --

19 MEMBER JOHN: Okay.

20 MR. O'NEILL: The only thing I was here to testify  
21 about, which it sounds like I'm not really having any  
22 traction with or have the opportunity to do is the impact  
23 that gives on Lot 7.

24 MEMBER JOHN: Okay. Thank you.

25 CHAIRPERSON HILL: Okay.

**NEAL R. GROSS**

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

1 MEMBER JOHN: And if I can ask another question.

2 CHAIRPERSON HILL: Sure.

3 MEMBER JOHN: And for OP, so based on your  
4 understanding, this 25-foot rear setback is really not what  
5 it is proposed, and the setback would include another 10 feet  
6 towards the house. So maybe the applicant should address  
7 that, or the architect.

8 MR. O'NEILL: Yes. You are correct, Ms. John.

9 MEMBER JOHN: Okay. Okay. So that's it for me.

10 CHAIRPERSON HILL: Okay. Great. All right. Mr.  
11 O'Neill, thank you very much for your testimony. And Mr.  
12 Young, if you'll excuse Mr. O'Neill. All right. Mr.  
13 Ballard, do you have anything else you'd like to, well first  
14 of all, does the Board have any questions of anyone?

15 CHAIRPERSON HILL: Okay. Mr. Ballard, do you have  
16 anything you'd like to add in closing?

17 MR. BALLARD: No. Beyond the fact that our, we  
18 have worked very closely and Lot 7, I know that's not an  
19 issue with Matt LeGrant's office that set all the zoning.  
20 And then secondarily, just to thank OP because they've been  
21 great to work with through this whole process. That's it.

22 CHAIRPERSON HILL: Okay. Great. All right. Then  
23 I'm going to go ahead and close the hearing. And I guess we  
24 can set this for a decision next week, Mr. Moy?

25 MR. MOY: Yes, sir. That'd be appropriate. So

**NEAL R. GROSS**

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

1 that would be up for a decision by the Board next Wednesday,  
2 meeting session at 6 on Wednesday June the 24th.

3 CHAIRPERSON HILL: Okay. All right. Great. And  
4 Mr. Moy, I guess, you know, we will have to talk about all of  
5 this. I mean these, how we end up doing this, I mean the,  
6 oh, okay. All right.

7 So Mr. Ballard, thank you very much for your help,  
8 or I mean for your presentation. And you're free to watch  
9 next week.

10 MR. BALLARD: Thank you all very much.

11 CHAIRPERSON HILL: Bye bye. Mr. Moy, what I was  
12 mentioning is that the meeting cases are actually now, I  
13 guess we're going to have talk. They're going to actually  
14 turn into like a longer session now. Right?

15 And so, you know, I don't know whether the  
16 commissioners want to come back or, you know, I guess we'll  
17 just have to play it by ear and see how it goes. But it is  
18 going to be a longer part of the hearing now.

19 And also these days seem to be, we'll see how long  
20 it takes doing video hearings, I supposed is what I'm trying  
21 to ask or just make note of.

22 MR. MOY: Yeah. I agree. I mean we can talk  
23 later, Mr. Chair but, you know, whether it's today or next  
24 week, it makes the hearing day a little longer. And as Vice  
25 Chair Hart mentioned, you had a choice of either deliberating

**NEAL R. GROSS**

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

1 on the day of the hearing like today.

2 And the roll call vote can go much quicker next  
3 week. Or you could do it next week. So it's, it's trading  
4 one day off for another day. But of course, the cases are  
5 fresher in your mind if you did it today, but that's your  
6 call.

7 CHAIRPERSON HILL: All right. We can talk, we can  
8 talk about it. Okay. Do you want to call the next case?

9 MR. MOY: Yes, sir. So that would be case  
10 application number 20198 of Mehmet, M-E-H-M-E-T, Ogden, O-G-  
11 D-E-N. This is a request for a special exception under the  
12 RF use requirements, Subtitle U, Section 320.2.

13 This would convert a one-family dwelling into a  
14 three-unit apartment house in the RF-1 zone at premises 612  
15 Randolph Street, Northwest, Square 3233, Lot 102.

16 CHAIRPERSON HILL: Okay. Mr. Young, if you could  
17 please let the people into the session.

18 MR. YOUNG: Yeah, they are in. I don't see  
19 Michael Cross though.

20 CHAIRPERSON HILL: All right. Is it Mr. Ebadi?

21 MR. EBADI: Yes. Hi, everyone. I am Amir Ali  
22 Ebadi. I am with Michael Cross Design Group. I'm the  
23 project designer and I am going to present the project to you  
24 today.

25 CHAIRPERSON HILL: Okay. Mr. Ebadi, did you want

**NEAL R. GROSS**

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

1 to turn on your camera or is there, it's not necessary. I  
2 just wanted to know.

3 MR. EBADI: Let me, let me see. Can you see me  
4 now?

5 CHAIRPERSON HILL: There you go. Perfect. And  
6 Mr. Cross, could you please introduce yourself for the  
7 record? You're on mute, Mr. Cross.

8 MR. CROSS: Sorry about that. Michael Cross,  
9 architect.

10 CHAIRPERSON HILL: Okay. Great. And Mr. Ebadi,  
11 if everyone could mute themselves, please unless you're  
12 presenting. But you are next, Mr. Ebadi, so you don't need  
13 to mute yourself.

14 If you could please just walk us through your  
15 application and what you're trying to do and why you believe  
16 you're meeting the criteria and standard for us to grant the  
17 relief requested?

18 I have 15 minutes on the clock there, and you can  
19 begin whenever you like.

20 MR. EBADI: Thank you very much. So thank you for  
21 having us. If you could please pull up the Exhibit number  
22 39, Page 1. We are seeking special exception relief for  
23 three-unit conversion in RF-1 zone pursuant to Subtitle U,  
24 320.2.

25 And our project is being proposed that at 612

**NEAL R. GROSS**

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

1 Randolph Street N.W., which is on the south side of the block  
2 between 5th Street N.W., and 7th Street N.W.

3 CHAIRPERSON HILL: Mr. Ebadi, which exhibit were  
4 you in again? Just tell me again.

5 MR. EBADI: Thirty-nine.

6 CHAIRPERSON HILL: Okay. Go ahead.

7 MR. EBADI: Great. Our project, this project is,  
8 as proposed is fully conforming with the requirements of the  
9 conversion as it is a matter of, matter of right mass in  
10 general.

11 And as it does not extend more than 10 feet past  
12 either neighboring properties, it proposes no modification to  
13 the rooftop elements, and we will be providing two parking  
14 spaces as required.

15 We have worked through the process with Office of  
16 Planning, Office of Planning and ANC and received the support  
17 from both parties. This was a brief presentation of the, of  
18 the project. And we would be happy to take any questions.  
19 Thank you.

20 CHAIRPERSON HILL: Okay. Mr. Ebadi, the ANC, you  
21 guys worked out some conditions, I guess in terms of their  
22 support. I think it seems as though a lot of it is beyond  
23 the Board's purview.

24 However, could you kind of walk through what you  
25 guys have agreed upon for the record?

**NEAL R. GROSS**

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

1 MR. EBADI: I would appreciate if you if Michael  
2 can contribute to this.

3 CHAIRPERSON HILL: Okay. Mr. Cross?

4 MR. CROSS: Sure. I'll, I'll pull up their list  
5 as it is relatively lengthy.

6 CHAIRPERSON HILL: Do you know which exhibit  
7 that's in again --

8 MR. CROSS: Yes.

9 CHAIRPERSON HILL: -- that you're pulling up?

10 VICE CHAIR HART: Mr. Chairman?

11 CHAIRPERSON HILL: Yes.

12 VICE CHAIR HART: Did we have a discussion about  
13 the notice?

14 CHAIRPERSON HILL: Not yet. But we will in a  
15 minute, I guess.

16 VICE CHAIR HART: Okay.

17 MR. CROSS: So it's going to be Exhibit number --

18 CHAIRPERSON HILL: Is it 45?

19 MR. CROSS: -- 45. Yes.

20 CHAIRPERSON HILL: Right. Okay. Great. All  
21 right. Let's see, so before you do that, so as Mr. Hart just  
22 mentioned, in terms of the notice, did you have the affidavit  
23 of maintenance posted?

24 I mean, I'm sorry, the affidavit of maintenance  
25 that you put in there. I see the affidavit of posting, and

**NEAL R. GROSS**

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

1 I guess, Mr. Ebadi, did you post with today's virtual hearing  
2 date?

3 MR. EBADI: Yes, sir. The signs were posted with  
4 today's date and you can find the affidavit of maintenance on  
5 document number, Exhibit number 51.

6 CHAIRPERSON HILL: Okay. Was that late? No?

7 MR. EBADI: Sorry?

8 CHAIRPERSON HILL: Was your filing late with your  
9 maintenance? I don't, I see a waiver was requested but maybe  
10 I'm looking in, did you request a waiver for your affidavit  
11 of maintenance posting?

12 MR. CROSS: I don't think, I don't think we are  
13 requesting a waiver for that. I'm not sure if the  
14 maintenance --

15 CHAIRPERSON HILL: Okay. That's all right.  
16 That's all right.

17 MR. CROSS: -- has a date requirement.

18 CHAIRPERSON HILL: So then we have the Office of,  
19 I'm sorry the Office of Zoning's letter stating 200, zoning  
20 ordinance 746. The Office of Zoning letters to the parties  
21 in Exhibit 49.

22 I think that they have provided enough notice for  
23 everyone, also considering that we have all of the work with  
24 the ANC that they have done. So I have no issues moving  
25 forward.

**NEAL R. GROSS**

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

1           The Board is comfortable with that. If you could  
2 just nod with me. Okay. All right. Okay. Okay. Great.  
3 All right. So now back to the conditions. So all of the  
4 ones that are in -- or not conditions.

5           All of the things that you've agreed to are in  
6 Exhibit 45 with the ANC. And so I see it's a long list, as  
7 I mentioned before a lot of them are kind of outside of our  
8 purview, in fact I think all of them are outside of our  
9 purview.

10           But you were in agreement with these, is that  
11 correct, Mr. Ebadi?

12           MR. CROSS: I guess, this is Michael Cross  
13 speaking, but --

14           CHAIRPERSON HILL: I see.

15           MR. CROSS: -- yes, our client did agree to the  
16 terms listed in that --

17           CHAIRPERSON HILL: Exhibit 45?

18           MR. CROSS: -- Exhibit 45.

19           CHAIRPERSON HILL: Okay. Great. Fine. That's  
20 all I wanted, okay. Does anybody have any questions for the  
21 applicant? Ms. John? Okay. All right. I'm going to turn  
22 to the Office of Planning.

23           MS. FOTHERGILL: Good afternoon. I'm Anne  
24 Fothergill with the Office of Planning for case 20198. And  
25 we reviewed the application and recommended approval that it

**NEAL R. GROSS**

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

1 might the criteria for conversion for the special exception.

2           And I rest on the record and happy to take any  
3 questions.

4           CHAIRPERSON HILL: Okay. Does the Board have any  
5 questions for the Office of Planning? No? Ms. Fothergill,  
6 did it start to rain, so you had problems right?

7           MS. FOTHERGILL: It got a little chilly.

8           CHAIRPERSON HILL: Sorry to hear that. I feel  
9 very bad for you. Let's see. All right. Does the applicant  
10 have any questions for the Office of Planning?

11          MR. EBADI: No, thank you.

12          CHAIRPERSON HILL: All right. Okay. Paul?

13          VICE CHAIR HART: Mr. Chairman?

14          CHAIRPERSON HILL: Yes.

15          VICE CHAIR HART: I did have one question for the  
16 applicant. This had to do with the chimney, the neighbor's  
17 chimney. Could you just talk about that in a little bit more  
18 detail?

19          MR. EBADI: Absolutely. If you, let me see what  
20 view would be better. If you can, if you can go to the  
21 Exhibit 39, Page BZA 03, you would see a, the aerial view  
22 that shows the chimney of a neighboring property at 610  
23 Randolph Street.

24                 With the, with our proposal, that chimney would  
25 be, would be, would be not conforming with the code. So we

**NEAL R. GROSS**

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

1 have, we have gained the permission of the neighbor to extend  
2 the chimney to conform with the code.

3 And gained the permit to do so, and we will extend  
4 the chimney of a neighboring property to conform with the  
5 code.

6 VICE CHAIR HART: So you already have that?

7 MR. EBADI: Yes.

8 VICE CHAIR HART: That approval from the -- okay.

9 MR. EBADI: Thank you.

10 VICE CHAIR HART: That was one. And if you could  
11 just kind of briefly talk about the impacts to light and air?

12 MR. EBADI: Actually we, since this, since our  
13 addition it would be at the north side of the property, there  
14 wouldn't be any conflict with light, but, and the air since  
15 we have enough clearance at the back, enough setback at the  
16 back.

17 We're actually required to provide 20 feet setback  
18 at the rear site, but and we're proposing 74.

19 VICE CHAIR HART: And you're also saying that, I  
20 appreciate the responses, Mr. Ebadi. And you're also saying  
21 that there will be minimal impacts to, of the light? Not  
22 that there will be no impacts on the, on the --

23 MR. EBADI: True. Exactly.

24 VICE CHAIR HART: And if you could also talk a bit  
25 about the front of the building? And I understand that the

**NEAL R. GROSS**

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

1 image on BZA 00, the first image that you have, it shows the,  
2 I guess a rendering of what that might look like.

3 And it just looks a little odd to have the view of  
4 the top of the penthouse, whatever, third floor. I don't  
5 know what you'd, what you'd call that.

6 MR. EBADI: Sure.

7 VICE CHAIR HART: And I understand that there are  
8 some windows that are kind of lower, but is there, is there  
9 some, I don't know, it's just, it's just an odd looking piece  
10 because you're set back from the mansard roof.

11 But you actually can't see the tops of the, of the  
12 windows that are actually behind that wall. And so it just  
13 seems like there, it's, there's like some fenestration that  
14 I would like to see there.

15 But I don't know exactly what it is. It's not a,  
16 it's less of a zoning thing, I think. It's more of an  
17 aesthetic, and if you could just talk about that for a  
18 minute.

19 MR. EBADI: Yes. Actually we had some sort of  
20 design there and we, within the ANC we had a comment that  
21 they want to see a more simple look up there. But as you, as  
22 you mentioned correctly, there are windows and a door back  
23 there.

24 But it's not going to be visible from the side  
25 wall.

**NEAL R. GROSS**

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

1           VICE CHAIR HART: I mean it's, it's, you know, I'm  
2 almost, and I don't know if Commissioner Miller would weigh  
3 in on this but the whole issue about whether or not it's  
4 better to have a lighter or darker, you know, kind of top of  
5 the building to make it kind of disappear.

6           It almost looks like it pops a little bit more if  
7 you're looking at that image, because it's like the mansard  
8 roof is dark and then right above that is something that's a  
9 lighter color that, then, you know.

10           I don't know, makes it more apparent. But I don't  
11 know if darker would actually help that so that it kind of  
12 looks like maybe an extension of the mansard roof, but I  
13 don't know. Please?

14           COMMISSIONER MILLER: Can I elaborate a little on  
15 that?

16           VICE CHAIR HART: Sure.

17           CHAIRPERSON HILL: Yes.

18           MR. EBADI: This, the lighter color was actually  
19 a comment from ANC that they wanted to see a lighter color up  
20 there. Thank you.

21           COMMISSIONER MILLER: So I would just add,  
22 prompted by Vice Chair Hart, yeah, if that's what the ANC  
23 wants, that's a good reason to do it. But you're right, Mr.  
24 Hart. Mr. Peter May on the Zoning Commission has schooled  
25 all of us -- probably at NCPC as well -- that darker colors,

**NEAL R. GROSS**

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

1 it's counterintuitive.

2 But darker colors at the, at the top of a building  
3 tend to fade away more than a light color in contrast. But  
4 if the ANC has expressed that preference, that's a good  
5 reason to go with it.

6 MR. EBADI: Thank you.

7 VICE CHAIR HART: Yeah, I would, I'm, I don't have  
8 an issue. I understand why you, given your, the information  
9 that you provided, Mr. Ebadi. I understand this a little bit  
10 better now.

11 And you're right, Commissioner Miller about the,  
12 you know, if the ANC is really looking for that, and that's  
13 something that's interesting to them, and evidently, they  
14 must have had a conversation about this.

15 You know, going against that seems a little bit,  
16 if they're willing to be in the middle of this, this is their  
17 neighborhood, it seems as though I could be okay with it. I  
18 just was more curious as to how you came up with that. But  
19 I appreciate the information.

20 MR. EBADI: Thank you.

21 VICE CHAIR HART: We cannot hear you, Mr.  
22 Chairman.

23 CHAIRPERSON HILL: Thank you. Thank you. Mr.  
24 Young, were there people that were testifying?

25 MR. YOUNG: No. I don't have anyone signed up.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay. All right. Okay. Let's  
2 see, so Mr. Ebadi or Mr. Cross, do you have anything you'd  
3 like to, so for the record again, there was no one who had  
4 signed up to testify either in favor or in opposition prior  
5 to this hearing.

6 And so I've asked for that. Mr. Ebadi or Mr.  
7 Cross, do you have anything you'd like to add at the end?

8 MR. EBADI: No, thank you.

9 MR. CROSS: Nothing from me either. Thank you for  
10 your time.

11 CHAIRPERSON HILL: Okay. Great. All right. Then  
12 I will go ahead and say that we're going to close the  
13 hearing. There's nothing else we need. And we can set this  
14 for a decision next week.

15 Mr. Moy, does that work for you?

16 MR. MOY: Anything that the Board wants works for  
17 me, Mr. Chairman.

18 CHAIRPERSON HILL: Yeah, that's a loaded question.  
19 But I will stay off of that. Let's see. In terms of, okay,  
20 so Mr. Young, if you could please excuse Mr. Cross and Mr.  
21 Ebadi. Thank you very much.

22 MR. EBADI: Thank you.

23 CHAIRPERSON HILL: And I guess I am going to ask  
24 the Board members here, Mr. Hart and Ms. John and Mr. Miller,  
25 like I don't know, do you guys have an idea as to how we

**NEAL R. GROSS**

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

1 would deliberate?

2 I mean I still don't understand what we're  
3 necessarily, how we have all the deliberations and then Mr.  
4 Cross is still in the room, as is Mr. Ebadi. But I guess,  
5 never mind. Forget it. Never mind.

6 We'll have to talk about it later. I don't know  
7 what to say. Never mind. I'll wait for them to leave the  
8 room anyway. Okay. Mr. Moy, if you can hear me, please feel  
9 free to call our next case.

10 MR. MOY: All right. Thank you, Mr. Chairman. So  
11 that we -- would be case, application number 20209 of, now  
12 I'm going to have to spell his name, Uzoma, U-Z-O-M-A,  
13 Ogbuokiri, O-G-B-U-O-K-I-R-I, as amended for special  
14 exception as under Subtitle D, Section 5201 from the lot  
15 occupancy requirements, Subtitle D, Section 304.1, side yard  
16 requirement of Subtitle D, Section 206.7.

17 Subtitle U, Section 253.10 from the accessory  
18 apartment requirements Subtitle U, Section 253.7(c), which  
19 would construct a three-story rear addition to an existing  
20 semi-detached principal dwelling unit in the R-2 Zone at  
21 premises 7521 9th Street, N.W. (Square 2961, Lot 18).

22 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.  
23 Let's see, I see Mr. Bello. I can't pronounce the last name  
24 very well. I'll let them introduce themselves. Is it  
25 Ogbuokiri?

**NEAL R. GROSS**

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

1 MR. BELLO: It's close enough.

2 CHAIRPERSON HILL: Is it, is it Mister or Miss?  
3 I don't, I don't know.

4 MR. BELLO: It's a Mister.

5 CHAIRPERSON HILL: Okay. Okay. So Mr. Ogbuokiri,  
6 would you like to introduce yourself for the record, please?  
7 I don't know whether you're on mute Mr. Ogbuokiri or if  
8 you're there.

9 Mr. Bello, are you presenting to us?

10 MR. BELLO: Yes, sir.

11 CHAIRPERSON HILL: Is Mr. Ogbuokiri, is he the,  
12 your client?

13 MR. BELLO: Yes, sir. He's the owner.

14 CHAIRPERSON HILL: Okay. I don't necessarily know  
15 if he's there.

16 MR. BELLO: Supposed to be. I'll text him now.

17 CHAIRPERSON HILL: Well if you guys don't mind,  
18 you don't mind if I go get a cup of coffee?

19 MR. BELLO: Not at all. We'll take that to fix  
20 the problem.

21 CHAIRPERSON HILL: Mr. Bello, I wasn't asking you.

22 MR. BELLO: Oh, I'm sorry.

23 CHAIRPERSON HILL: That's all right, Mr. Bello.

24 MR. BELLO: I'm so sorry.

25 CHAIRPERSON HILL: All right. To you guys, I'm

**NEAL R. GROSS**

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

1 going to, I'm going to, all right. I'll be back in one  
2 minute.

3 VICE CHAIR HART: Okay.

4 CHAIRPERSON HILL: And then hopefully, Mr. Bello's  
5 client will be, will be back. Thank you.

6 (Whereupon, the above-entitled matter went off the  
7 record at 3:40 p.m. and resumed at 3:50 p.m.)

8 CHAIRPERSON HILL: All right, Mr. Bello, I don't  
9 know if your client is back. You do not know, correct?  
10 You're on mute, Mr. Bello.

11 MR. BELLO: Yeah, he should be there.

12 CHAIRPERSON HILL: Mr. Ogbuokiri?

13 MR. OGBUOKIRI: I'm here.

14 CHAIRPERSON HILL: Oh, great. Could you pronounce  
15 your last name for us?

16 MR. OGBUOKIRI: Ogbuokiri.

17 CHAIRPERSON HILL: Ogbuokiri? Oh, okay, that's  
18 easier. Okay, could you please introduce yourself for the  
19 record?

20 MR. OGBUOKIRI: Uzoma Ogbuokiri, 7502 9th Street  
21 Northwest.

22 CHAIRPERSON HILL: Okay.

23 MR. OGBUOKIRI: And I think that's it. I don't  
24 know what else you need.

25 CHAIRPERSON HILL: Yeah, that's it. Mr. Bello,

**NEAL R. GROSS**

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

1 Mr. Ogbuokiri, if you want to put yourself on mute unless we  
2 need to hear from you, so just one microphone is on at a  
3 time.

4 And, Mr. Bello, if you can kind of walk us through  
5 your client's project and why you, or your client believes  
6 that they are meeting the criteria for us to grant the  
7 application. There's lot of stuff you guys are asking for.  
8 Some of these one -- there's a lot of things that you seem to  
9 be asking for.

10 And so, I guess if you could kind of walk through,  
11 again, your arguments, including how you're meeting the  
12 variance test, and specify between maybe the first and second  
13 prong, in particular.

14 And you can begin whenever you like. I'm going to  
15 put 15 minutes on the clock. And thank you very much.

16 MR. BELLO: Thank you, Mr. Chairman and Board  
17 members. The -- if I can have the -- I think I'll put it  
18 down on the PowerPoint. Thank you. We can go to the second  
19 page, please.

20 So the relief we're asking for, which seems like  
21 it's a -- it's many, it actually isn't. It's actually one  
22 area of relief with sub-reliefs that are requested under  
23 that, and that's D 52.101(a), (b), and (c). The (a) is for  
24 the percentage of lower occupancy; the (b) is for the site  
25 setback requirement.

**NEAL R. GROSS**

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

1           And going by the Office of Planning's  
2 recommendation, it doesn't seem like the OP believes that I  
3 need the third one for extension of a non-conforming side  
4 yard, but we've added that just so for purposes of being  
5 cautious.

6           And then the second relief that we're asking for  
7 is under Subsection U 253.10, which has to do with the --

8           CHAIRPERSON HILL: I'm sorry, Mr. Bello?

9           MR. BELLO: Yes?

10          CHAIRPERSON HILL: I apologize. You say you are  
11 asking for something that the Office of Planning doesn't  
12 think you need? Which one's that one?

13          MR. BELLO: That would be D 52.101(c).

14          CHAIRPERSON HILL: Okay, so did the Office of  
15 Planning make a recommendation on that? Or I guess we can  
16 ask them when we get to that.

17          MR. BELLO: Correct.

18          CHAIRPERSON HILL: Okay, but you still have it on  
19 your application?

20          MR. BELLO: That's correct, sir. And that's the  
21 way the application was advertised and posted.

22          CHAIRPERSON HILL: Okay, so it's still in your  
23 application?

24          MR. BELLO: Correct.

25          CHAIRPERSON HILL: Okay. All right, please

**NEAL R. GROSS**

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

1 continue.

2 MR. BELLO: All right. And the second one is the  
3 Subsection U 253.10, which has to do with the location of the  
4 entrance to an accessory apartment in that zoning district.  
5 Next page, please.

6 So the BZA is authorized to grant special  
7 exception when, in the judgment of the BZA, the special  
8 exceptions would meet these three criteria: (a) would be in  
9 harmony with the general purpose and intent the zoning  
10 regulations and zoning maps; (b), will not tend to affect  
11 adversely the use of neighboring property, in accordance with  
12 the zoning regulations and zoning maps; and, (c), we will  
13 meet special conditions as may be specified in this title.  
14 Next page, please.

15 This basically just identifies a property, 7521  
16 9th Street, Zone R-2. It's in the Brightwood neighborhood of  
17 Ward 4. It's a corner a lot, which means it's intersected by  
18 two streets, 9th Street and Hemlock Street. The property is  
19 improved by an existing road dwelling and the lot area of the  
20 property is 1588, and the lot width is 616.33. Next page.

21 With respect to the standards of the special  
22 exception, the first one being to be in harmony with the  
23 general purpose and intent of the zoning regulations and the  
24 zoning maps, the property is devoted to a conforming use.

25 The principal dwelling with the accessory

**NEAL R. GROSS**

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

1 apartment is committed to use as a matter of right in the R-2  
2 Zone. The road structure, which exists on the property, was  
3 constructed under the -- well, in fact, prior to the 1958  
4 zoning regulations.

5 And the cited section would have allowed -- would  
6 have required no side yard in the R-2 Zone, so it's a  
7 conforming use that is now -- the conforming structure that  
8 is now being made nonconforming by the provisions of CR,  
9 which only permits, certainly, the attached structure and  
10 doesn't have that section, the waives -- the required parking  
11 from the required side yard for a corner lot.

12 Two, (b), would not tend to affect adversely the  
13 use and enjoyment of the neighboring properties. The  
14 property only abuts one neighboring property to the north,  
15 and it's separated from other properties by streets or  
16 alleys.

17 All other properties are separated by public right  
18 of ways in excess of 60 feet; in the alley, 16 feet -- 16  
19 feet wide. And the alley actually abuts the rear of the  
20 properties on the opposite side of the alley. So those  
21 properties are at least removed 20 or more feet, in addition  
22 to the 16 feet of width of the yard.

23 Then the proposed addition, which is a third  
24 floor, does not have any opening overlooking the only  
25 adjoining property. There are no windows on that side at

**NEAL R. GROSS**

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

1 all. And the addition is only 10 feet beyond the rear wall  
2 of the existing adjoining property. Next slide, please.

3 So there are special conditions specified for this  
4 special exception, which were defined in 5201.1, Rule 5201.6  
5 and referenced in Exhibit 41. But I could go through every  
6 step of those reports, if you so choose, but we have outlined  
7 exactly how we meet each and every one of those standards for  
8 the grant of the special exception. Next page, please.

9 The relief from U 253.7, which is the location of  
10 the entrance to an accessory apartment, it's really a waiver  
11 of one of the conditions for allowing an accessory apartment;  
12 in this case, an entrance to an accessory apartment behind a  
13 wall that faces the street.

14 Well, we have a corner lot here, so the front of  
15 the property is actually on 9th Street. And so the access to  
16 the apartment, to the accessory apartment, is proposed on  
17 Hemlock Street, and will be below grade. It's a basement or  
18 a cellar apartment.

19 So the BZA is authorized to waive this provision.  
20 It's not one of the provisions that is prohibited from BZA.  
21 The entrance, though, would be below grade. And in the R-3  
22 Zone, which is the next list -- restricted zone, this  
23 arrangement is actually permitted as a matter of right, that  
24 it could be located on the street, provided that it's below  
25 grade, so this is not foreign to the zoning regulations.

**NEAL R. GROSS**

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

1           And the final page, please. The application  
2 complies with the three standards set forth under 901.2 (a),  
3 (b), and (c). And then the application also complies with  
4 the special conditions set forth under 5201.1 through 5201.6.

5           If the Board pleases that, I can go through every  
6 one of those singularly, but again, it's referenced in our  
7 burden of proof statement. Thank you.

8           CHAIRPERSON HILL: All right, Mr. Bello, could you  
9 speak a little bit more to the variance requests and how you  
10 guys are meeting the first prong of the test?

11          MR. BELLO: We don't have a variance request. All  
12 of our requests are special exception.

13          CHAIRPERSON HILL: That's what I'm confused about,  
14 then. Did the variance, I missed -- I thought you -- I don't  
15 know, am I -- is the Office of Planning here? Or is it --

16          MR. BELLO: I can explain.

17          CHAIRPERSON HILL: No, hold on one second, Mr.  
18 Bello. OAG, am I --

19          MS. FOTHERGILL: I don't believe there was a  
20 variance in this test. They did add additional special  
21 exception relief for the side yards, but I don't believe  
22 there were ever --

23          CHAIRPERSON HILL: Am I looking at the right --  
24 oh, I'm sorry. I have the paperwork for the wrong case.

25          MR. BELLO: And then --

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: I'm looking at the right case  
2 on the record here, and I got the wrong paperwork. Well, Mr.  
3 Bello, when I first asked you about the variance, and you  
4 were like, that's wrong I don't have that.

5 MR. BELLO: Well, I didn't hear that. I only  
6 heard that we should just present our burden of proof  
7 statement. I'm sorry about that.

8 CHAIRPERSON HILL: That's all right. That's all  
9 right. Okay. Does the Board have any questions for the  
10 Applicant?

11 MEMBER JOHN: I have a question about -- a comment  
12 about the entrance on the street in the R-3 Zone. This is  
13 the R-2 Zone. Am I right?

14 MR. BELLO: That's correct.

15 MEMBER JOHN: So I'm not sure why you're  
16 referencing the R-3 Zone.

17 MR. BELLO: Okay, so if you look at the provisions  
18 of 5201.1, there are sort of -- or, in comparison, they apply  
19 to all properties within an R district. So the mention of  
20 that is really just to emphasize the point that it is not a  
21 foreign arrangement in the R Zone district, even though it's  
22 not permitted in the specific zone the street and property is  
23 located in.

24 MEMBER JOHN: Okay. All right, that's fine.

25 VICE CHAIR HART: I have a question, Mr. Chairman.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Sure, please.

2 VICE CHAIR HART: And this is just a clarification  
3 for me. Mr. Bello, what is the green area that's in the back  
4 of the -- indicated in the back of the of the building? I  
5 was just at a loss. I couldn't figure out what it was. So  
6 I don't know if you or your client could explain that a  
7 little bit further.

8 MEMBER JOHN: What exit are you -- exhibit are you  
9 looking at?

10 VICE CHAIR HART: I, actually -- when I was  
11 looking through this -- I can't remember which one it is now,  
12 but I think it's just the plans. They have this thing that  
13 they call a green area, but I don't exactly understand,  
14 because it seems like there's actually a grassy area that's  
15 right next to it.

16 So I wasn't sure what the difference is between  
17 them. And it looked like there was some structure there, but  
18 then I couldn't figure out what the structure was. So I just  
19 I just kind of gave up and thought I'd ask once we saw you  
20 guys.

21 MR. BELLO: Okay, so the -- go ahead. I'm sorry.

22 MEMBER JOHN: No, I was just saying it could be  
23 Exhibit 43, revised architectural plans.

24 VICE CHAIR HART: Yes.

25 MR. BELLO: Well, so the intent of the applicant

**NEAL R. GROSS**

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

1 is to comply with the previous office requirement. I believe  
2 this is 30 percent in the zone.

3 VICE CHAIR HART: Okay.

4 MR. BELLO: So there's that rear yard that's going  
5 to be a combination of a grassy area and impervious material,  
6 and then there's some green area in the front. Between those  
7 two, we intend to comply with the previous office  
8 requirements.

9 VICE CHAIR HART: So -- okay, so on page -- thank  
10 you, Board Member John. On Exhibit 43 on, I guess, third  
11 page of that, there is an area that says green area. And  
12 then there's a kind of a grid looking thing.

13 So you're putting something down that's  
14 impervious? You're putting -- like, are they panels? Are  
15 they grass panels that we're talking about? I'm just not  
16 sure what that is.

17 MR. BELLO: There will -- they would be pervious  
18 material. What the architects have shown is just for the  
19 architectural statement, but most of that area -- all of it  
20 will be green. Whatever that material is is going to be  
21 pervious and green.

22 VICE CHAIR HART: Okay, I still don't understand  
23 that. I don't know if your client can explain that a little  
24 further.

25 MR. OGBUOKIRI: Yes. It's just grass.

**NEAL R. GROSS**

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

1           VICE CHAIR HART: Okay, so what's the structure  
2 that's shown on it? I mean, usually with grass -- when you  
3 have an architectural drawing and you have grass, you show it  
4 in a way that doesn't have anything that's, you know -- and  
5 I say architectural in that there's like a grid that's shown.

6           And so the grid thing was throwing me off, because  
7 grids usually mean that there's structure, but there isn't  
8 because it's green area. So then I'm like, I don't know what  
9 I'm looking at.

10          MR. OGBUOKIRI: Yeah, I -- you know, I just  
11 assumed that was some architectural artistic license thing,  
12 but it's just grass behind the house.

13          VICE CHAIR HART: Okay. Okay, that's fine.

14          MR. OGBUOKIRI: I don't know what the architect  
15 was trying to depict, but I spoke to him about the same  
16 thing, and it's just grass. That's just how he depicted it.  
17 It's just grass from -- from the house to the alley is just  
18 grass.

19          You know, it might be the fact that the way that  
20 the topography works, that side is higher than the space on  
21 the right. And the space on the right, I believe, is public  
22 space. So I guess he was trying to differentiate or  
23 something. I don't know, but it's just grass.

24          VICE CHAIR HART: All right. Okay. As I said, it  
25 is the oddest looking thing to me. I mean, I've seen things

**NEAL R. GROSS**

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

1 that look like that that's -- if you put something in that's  
2 like structured soil. You can you can do that if you want to  
3 put a tree in or, you know, you want to have some, you know,  
4 some pervious surface that you can do that.

5           Again, I don't want to belabor this. It was more  
6 just a curiosity because I couldn't quite understand what I  
7 was looking at. And then --

8           MR. OGBUOKIRI: It's just grass.

9           VICE CHAIR HART: I appreciate the clarification.  
10 And so just so that I'm also clear, to the residents entering  
11 on the bottom -- the lower lot, the lower unit, they will  
12 enter their unit from the alley? Because they have to go up  
13 some stairs, go across the green area that we just talked  
14 about, then go down some stairs to the area way, which is  
15 where they are -- have a front door for their property?

16           MR. BELLO: That's correct.

17           VICE CHAIR HART: And the reason that you just  
18 didn't do it so that it was like directly on the area way,  
19 like, you know, entered directly off the street, it seems  
20 like it's a circuitous route to get there. I just --

21           MR. BELLO: Probably because the back room is a  
22 bedroom. And so the main entrance would not go through that.  
23 In order to get the second room, you obviously have to either  
24 have an emergency exit window or a direct entry from that  
25 bedroom.

**NEAL R. GROSS**

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

1           VICE CHAIR HART:  And the reason that you don't  
2 just have an entrance -- I'm fine with having the entrance  
3 where it is, I'm just asking about the having to go in the  
4 alley to access the entrance.  There is no way to access it,  
5 via -- what is that street?  I don't know what the street is.

6           MR. BELLO:  9th Street.

7           VICE CHAIR HART:  From Hemlock, actually.

8           MR. BELLO:  No, the entrance is on Hemlock.

9           VICE CHAIR HART:  Yeah, but the -- but to get to  
10 the entrance, you're going on the alley to get over there.  
11 I'm just asking a direct entrance from Hemlock itself.  I  
12 don't know, it just seemed like there may be -- I don't know.  
13 I just was curious as to the route in which one was taking to  
14 get there, but it's fine.

15           The last question I had was there are some people  
16 that wrote letters in opposition to this?

17           MR. BELLO:  Correct.

18           VICE CHAIR HART:  Can you just talk a little bit  
19 about that?

20           MR. BELLO:  Well, there seems, if I can generalize  
21 what the concerns seem to be, it's obviously this is going to  
22 be the first of the houses that are predominantly two stories  
23 that's going up the third floor.

24           And obviously the concern is that this will result  
25 into a proliferation of such additions then and that that

**NEAL R. GROSS**

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

1 would somehow adversely affect the fabric of the  
2 neighborhood.

3 But this is a zone that permits three floors. The  
4 question is, who goes first? So we understand the concern,  
5 but we're not asking for any relief on the number of stories.  
6 We are limiting ourselves to the number of stories permitted  
7 as a right.

8 VICE CHAIR HART: The Concerned Neighbors of --  
9 Concerned Neighbors, Incorporated? Your -- is that response  
10 the same for this as well?

11 MR. BELLO: Well, let me just mention and then  
12 I'll let Mr. Ogbuokiri expand on that a little bit.

13 So there are two submissions from the Concerned  
14 Neighbors. One would be -- I think one may be misleading a  
15 little bit. Now that has a series of signatures attached to  
16 it. But if you look at that very carefully, that's something  
17 that was written some time, back at the time that the Zoning  
18 Commission was considering, I think, a rewrite of the zoning  
19 regulations.

20 So that submission has nothing to do with this  
21 application. But they did submit again subsequently that  
22 they were not in favor of this application, but mostly for  
23 the same reason that some of the neighbors are complaining  
24 about.

25 But I'll have Mr. -- the owner, because he

**NEAL R. GROSS**

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

1 attended the meeting with CNI. And I was not. So let him  
2 elaborate on that a little bit.

3 MR. OGBUOKIRI: Yes, so my basic understanding is  
4 that there's a group of people in the neighborhood who are  
5 concerned that such a structure would change the fabric in a  
6 way that people would start doing multi-family units in the  
7 neighborhood.

8 And that was pretty much, you know, I was  
9 scheduled for 20 minutes on the -- at the neighborhood  
10 discussion and we talked for a lot longer than that. And  
11 that was pretty much what the point was, that it was going to  
12 invite multi-family dwellings into their neighborhood and  
13 that they didn't want their neighborhood to become an  
14 apartment community.

15 Now the -- I know that the CNI wrote a letter  
16 opposing it, but at the meeting there was no vote. And the  
17 letter didn't actually represent what was discussed at the  
18 meeting. So I don't know if a few people got together  
19 afterwards and had another discussion.

20 But I regularly attend those meetings as I, you  
21 know, but it's -- the neighborhood is -- the purpose of this  
22 property is for my parents who live in the neighborhood in  
23 order to be able to not have to go upstairs in order to get  
24 into their house.

25 So ever since this was something that I wanted to

**NEAL R. GROSS**

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

1 achieve, I've been attending those meetings and talking with  
2 the neighbors with regards to it. And, you know, a good part  
3 of the neighborhood is in support. And then there are a lot  
4 of people who really feel that this is going to change the  
5 neighborhood into an apartment community.

6 And that was the -- literally the full scope of  
7 the discussion at the meeting that, you know, once the first  
8 person goes in and does what they call the pop-up, then what  
9 would end up happening is that it will encourage all kinds of  
10 development that will inspire people to start doing  
11 multi-family dwellings in the neighborhood.

12 VICE CHAIR HART: Okay. Thank you for that  
13 response. No other questions.

14 CHAIRPERSON HILL: Ms. John, do you have any  
15 questions?

16 MEMBER JOHN: Just one quick question. I'm  
17 looking at the CNI submission on June 8th and -- of this  
18 month -- of this year. And so, the witness says that the  
19 owner of record is Mr. Jackson. Is that accurate?

20 MR. OGBUOKIRI: Yes, it is.

21 MEMBER JOHN: Okay.

22 MR. OGBUOKIRI: I'm the contract buyer, and he's  
23 given me authority to do this on his behalf.

24 MEMBER JOHN: Okay. All right, that's what I  
25 wanted to clarify. Thank you.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay, so Mr. Miller, do you  
2 have any questions?

3 COMMISSIONER MILLER: No questions. Thank you,  
4 Mr. Chairman. I just -- I appreciate the applicant's  
5 statement in response to some of the opposition letters,  
6 which, we're aware, that he intends to have the accessory  
7 apartment used by his parents and does not intend for this to  
8 be a conversion to a multi-unit structure.

9 And, of course, if that was -- if that ever  
10 becomes the case in the future, there would have to be a  
11 future application, I guess, before this Board to meet all  
12 the criteria of such a conversion.

13 CHAIRPERSON HILL: Okay, thank you, Mr. Miller.  
14 Can I turn to the Office of Planning, please?

15 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and  
16 members of the BZA. Jonathan Kirschenbaum with the Office of  
17 Planning. We recommend approval of BZA Case 20209 for both  
18 the special -- sorry, to -- for a special exception to  
19 enlarge an existing semi-detached house.

20 And we rest on the record. Please let me know if  
21 you have any further questions. Thank you.

22 CHAIRPERSON HILL: Does anyone have any questions  
23 for the Office of Planning?

24 VICE CHAIR HART: And just a quick one. Mr.  
25 Kirschenbaum, good to see you as well. Do you -- you

**NEAL R. GROSS**

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

1 submitted a supplemental report yesterday. Am I correct?

2 MR. KIRSCHENBAUM: Yes, the supplemental report  
3 really serves as the main OP report.

4 VICE CHAIR HART: Okay.

5 MR. KIRSCHENBAUM: The first report that was  
6 filed, for the record, basically said that we didn't have  
7 enough information to write a full recommendation, but we  
8 were able to finally submit something into the record  
9 yesterday.

10 VICE CHAIR HART: That's all I needed. Thank you.

11 CHAIRPERSON HILL: Mr. Bello, the only question I  
12 would -- did the ANC consider the side yard relief and/or  
13 does that change your application (telephonic interference)?

14 MR. BELLO: Well, while the side yard issue was  
15 not specifically discussed with the ANC, but the fact that  
16 the relief here is under one section and there has been no  
17 change to the design of the architectural plans that was  
18 submitted and considered by the ANC, I don't think that, in  
19 my opinion that that affects the application negatively.

20 MR. YOUNG: Mr. Chair, I just wanted to let you  
21 know that the ANC commissioner is here. Do you want me to  
22 bring him on?

23 CHAIRPERSON HILL: Oh, great. That would be  
24 wonderful. Yes, please. Thank you.

25 MR. YEATS: Good afternoon. Can everybody hear me?

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Yes.

2 MR. YEATS: I have a prepared statement that I'm  
3 happy to begin with, but -- or I can answer your questions  
4 first, whichever you may prefer.

5 My name is Evan Yeats. I'm the Advisory  
6 Neighborhood Commissioner for Single Member District 4B01,  
7 which includes this property. I'm also authorized by our  
8 commission under a unanimous resolution to represent our  
9 resolution with regards to BZA 20209.

10 CHAIRPERSON HILL: Okay, great. Well,  
11 Commissioner Yeats, welcome.

12 MR. YEATS: Thank you.

13 CHAIRPERSON HILL: And let's see, no -- yeah, go  
14 -- you can read your statement or whatever you'd like to do.

15 MR. YEATS: Okay. I think our resolution is  
16 fairly self-explanatory, and you have it in the record. I  
17 didn't want to respond to a couple of the items that were  
18 filed in opposition because they specifically talk about the  
19 ANC's procedure and the availability for feedback from the  
20 community.

21 I strongly object to any suggestion that there  
22 wasn't sufficient time provided for feedback for the  
23 Commission. I attended the Concerned Neighbors, Inc. meeting  
24 in February to receive feedback from that group and from the  
25 community on this as well.

1           We also had a presentation that allowed for  
2 discussion without a resolution on the table on this project  
3 in our February ANC meeting. We requested a delay of the  
4 Board to allow for that extended discussion and it was  
5 granted. So that 30-day delay came at our request to make  
6 sure that there was ample opportunity for feedback.

7           There was opportunity for community comment at the  
8 meeting where we considered the resolution. Yes, it did go  
9 on our consent calendar, which we routinely use as a tool to  
10 speed up our meetings when there is not controversy among the  
11 Commission about our position. And the resolution that I've  
12 presented to you did pass unanimously.

13           Finally, this has been flagged by Mr. Bello, but  
14 we were also presented with a petition in regards to this  
15 property and we do not -- if you read the text, we share the  
16 concern that it is not specific to this property and pre-  
17 dates these plans.

18           And so we stand by our resolution as we've written  
19 it. We feel that we took ample time to hear from different  
20 community members. It's unfortunate that we weren't able to  
21 really reach a position of consensus on this issue, which is  
22 always what we prefer to do.

23           But the Commission itself did reach consensus and  
24 did support this unanimously because we view that ADUs are  
25 of-right in the area and the ADU for elderly family members,

**NEAL R. GROSS**

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

1 in particular, and a single family occupying a dwelling is  
2 the absolute lowest impact of any of these developments that  
3 could occur within this area. So, that's all I have to say  
4 and I welcome any questions you have.

5 CHAIRPERSON HILL: All right. Thank you,  
6 Commissioner. Does the Board have any questions for the  
7 commissioner? Does the applicant have any questions for the  
8 commissioner?

9 MR. BELLO: No, Mr. Chairman.

10 CHAIRPERSON HILL: Okay. Well, Mr. Commissioner,  
11 why don't you just stick around anyway, because you're a  
12 party in the case.

13 MR. YEATS: I appreciate that. Thank you.

14 CHAIRPERSON HILL: Let's see. Paul, can you let  
15 in -- I believe there's people that have wanted to testify.  
16 Is that correct?

17 MR. YOUNG: Yes, we do.

18 CHAIRPERSON HILL: How many do we have?

19 MR. YOUNG: I have two in opposition and one in  
20 support.

21 CHAIRPERSON HILL: Okay, can we hear the one in  
22 support first?

23 MR. YOUNG: And the one in support, I actually do  
24 not see on here.

25 CHAIRPERSON HILL: Okay.

**NEAL R. GROSS**

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

1 MR. YOUNG: That's Compton Mathias (phonetic).

2 CHAIRPERSON HILL: Okay, I'm looking -- I'm trying  
3 to look here at my list, if I can find it. Okay, can you let  
4 in the people then in opposition?

5 MR. YOUNG: Yeah. Andre Carley is calling in by  
6 phone, so he's not going to be in the actual thing. So I'm  
7 just going to unmute him.

8 MR. CARLEY: Hello.

9 CHAIRPERSON HILL: Okay, that's -- hello, that's --

10 MR. CARLEY: Hello?

11 CHAIRPERSON HILL: Hello.

12 MR. CARLEY: Hello? Can you hear me?

13 CHAIRPERSON HILL: Yes, can you hear me?

14 MR. CARLEY: Yes I can, sir.

15 CHAIRPERSON HILL: Okay, wonderful. Could you  
16 just please introduce yourself for the record?

17 MR. CARLEY: Sure. My name's Andre Carley. I'm  
18 an officer of the Concerned Neighbors, Inc., a former ANC  
19 4B01.

20 First of all, I'd like to thank Mr. Reed because  
21 I was trying to get on the video feed and I couldn't do it.  
22 And we couldn't -- he's tried all day to try to work it out.  
23 And finally, we came to this solution. So, thank you, Mr.  
24 Reed.

25 All right --

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Mr. Andre -- is it -- was --  
2 I'm sorry, can you tell me your name again?

3 MR. CARLEY: Andre, A-N-D-R-E, Carley, C-A-R-L-E-  
4 Y.

5 CHAIRPERSON HILL: Carley, okay. Mr. Carley, I'm  
6 just curious, did you was there something that you checked  
7 off that said that you were under oath?

8 MR. CARLEY: No.

9 CHAIRPERSON HILL: Okay. So, Ms. Cain, is there  
10 some -- I'm a little confused as to how -- where it is, and  
11 maybe Mr. Moy knows, that when people sign up, they do check  
12 off a box or something that means that they are now under  
13 oath. Correct?

14 MS. CAIN: Cliff might be able to speak more to  
15 this. It is my understanding that, yes, if you signed up  
16 online through the Office's portal that they have set up,  
17 there's a box that you check which essentially serves as  
18 swearing you.

19 MR. MOY: Yeah, that's correct, Mr. Chairman. Ms.  
20 Cain's correct. When you sign up, you have to check off the  
21 box. And that confirms that you've taken the oath. But now  
22 that I think about it, the people who call in, there's no  
23 sign-up in that procedure. So it is --

24 CHAIRPERSON HILL: Yeah, Mr. Carley -- I'm sorry  
25 to interrupt you. Mr. Carley did sign up, I believe. He was

**NEAL R. GROSS**

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

1 just having issues. Is that correct, Mr. Carley?

2 MR. YOUNG: That's correct.

3 MR. CARLEY: So, I'm -- yes.

4 MR. YOUNG: Yes. I believe he signed up because  
5 he's on my list.

6 MR. CARLEY: Correct.

7 CHAIRPERSON HILL: So that means, Mr. Carley, you  
8 did actually take the oath.

9 MR. CARLEY: Okay.

10 CHAIRPERSON HILL: So you're under oath, okay, Mr.  
11 Carley?

12 MR. CARLEY: Okay.

13 CHAIRPERSON HILL: So, Mr. Carley, I'm going to go  
14 ahead and just -- you have -- as a member of the public, you  
15 have three minutes to give your testimony. I'm going to go  
16 ahead and kind of keep my own clock here, but there is a  
17 clock on video. You happen to be --

18 MR. CARLEY: Yeah, I don't think I'll take three  
19 minutes because you read -- you have my written testimony.  
20 It's pretty much I'm going to just follow that.

21 The Concerned Neighbors and the neighbors in that  
22 7500-7600 block of 9th Street are concerned about the, for  
23 percent of allowable occupancy for some -- for a little bit.  
24 Some people are upset about that. But mostly they're upset  
25 about the addition of a third floor as far as it would keep

**NEAL R. GROSS**

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

1 -- or destroy the neighborhood streetscape. And a big fear of  
2 speculators, developers coming in and taking over and making  
3 multi-family properties along that block. It's displacing  
4 the families that live there.

5           That part of the property is considered abandoned.  
6 But -- and I'm ambivalent because, hey, I'm for any type of  
7 upgrade to those properties. But we are -- just that we are  
8 very concerned about the addition of the third floor and the  
9 extension -- well, not the extension so much, but just the  
10 addition of a third floor.

11           I think -- let me see, what else? Yeah, okay,  
12 that's all I have to say.

13           CHAIRPERSON HILL: Okay, Mr. Carley. All right,  
14 does the Board have any questions for Mr. Carley? All right.  
15 Okay, Mr. Carley, I'm going to put you on -- well, actually,  
16 Mr. Carley, I'm going to excuse you. And thank you very much  
17 for your testimony.

18           MR. CARLEY: Okay, thank you.

19           CHAIRPERSON HILL: Now, Mr. Young, you said there  
20 were others?

21           MR. YOUNG: Yeah, there's Sara Green who is on  
22 here.

23           CHAIRPERSON HILL: Okay, is that the only other  
24 person?

25           MR. YOUNG: Yeah.

1 CHAIRPERSON HILL: Okay, Ms. Green, can you hear  
2 me?

3 MS. GREEN: I can hear you. Can you hear me?

4 CHAIRPERSON HILL: Yes, I can. Could you please  
5 introduce yourself for the record?

6 MS. GREEN: Yes. My name is Sara Green. I live  
7 at 7106 Piney Branch Road. But I'm a member of Concerned  
8 Neighbors.

9 I'm not sure if you're clear that Concern  
10 Neighbors is a 50-year-old organization. It's not just a  
11 group of neighbors. It's an organized -- it's a -- they have  
12 a charter. They have officers. Andre is recording  
13 secretary. I'm a member.

14 I'm the former ANC for 4B01. I'm the former chair  
15 of the Commission. I am now not part of the ANC, but I'm  
16 concerned primarily about this building and the way it's  
17 going to look. I submitted a photograph along with my  
18 testimony. I don't know if you see it. It's just a shot of  
19 that street.

20 And those houses have a regular pattern. They're  
21 very, very similar in their scale, in their height, in their  
22 material. And here you are introducing something on the  
23 corner, very prominently, that is going to dramatically  
24 change the way that street looks.

25 And I'm looking at the regulations and I'm looking

**NEAL R. GROSS**

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

1 at 5201.3(c). And it says the addition, you know, it should  
2 not -- as viewed from the street, alley or other public way,  
3 shall not substantially visually intrude upon the character,  
4 scale and pattern of houses along the street frontage.

5 I mean, when you stand at that corner, almost any  
6 side, any part of that corner, which is very open, you're  
7 going to see all this, in a very dramatic way, as very  
8 different. And that's -- I just don't understand how you can  
9 look at that and still adopt this application.

10 The ANC resolution said, as a corner lot, the  
11 impact on this neighborhood is minimal. It's not minimal.  
12 It's very significant, and that concerns me.

13 Just a quick thing, I don't look at plans really  
14 well, but the applicant has said that they're concerned about  
15 the elderly parents using steps and that that's why they want  
16 them in this apartment. Aren't there steps going into this  
17 apartment? I'm just not clear. If I'm wrong, I'm wrong.  
18 But if the issue is steps, this apartment seems to have  
19 steps.

20 I really think that, looking at all of these  
21 people opposed, I'm disappointed in the ANC. They adopted  
22 this as it stands as a -- on consent. And they didn't -- the  
23 comments the public were allowed to have were after they had  
24 adopted it. But I can't think of a time, when I was on the  
25 Commission, when you had an organization, a 50-year-old

**NEAL R. GROSS**

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

1 organization, plus 40-something people opining, opposing  
2 something like this.

3 And to have the ANC ignore and not support a  
4 community organization like this, it's just unusual. And I'm  
5 sorry they did it. But, you know, they're -- this is  
6 something, obviously, they're allowed to do. It's just  
7 unusual.

8 It's an -- CNI is an important organization in the  
9 community. It's been around, as I say, a long time. They  
10 have thoughtful -- they're a thoughtful organization and they  
11 don't like to oppose things normally. I don't want to speak  
12 for them. But, in my experience, they're a very responsible  
13 organization, and I'm happy to be a member for that reason,  
14 among others.

15 But I hope that you will oppose this and not allow  
16 it simply because of the dramatic impact that building is  
17 going to have on the street. Thank you.

18 CHAIRPERSON HILL: Thank you. Does the Board have  
19 any questions for the witness? Mr. Hart?

20 VICE CHAIR HART: Yes, hi. Thank you --

21 MS. GREEN: Hi.

22 VICE CHAIR HART: -- Mr. Chairman. Hi, Ms. Green.  
23 Glad you could join us.

24 MS. GREEN: Thank you.

25 VICE CHAIR HART: I just have the question -- and

**NEAL R. GROSS**

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

1 this is always a difficulty when you're looking at the zoning  
2 regulations themselves. The project is seeking some special  
3 exceptions, which are things that are allowed in the zoning  
4 regulations, if you're -- I know that you may be aware of  
5 this. I just want to make sure that you are.

6 MS. GREEN: Yes.

7 VICE CHAIR HART: And those have to deal with a  
8 variety of things. So they're looking for relief from those  
9 regulations. But one of them that they're not looking for  
10 relief from because they are consistent with it or they were  
11 within what's allowed is height. They are not looking for a  
12 relief from height.

13 And it seems like some of the concerns that you're  
14 bringing up have to do with the height. And that is a issue  
15 that is about the neighborhood and the zoning for the  
16 neighborhood. And I just was trying to understand the  
17 difference between the issues that you're bringing up and  
18 what is allowed by right in the zone, under the zoning  
19 regulations.

20 So the height that they're looking at is actually  
21 allowed.

22 MS. GREEN: I understand.

23 VICE CHAIR HART: Okay.

24 MS. GREEN: I understand, but because it's a  
25 corner lot and the kind -- the additions that they are making

**NEAL R. GROSS**

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

1 are going to be, even without that third floor, very  
2 prominent and very different in changing the character and  
3 the pattern and the rhythm of that whole street.

4 So even without the third floor, there is a  
5 problem, visually, the way I look at it.

6 VICE CHAIR HART: Okay. Thank you. No further  
7 questions.

8 CHAIRPERSON HILL: All right. No one else, Miss  
9 John, Mr. Miller, you're good? Okay. All right. Okay, Ms.  
10 Green, thank you very -- oh, sorry, Mr. Miller?

11 COMMISSIONER MILLER: Yeah. I just wanted to thank  
12 Ms. Green for her testimony. You know, regarding the corner  
13 lot, where there's an addition, versus the middle of a block,  
14 I guess, you know, it's in the eye of the beholder. You're  
15 right, it's a more prominent location, obviously, in that  
16 corner.

17 But if it's going to be an addition that's higher  
18 than the rest of the block, from my own eye, it -- better at  
19 the corner than in the middle of the block, if it's going to  
20 be the first one. But just -- that's just a comment. I  
21 understand where you're coming from.

22 MS. GREEN: Thank you. I agree with you that  
23 obviously it's very bizarre when they're in the middle of a  
24 block. Nonetheless, the overall impact of that building, to  
25 me, as a proposal is just so out of character. And according

**NEAL R. GROSS**

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

1 to the way I read 5201.3(c), to me, that just says it all,  
2 but thank you for listening.

3 CHAIRPERSON HILL: Thank you, Ms. Green. And  
4 also, yeah, thank you for your community service over the  
5 years. All right, Ms. Green, we're going to excuse you from  
6 the room unless anyone has any further questions for Ms.  
7 Green? Okay, thank you again.

8 All right. Let's see, Mr. Kirschenbaum, I always  
9 -- I was wanting to hear about this one. For Office of  
10 Planning, like, you know, the special exception criteria and  
11 then, you know, (c), in particular, how do you guys usually  
12 -- I mean, what's your response to that?

13 If, like (c), sometimes, can be read as if nothing  
14 should ever be done.

15 MR. KIRSCHENBAUM: Right. I mean, obviously, the  
16 intention, I'd say, is not to say that nothing can be done.  
17 It's to basically say that it shall not substantially intrude  
18 upon the character. And in this case, we don't find that  
19 addition the way substantially intrude upon the character.

20 Again, it is on a corner lot. Generally speaking,  
21 from an urbanist perspective, many zoning codes across the  
22 country usually treat corner lots as being able to handle a  
23 little bit more density because they are on a corner and they  
24 are open on two sides.

25 So again, we don't think this would visually

**NEAL R. GROSS**

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

1 intrude. And also the third floor addition would be set back  
2 eight feet from the front wall of the building as well. So  
3 that would also lessen some of the impact of the third floor  
4 on 9th Street when it's viewed from 9th Street as well.

5 And yeah, that's what I have to say about the (c)  
6 finding.

7 CHAIRPERSON HILL: Okay, great. All right. Let's  
8 see, so we've had public testimony. Is there anything else  
9 anyone would like to ask of the applicant? I don't see  
10 anyone raising their hand. Mr. Bello, is there anything you  
11 would like to add in conclusion?

12 MR. BELLO: I'll just rest on the presentation.  
13 Thank you, Mr. Chairman.

14 CHAIRPERSON HILL: Okay, thank you. All right,  
15 well, then, if the Board doesn't need anything else, then I  
16 guess we'll go and close the record, close the hearing.  
17 Commissioner, thank you for joining us.

18 And Mr. Miller, you're -- oh, you're with -- and  
19 then we'll put this on decision with the Board to report.

20 (Simultaneous speaking.)

21 CHAIRPERSON HILL: I don't who that was.

22 MR. MOY: All right, so the record, then, Mr.  
23 Chairman, is that Board is setting this for decision for next  
24 week, June the 24th. Correct?

25 CHAIRPERSON HILL: Yes.

1 MR. MOY: Thank you.

2 CHAIRPERSON HILL: All right, Mr. Moy, we'll call  
3 our last case.

4 MR. MOY: Okay, with pleasure, Mr. Chairman. So  
5 that would be Case Application Number 20240, Schmidt  
6 Development LLC, as amended for a special exceptions under  
7 the residential conversion regulations, Subtitle U Section  
8 320.2 with waivers from the Rear Addition Requirements;  
9 Subtitle U Section 320.2(e) under Roof Top Architectural  
10 Requirements; Subtitle U Section 320.2(h) and under Subtitle  
11 U Section 301.1(g) under requirements of Subtitle U Section  
12 301.1(c)(2) and under Subtitle E, Section 5201 from the  
13 Accessory Building Lot Occupancy provisions of Subtitle E,  
14 Section 5003.1 and pursuant to Subtitle X, Chapter 10 for  
15 area variance from the accessory building access requirements  
16 of Subtitle U Section 301.1(c)(4).

17 This will construct a third story and a rare  
18 addition to convert a single-family dwelling unit into two  
19 dwelling units and to expand an accessory building for a  
20 third residential unit RF-1 Zone at 1330 K Street, S.E.,  
21 Square 1046, Lot 145.

22 CHAIRPERSON HILL: Okay. I see -- who's with us  
23 here now? So is that Mr. Wilson and Ms. -- or Mr. Amons?

24 VICE CHAIR HART: I think that's Ms. Wilson.

25 CHAIRPERSON HILL: Oh, Ms. Wilson? Oh.

**NEAL R. GROSS**

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

1 MS. WILSON: I got to unmute it. Can you all hear  
2 me?

3 CHAIRPERSON HILL: Yes.

4 MS. WILSON: Can you see me?

5 CHAIRPERSON HILL: Now we can, yes.

6 MS. WILSON: Yay. Okay, great. Thank you.

7 CHAIRPERSON HILL: And then is it Mr. Amons?

8 MS. WILSON: Yes.

9 CHAIRPERSON HILL: Okay. Well, Ms. Wilson,  
10 welcome to Virtual World.

11 MS. WILSON: Hi, nice to see you all.

12 CHAIRPERSON HILL: And it is nice to see you as  
13 well. I guess, if you could please walk us through your  
14 application, your client, that is, their application. And in  
15 particular, how they're meeting the problems with the  
16 variance test is what I also kind of -- and how it's the  
17 exceptional circumstance.

18 And so, I'm going to put 15 minutes on the clock  
19 then, and you can begin whenever you like.

20 MS. WILSON: Great. Thank you so much. My name  
21 is Alexandra Wilson, from Sullivan & Barros, on behalf of the  
22 applicant.

23 CHAIRPERSON HILL: Excuse me one second, Ms.  
24 Wilson. I'm sorry.

25 MS. WILSON: Yep.

1 CHAIRPERSON HILL: So just for the Board, in terms  
2 of notice, we did send out -- the Office of Zoning did send  
3 out letters to the 200 footers. The Office of -- and that's  
4 in Exhibit 48 -- the Office of Zoning also sent out letters  
5 to the parties in Exhibit 52.

6 Ms. Wilson, did you put -- did you get the  
7 affidavit of posting, an affidavit of maintenance in or do  
8 you need a waiver for those?

9 MS. WILSON: We got those in. I believe our staff  
10 got them in. That's what I was told earlier. Let's see,  
11 Exhibit --

12 VICE CHAIR HART: Like 55 -- 54, 55?

13 MS. WILSON: Yes, exactly.

14 VICE CHAIR HART: Okay.

15 MS. WILSON: Thank you.

16 CHAIRPERSON HILL: You presented it before the  
17 ANC.

18 MS. WILSON: Yes.

19 CHAIRPERSON HILL: I think that I don't have any  
20 issues with notice. Does the Board have any issues with  
21 notice? If so, just raise your hand. No?

22 VICE CHAIR HART: Just a question.

23 CHAIRPERSON HILL: Mr. Hart?

24 VICE CHAIR HART: Is there a photograph with the  
25 affidavit of maintenance? Or maybe that --

**NEAL R. GROSS**

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

1 MS. WILSON: I'm not sure it's with the affidavit  
2 of maintenance, but there are some with the affidavit of  
3 posting.

4 VICE CHAIR HART: Okay. Give me a second. I was  
5 looking to see if the updated data's on there. And it is, so  
6 June 17th is on there, so that's fine. I don't have any  
7 other questions. Thank you.

8 CHAIRPERSON HILL: Okay, all right. Then I'm  
9 comfortable moving forward. So, Ms. Wilson, again, you can  
10 begin whenever you like.

11 MS. WILSON: Great. Mr. Young, would you mind  
12 pulling up the presentation? Yeah. Could you go to the next  
13 slide, Slide 2, please? Could you go to Slide 2, please?  
14 Thank you so much.

15 So the applicant is proposing to add one unit to  
16 the existing principal building, as well as a rear and third  
17 -story addition to the main building and proposing to do it  
18 in addition to the existing accessory building and use the  
19 accessory building as a third principal dwelling unit.

20 The next slide shows an overview of the existing  
21 and proposed site plan. The addition on the rear extends 15  
22 feet and 8 inches passed the only adjoining building to the  
23 west, and the lot to the east is vacant. The addition is  
24 separated from the building to the west by about four feet.

25 The third story addition does not extend the full

**NEAL R. GROSS**

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

1 building footprint. There is a small roof deck that has been  
2 designed to limit noise and maintain privacy because the  
3 party walls will extend the full height of the building. So  
4 there will be no ability to see anything to the east or west  
5 from the roof deck.

6 The accessory building is being expanded towards  
7 the east, but is still setback from the alley. And again,  
8 that adjacent lot to the east is vacant. I'm happy to go  
9 through the full set of plans, if you want, at the end.  
10 They're Exhibit 5, if you would go through those.

11 So, for the next slide, shows the relief. And we  
12 are asking for four areas of relief, three special  
13 exceptions: one for a conversion, one to use the accessory  
14 building for residential purposes and one for relief from the  
15 maximum accessory building footprint.

16 We are also seeking a variance from the  
17 requirement that the accessory building abut an alley, no  
18 less than 15 feet in width.

19 The next few slides show area photos, and this  
20 shows some context. The area is made up of a mix of larger  
21 apartment buildings and smaller row buildings. There's not  
22 a real uniformity along K Street. The houses have quite a  
23 bit of variety.

24 And if you skip to Slide 7, that's a better view  
25 of the subject property. So that is -- the subject property

**NEAL R. GROSS**

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

1 needs to be fixed up quite a bit. And then the second photo  
2 is the accessory building. And that's the one-story garage  
3 that's currently being used as a garage.

4           You go to the next slide, we are just walking  
5 through the relief for a conversion and the application  
6 safely meets the requirements. Slide 9 gets into the first  
7 waiver, which is the waiver from the 10-foot rule.

8           We are requesting a waiver as the addition extends  
9 15 feet and 8 inches past the neighboring property to the  
10 west. It is separated by four feet from that property.  
11 There is a bit of a setback there. So it does give some  
12 space.

13           On the next slide --

14           CHAIRPERSON HILL: Ms. Wilson?

15           MS. WILSON: Yes?

16           CHAIRPERSON HILL: I'm just trying -- I want to --  
17 how did you guys get to 15 feet, 8 inches? Like, how did  
18 that make the program work?

19           MS. WILSON: I would have to ask the architect,  
20 who's not here, or maybe Mr. Amons could chime in. But I  
21 believe that just -- they wanted to do a three-bedroom unit,  
22 and I think that was the --

23           CHAIRPERSON HILL: I'm only just -- I'm always  
24 just a little bit curious, but --

25           MS. WILSON: Yes.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: -- stop me, you know. And we  
2 can adjust that at the end. Just kind of keep going on.  
3 That's okay. Thank you.

4 MS. WILSON: Okay. Sure, so there is an existing  
5 solar system on the property to the west, but the applicant  
6 has come to a solar agreement with the neighbor and they are  
7 supportive of the application and submitted a letter in  
8 support. So the only adjacent neighbor, at 1328 K Street, is  
9 in support, and I believe that's in Exhibit 26, is their  
10 letter of support?

11 If you could go to the next slide? The second  
12 waiver we are requesting is a waiver from 320.2(h) as the  
13 applicant is proposing to remove the existing Mansard roof  
14 and cornice and replace it with a new Mansard roof. They are  
15 also proposing to replace the existing porch with a new  
16 porch.

17 And then next slide shows a rendering of the  
18 existing and proposed facades. So that Mansard is being  
19 removed, but it's being replaced with a new roof in order to  
20 maintain that element. All of the windows are in the same  
21 place. The porch is roughly the same size. We're not  
22 substantially altering the building and just updating it.

23 The next slide goes over the light and air. So  
24 the next property over to the east is vacant. And then the  
25 property next to that is separated by 19 and a half feet. So

**NEAL R. GROSS**

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

1 it shouldn't impact the light and air available to that  
2 property.

3           And then the main portion of the addition is set  
4 back four feet from the shared lot line of the property to  
5 the west at 1328 K Street. And the proposed addition only  
6 extends five feet and eight inches more than what is  
7 permitted by right.

8           Regarding the accessory building, it is situated  
9 towards the rear of the property and limited to two stories  
10 and 20 feet. And then we have shade and shadow studies in  
11 the following slides that show the limited impact.

12           If you go to the first shadow study, and the first  
13 page, so the general pattern of the shadow study shows that  
14 at 9:00 a.m. throughout the year, the shadow extends to the  
15 west. And there is a very small difference in shadow between  
16 the matter of right option and the proposed addition to the  
17 principal building.

18           Again, the neighbor to the west is in support.  
19 For the accessory building, the shadow is really only on the  
20 alley at 9:00 a.m. The next slide shows noon. And  
21 throughout the year, the only impact, if any, at noon is on  
22 the subject property in the alley. And at 3:00 p.m., there  
23 is some difference in shadow, but it's very small.

24           For the addition to the main building, it's only  
25 on a very small part of the rear yard of the vacant lot to

**NEAL R. GROSS**

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

1 the east. If you want to scroll slowly through these, the  
2 same pattern repeats throughout the year. There's some to  
3 the west at 9:00. There's only impact, if any, on the  
4 property at noon, and then there's some to the east the  
5 afternoon.

6 And then if you want to maybe scroll through those  
7 and then Slide 28, I can get into privacy and character.  
8 Regarding privacy and character, neither the proposed  
9 addition or the accessory building will have any windows  
10 facing the principal building of any adjacent property.

11 The roof deck has been designed to maintain  
12 privacy with extended party walls along the sides. As I  
13 mentioned earlier, while the applicant is proposing to remove  
14 the Mansard roof, it's being replaced with a new Mansard  
15 roof. And that feature is only shared by one other adjacent  
16 property.

17 There are some two-story structures along K  
18 Street, but there are also a lot of large new buildings  
19 across the street and three-story residential apartment  
20 building to the west of the subject property. There are a  
21 number of photos in Exhibit 38(b)(1) and (2) that show the  
22 variety of houses along the street.

23 This is on a uniform block, as you look down the  
24 street. The accessory structure is set back approximately  
25 nine feet from the alley, and we're maintaining that setback.

**NEAL R. GROSS**

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

1 And there are a number of other accessory buildings along the  
2 alley. And the applicant is not proposing a new accessory  
3 building, just an increase to the accessory building for  
4 that.

5 The next slide goes over the waivers, and the  
6 requirement for the waiver is that it not be in conflict with  
7 320.2(i). And as we've discussed, the project and the waivers  
8 are not in conflict with the provisions governing light, air,  
9 privacy and character.

10 The next area, really, is relief in order to  
11 expand the existing accessory building and have a new  
12 dwelling unit in there. And this is subject to the general  
13 special exception requirements, which we safely meet. The  
14 zoning regulations permit three units and they also permit  
15 the use of an accessory building as a principal dwelling  
16 unit, via special exception. And this is contemplated and  
17 enumerated in the zoning regulations.

18 The addition will not tend to adversely affect the  
19 use of neighboring properties in accordance with the zoning  
20 regulations and zoning maps. If you would go to the next  
21 slide, the project was designed to limit the impacts on  
22 neighbors. Instead of proposing a large addition on the  
23 principal building in order to accommodate three units, the  
24 applicant is proposing to locate the third principal dwelling  
25 unit at the rear of the subject property in a separate

**NEAL R. GROSS**

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

1 existing accessory building.

2           The open area along the side of the accessory  
3 building provides direct access to the rear of the property  
4 from the principal building, which improves the situation for  
5 both parking and trash collection.

6           For the third area, special exception relief,  
7 accessory buildings are limited to 450 square feet in  
8 building area, as a matter of right. And we are proposing to  
9 increase the area to 777 square feet. Oh, I'm sorry. I  
10 jumped ahead. Could you go to the next slide?

11           Thank you. And so that test is the same as the  
12 test under 320.2(i), the light and air and privacy. This  
13 one's focused on the accessory building. And so I've already  
14 shown the shadow studies. That showed the accessory building  
15 does not impact or unduly affect the light and air available  
16 to neighboring properties.

17           If you go to the next slide, I've already  
18 discussed some of these points, so I would just like to add  
19 that the accessory building virtually fronts on Ives Place to  
20 the north. It presents as a street front building rather  
21 than just an accessory building. And due to the unique  
22 frontage, the lot is on a typical alley lot, which is why a  
23 larger footprint makes sense in this case and why the  
24 proposed addition will not substantially visually intrude  
25 upon the character, scale and pattern of houses along the

**NEAL R. GROSS**

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

1 alley.

2           And these next few photos show the alley, the  
3 number of accessory structures. There is a larger one, two  
4 doors down. There's a number of larger ones at the entrance  
5 to the alley. And that is the subject property and cars that  
6 are parked on Slide 35, there's a -- that's the little  
7 triangular piece of land.

8           That actually impacts the alley. And I'll get  
9 into that more, of the variance test, but that is why the  
10 piece of alley in front of our property is a little smaller.  
11 That's actually a lot, a separate lot.

12           So I'll get into the variance test now on Slide  
13 39. So the last area of relief is variance relief from U  
14 301.1(c)(4). And that provision requires access from an alley  
15 no less than 15 feet in width. And the majority of the alley  
16 is at least 15 feet, but there is a small portion behind the  
17 subject property that narrows to 10 feet.

18           And that's what I was showing on Slide 34 and 35.  
19 Everywhere else along the alley is actually 15 feet, but  
20 because of that little triangular property, the alley behind  
21 our property and 1328 narrows to 10 feet. And the  
22 application meets the first prong of the variance test,  
23 because the property is unique due to its location, the  
24 existing structures on the property and its sides.

25           The other properties to the West have been able to

**NEAL R. GROSS**

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

1 develop accessory structures which could be used and might  
2 already be used as principal dwelling units without  
3 requesting relief from this provision, because the alley in  
4 front of their properties is not impacted by that piece of  
5 land and its development in the same way that the subject  
6 property has been impacted.

7           While the subject property does share this  
8 locational issue with 1328 K Street, only the subject  
9 property has an existing accessory structure and a lot with  
10 -- back there to feasibly create habitable dwelling space.

11           If you could go to the next slide -- or Slide 41.  
12 So of those two properties impacted by this triangular piece  
13 of land created by the unique history of the alley, only the  
14 subject property has an accessory structure and has the  
15 requisite lot width.

16           It has 38 feet at the rear. And we already have  
17 existing improvements. So it's truly unique in that case.  
18 And if the relief were not granted -- I'm sorry, I keep  
19 jumping ahead -- the next slide, please.

20           If the relief were not granted, the applicant will  
21 not be able to use the accessory building as a principal  
22 dwelling unit. The zoning regulations specifically permit  
23 three or more residential units on lots of over 2,700 square  
24 feet so long as the lot has 900 square feet per unit, subject  
25 to certain criteria.

**NEAL R. GROSS**

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

1           In this case, the applicant is maintaining the  
2 existing character of the principal building. The view from  
3 Ives Street will be improved. The adjacent property owner is  
4 in support. The proposed units are of a size and type of  
5 really marketable for this area, making the overall project  
6 feasible while providing high quality family size units.

7           Were the applicant unable to use the accessory  
8 building for residential purposes, it would be limited to  
9 options that present practical difficulties. The next slide  
10 shows the first option. So were the applicant forced to  
11 eliminate the third unit and the accessory building, one  
12 option would be to relocate it within the main building with  
13 the proposed addition.

14           In order to do that, they would have to  
15 significantly reduce the size of the proposed dwelling units  
16 in the principal building, losing bedrooms, living space,  
17 dining space and bathrooms. Reducing the unit sizes would  
18 make the units less marketable and make the project overall  
19 less feasible.

20           The next slide shows the second option. If the  
21 applicant wanted to maintain the unit sizes, it could  
22 relocate the third unit to the principal building and propose  
23 a larger addition on the principal building. In order to  
24 maintain the currently proposed unit sizes, the applicant  
25 would have to relocate 777 square feet of the biddable

**NEAL R. GROSS**

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

1 building area to the principal structure.

2           And that would result in a massive 60-foot  
3 addition, which doesn't seem feasible. The applicant is  
4 already requesting relief from the 10-foot rule, and  
5 constructing an even larger addition would impact the  
6 applicant's ability to meet the special exception criteria.

7           Further, as the rear of the subject property is  
8 highly visible from Ives Street and a number of accessory  
9 buildings directly above the subject property, constructing  
10 a 60-foot addition could impact the view from the alley.

11           The next option would be to eliminate the third  
12 unit. The project's likely not feasible without the third  
13 unit, resulting in an obvious, practical, difficulty to the  
14 applicant. And the applicant would still need relief from  
15 the 10-foot Rule. I'm sorry, it's the next side.

16           And the applicant would still need relief from the  
17 10-Foot Rule, even if it eliminated the third unit for that  
18 proposed building footprint, which is requesting two units in  
19 the main building right now.

20           And the request is reviewed under similar  
21 criteria. So we'd be here at the BZA, but with one less  
22 unit. And in summary, the applicant has designed a project  
23 that safely meets the special exception criteria for a third  
24 unit.

25           And requiring changes to the project due to the

**NEAL R. GROSS**

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

1 narrowing of an alley along only this very small portion of  
2 the alley would impact its marketability and overall  
3 feasibility, resulting in a practical difficulty for the  
4 applicant.

5           If you could go to the next slide, please. FEMS  
6 has no objection to the residential unit along the alley as  
7 the structure is already existing and the alley widens over  
8 to 15 feet, just a couple of houses down, access from Ives  
9 Place won't be an issue.

10           And the intent of the regulations was to permit  
11 principal dwelling units and accessory structures. There are  
12 a number of structures along the alley now that could be used  
13 as principal dwelling units as they are located on the  
14 portion of the alley that widens to 15 feet.

15           And I would say in this case, this is not a  
16 variance that would cause a slippery slope. There is a  
17 unique history and the subject property is uniquely affected.  
18 It's not as if the entire alley was 10 feet. It's just this  
19 portion, and it's impacting the applicant's ability to use an  
20 existing building on the property.

21           Even if we eliminated all other requests for  
22 relief, the fact that our property can't -- the fact that the  
23 applicant cannot convert the existing accessory building to  
24 a residential unit, but the property two doors down could do  
25 so without coming to BZA, illustrates that the applicant

**NEAL R. GROSS**

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

1 meets the variance test and that the property is truly  
2 unique.

3           So one last slide. In conclusion, the Office of  
4 Planning is recommending approval. The applicant obtained  
5 comments from FEMS, as requested by the Office of Planning,  
6 and they have no objection. ANC 6B voted to support the  
7 application. And the only adjacent neighbor, at 1328 K  
8 Street, supports the project.

9           And that is my presentation. Thank you.

10           CHAIRPERSON HILL: Okay. Thank you, Ms. Wilson.  
11 Thank you for your presentation. It actually was, I thought,  
12 very thorough and very helpful. And so I appreciate that.  
13 Does the Board have any questions for the applicant?

14           VICE CHAIR HART: I don't think I have any more  
15 questions for the rest of the day.

16           CHAIRPERSON HILL: Did I miss -- did I miss --  
17 lose Ms. John and Mr. Miller?

18           VICE CHAIR HART: I don't see their photo -- their  
19 images.

20           COMMISSIONER MILLER: I'm here.

21           CHAIRPERSON HILL: Okay.

22           COMMISSIONER MILLER: I'm --

23           CHAIRPERSON HILL: I'm -- oh.

24           COMMISSIONER MILLER: I'm multi-tasking.

25           CHAIRPERSON HILL: Okay. All right. Okay, so

**NEAL R. GROSS**

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

1 then, Ms. John or Mr. Miller, do you have any questions for  
2 the applicant?

3 COMMISSIONER MILLER: No questions, Mr. Chairman.

4 CHAIRPERSON HILL: Ms. John? You're on mute, Ms.  
5 John.

6 MS. JOHN: Talking all of this time and wondering.  
7 So can you go back to that -- to the photograph of the  
8 accessory structure and the triangular shape and just point  
9 out why it is unique? I know you said it, but there was just  
10 so much going on that I may have missed it.

11 CHAIRPERSON HILL: Which slide, Ms. John? Do you  
12 happen to know?

13 MS. JOHN: No, there are so many slides. This is  
14 the one --

15 CHAIRPERSON HILL: But I think it was --

16 MS. JOHN: This is the one that shows --

17 MS. WILSON: It was at Slide 34.

18 MS. JOHN: This is the one that shows the section  
19 where the alley is 10 feet.

20 CHAIRPERSON HILL: I think I might be 35 -- 34, 35  
21 -- 34.

22 MS. WILSON: I think it's that -- okay, so, I  
23 think 34 might be a little more helpful, but at the entrance  
24 there, where that first arrow is, if you see 1331 Potomac Ave  
25 SE is at the entrance to the alley.

**NEAL R. GROSS**

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

1           So that version there is 15 or 16 feet and  
2 continues on to K Street all the way through, and that's 15  
3 feet. And then, if you see the 1320 K Street SE accessory  
4 building, that alley is even wider. I think from there to  
5 the next accessory building is over 20 feet.

6           And so there's only that very small portion in  
7 front of the subject property accessory building and then the  
8 property to the west where that alley narrows to 10 feet.  
9 And there is an exhibit and more explanation in the record  
10 about the history of that little triangular property.

11           It looks brown. And it's sort of hard to see in  
12 this image. I apologize. I think Slide 35 shows a green  
13 patch of grass with two cars parked, but because of -- yes,  
14 thank you -- because of the development of that alley or that  
15 little piece of land, this used to be more open, but now just  
16 in front of the existing accessory building and the next one  
17 over, it narrows to 10 feet. And so that is why it's unique.

18           MS. JOHN: And so who owns the patch of grass?

19           MS. WILSON: I'm not sure. I could probably look  
20 it up in Property Quest.

21           MS. JOHN: So it's not owned by the applicant?

22           MS. WILSON: No, we do not own that. It's owned  
23 by another entity now.

24           MS. JOHN: Okay. That was the only question I  
25 had.

1 CHAIRPERSON HILL: All right. Thank you, Ms.  
2 John. Let's see. Okay, could we hear from the Office of  
3 Planning, please?

4 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and  
5 members of the BZA. Jonathan Kirschenbaum with the Office of  
6 Planning. We recommend approval of BZA Case 20240 for both  
7 the special exception and variance relief to permit the  
8 conversion of a single household road line into an apartment  
9 house, and rest on the record.

10 Please let me know if you have any further  
11 questions. Thank you.

12 CHAIRPERSON HILL: Okay, great. Thank you. Does  
13 anyone have any questions for the Office of Planning? Okay,  
14 let's see. Oh, is there anyone here, Mr. Young, who has  
15 signed up in either support or opposition?

16 MR. YOUNG: Yeah, I have two in opposition.

17 CHAIRPERSON HILL: Okay. Could you please bring  
18 them in?

19 MR. YOUNG: Carol Green, it looks like, is calling  
20 in. So she'll just be unmuted and you won't be able to see  
21 her.

22 CHAIRPERSON HILL: Okay. I see -- is it Cathie

23 MS. GLOVER: Yes.

24 MR. YOUNG: Yeah, that's Cathleen Glover.

25 MS. GLOVER: Can you hear me?

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Yes, I can.

2 MS. GLOVER: All right. My name's Cathleen  
3 Glover.

4 CHAIRPERSON HILL: MS. Glover, just give me one  
5 second. I'm sorry.

6 MS. GLOVER: Okay.

7 CHAIRPERSON HILL: And then there's a -- and then  
8 Ms. Green, as you said, Paul?

9 MR. YOUNG: Correct.

10 CHAIRPERSON HILL: Ms. Green, can you hear me?

11 MR. YOUNG: Go ahead, Ms. Green. You can speak.

12 MS. GREEN: Can you hear me now?

13 CHAIRPERSON HILL: Yes.

14 MS. GREEN: Oh.

15 CHAIRPERSON HILL: Okay, let me first have  
16 everyone introduce themselves for the record, and maybe I'll  
17 do this one at a time. So, Ms. Green, let me go with you  
18 first, since you're currently speaking.

19 And, Ms. Glover, can you just make sure your  
20 microphone is muted because we get kind of odd feedback here.  
21 So, Ms. Green, could you please introduce yourself for the  
22 record?

23 MS. GREEN: All right, my name is Carol Green. I  
24 live at 1343 Ives Place, SE across the alley from this  
25 property.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay. Could you please go  
2 ahead and provide your testimony? You'll have three minutes  
3 as a member of the public.

4 MS. GREEN: I wrote a letter in opposition that's  
5 been posted since March 10th. I hope you've had a chance to  
6 read it. And yesterday, I added a photograph to show you  
7 what's directly behind the accessory structure in the alley.

8 And it shows, if you can see over to the right,  
9 those two Zipcar logos where they're going to put Zipcars and  
10 then the rest, presumably -- I don't know if they're going to  
11 be in Zipcar or something else, but that's what's coming  
12 there. And that's where they propose to put the house, on  
13 the alley.

14 So I -- just to recap, and I don't want to read my  
15 letter, but to recap, I think any time you're asking for  
16 three special exceptions and one variance, you probably have  
17 the wrong place for your project.

18 I think this is too large to dance and the alley  
19 structure is jarring because we have no homes on the alley.  
20 We do have carriage houses, but they're all garages.

21 And then we're not lacking for housing in this  
22 area. We have currently under construction five multi-unit  
23 buildings within a half mile with more than 700 condos and  
24 apartments offering every size home from micro-units to four  
25 bedroom units.

**NEAL R. GROSS**

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

1           So I ask that you oppose this and not allow this  
2 construction to go forward. Thank you.

3           CHAIRPERSON HILL: Okay, thank you, Ms. Green. I  
4 see and have read your letter. I'm looking for your  
5 photograph. You don't happen to know which exhibit it was,  
6 do you?

7           MS. GREEN: It's attached to my letter.

8           CHAIRPERSON HILL: Oh.

9           MR. YOUNG: Exhibit 37?

10          MS. GREEN: Exhibit 37, yeah.

11          CHAIRPERSON HILL: No, that's great. I didn't  
12 know it was part of the letter. I just thought -- okay. Oh,  
13 I see it. Okay, thank you.

14          Okay. All right, does the Board have any  
15 questions for the witness?

16          MS. JOHN: Just a question about the parking  
17 spaces. Are those to be dedicated to Zipcars?

18          MS. GREEN: Two of them are.

19          MS. JOHN: Okay. And the other two? Seems there  
20 are four.

21          MS. GREEN: Yeah, actually, there's three.  
22 There's three more. There's five altogether and I don't know  
23 what the other three are going to be.

24          MS. JOHN: I see. And is that the subject  
25 property directly in front of the second parking space?

**NEAL R. GROSS**

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

1 MS. GREEN: Yes.

2 MS. JOHN: With the white garage door?

3 MS. GREEN: Yes.

4 MS. JOHN: Okay. Thank you.

5 MS. GREEN: You're welcome.

6 CHAIRPERSON HILL: Anyone else have any questions  
7 for the witness? Okay. All right, well, Ms. Glover, thank  
8 you so much for your testimony. And we're going to put you  
9 on mute now again.

10 And, Ms. Glover -- I'm sorry. I think I said Ms.  
11 Green. I hope -- if I said Ms. Glover, I'm sorry. Ms.  
12 Green, I meant, we're going to put you on mute now.

13 And, Ms. Glover, again, if you could go ahead and  
14 give your presentation, you'll have three minutes.

15 MS. GLOVER: Okay. Thank you. Can you hear me?

16 CHAIRPERSON HILL: Yes.

17 MS. GLOVER: Okay, good. So my name's Cathie  
18 Glover. I live at 1329 Ives Place. I live right next to the  
19 property. This is my bedroom window.

20 This is the third century structure that they want  
21 to build right now. As you can see, if they put another --  
22 a second story on top of it, you know, it's completely  
23 blocking the light here.

24 I have several objections to this property. First  
25 of all, we already have enough congestion here as it is. The

**NEAL R. GROSS**

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

1 -- you can -- here. There's the parking lot that they've  
2 just built there. We have a school across the street.  
3 During -- when school's in session, the congestion is unreal,  
4 which is fine. It's a school. It's okay.

5 I'm sorry. I'm also concerned about the trees on  
6 this property. This -- it's, you know, Mr. Chairman, I  
7 noticed two times today you've commented on the trees in  
8 people's backyards. Not everybody has a backyard, but this  
9 is part of the community. And I'm worried that they're going  
10 to take all these trees down to proceed with their plans.

11 Lastly, this is right under my bedroom window, and  
12 the number of trucks that are going to be going through here  
13 are -- I've already lost a day of work due to their previous  
14 construction when they moved their fence and cut through  
15 their concrete.

16 And I just want to register my objections to this.  
17 That's it.

18 CHAIRPERSON HILL: Okay, Ms. Glover. Let's see.  
19 Ms. Green, are you still there? Paul, if she's not -- I'm  
20 sorry?

21 MS. GREEN: Yes, I'm here.

22 CHAIRPERSON HILL: Okay. Now, I forget, you're  
23 also directly behind the site. Correct?

24 MS. GREEN: No, I'm down three or four houses from  
25 the site.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Ms. Glover, you're directly  
2 behind the site?

3 MS. GLOVER: I am right next to the site. About  
4 one-third of the property is next to my house.

5 CHAIRPERSON HILL: Right. Did you go to your ANC  
6 meeting when they were discussing this project?

7 MS. GLOVER: I did not find out about it until  
8 they started working on the property.

9 CHAIRPERSON HILL: Okay. And so have you ever  
10 heard from the property owner?

11 MS. GLOVER: No, I --

12 CHAIRPERSON HILL: Have you ever had any  
13 communication with the property owner?

14 MS. GLOVER: I spoke with the -- one of the -- a  
15 man named Ryan.

16 CHAIRPERSON HILL: Yep, that's the property owner.  
17 I think it is. Mr. Amons, is that you? You're on mute, Mr.  
18 Amons.

19 MS. GLOVER: I've never really had a real  
20 conversation. I didn't realize -- I didn't know what the  
21 plans were, so.

22 CHAIRPERSON HILL: Excuse me, Ms. Glover, give me  
23 one second. Mr. Amons, have you -- are you the person that  
24 had talked to Ms. Glover before? Well, you seem like you're  
25 not muted, Mr. Amons, but I can't hear you.

**NEAL R. GROSS**

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

1 MR. AMONS: Is that better?

2 CHAIRPERSON HILL: Yes.

3 MR. AMONS: Hello?

4 CHAIRPERSON HILL: Yes.

5 MR. AMONS: Okay, so, yes, I have spoken with Ms.  
6 Glover briefly recently, just informally introducing myself  
7 and whatnot. Just to clarify --

8 CHAIRPERSON HILL: Do you have Ms. Glovers'  
9 contact information?

10 MR. AMONS: I do not.

11 CHAIRPERSON HILL: Okay. All right, I don't know  
12 how to do -- all -- I'm just trying to say -- I don't know.  
13 I'm just saying that, you know, it would be nice if you could  
14 contact Ms. Glover or you guys could kind of communicate or  
15 at least let Ms. Glover know when construction is going on or  
16 what kind of work is being done.

17 I don't know what's going to happen with this  
18 case, but it sounds like I don't know what kind of -- I don't  
19 know the community outreach that you've done in that area  
20 just to make sure people know when things are being done.  
21 And I guess, Ms. Glover, did you submit something into the  
22 record?

23 MS. GLOVER: I did not yet. If it's not too late,  
24 I would like to.

25 CHAIRPERSON HILL: Well, I don't think we need

**NEAL R. GROSS**

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

1 anything from you in the record. You're giving your  
2 testimony right now, which is going into the record. I'm  
3 just trying to -- let me just think about -- I'm just trying  
4 to figure out a way that at least you all have each other's  
5 contact information.

6 I mean, Ms. Wilson, usually in a live hearing and  
7 people kind of come up and we talk, we kind of ask people to  
8 introduce themselves. And since they're there at the table,  
9 they're able to exchange information. Is there a way that  
10 you would be able to find Ms. Glover's -- I don't want to  
11 tell anybody information right now.

12 MS. WILSON: No.

13 CHAIRPERSON HILL: But if there's a way you can  
14 reach out to Ms. Glover and find Ms. Glover and then allow  
15 her and Mr. -- your client to communicate when there's work  
16 being done.

17 MS. WILSON: Absolutely. We'll figure out how to  
18 do that tonight, tomorrow morning, as soon as possible.

19 CHAIRPERSON HILL: Okay. Okay, how would you do  
20 that?

21 MS. WILSON: Well, if we --

22 MR. YOUNG: I'm sure someone at OZ will have  
23 everyone's information. I would suggest either contacting  
24 Robert Reed or Kiera Melhart (phonetic) and they'll get the  
25 information for you guys.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Ms. Glover, did you contact Mr.  
2 Reed?

3 MS. GLOVER: Mr. Reeding?

4 CHAIRPERSON HILL: Yeah.

5 MS. GLOVER: Who -- from where?

6 CHAIRPERSON HILL: That's okay. Anyway, I agree,  
7 Mr. Young. That's a good suggestion. And so, Ms. Glover,  
8 someone will be contacting you to provide some information on  
9 the project, in general.

10 I don't know what's going to happen, but I'm just  
11 letting you know that now there'll be at least some kind of  
12 contact information with the property owner. Okay?

13 MS. GLOVER: Okay.

14 MR. AMONS: Okay.

15 CHAIRPERSON HILL: Does anybody have any questions  
16 for the witness? Mr. Miller? Ms. John? Okay. All right,  
17 well, Ms. Glover, thank you so much for your testimony and I  
18 hope you have a good day.

19 MS. GLOVER: Thank you.

20 CHAIRPERSON HILL: So, Mr. Young, if you will  
21 excuse Ms. Glover and then also let me know when Ms. Green  
22 has been excused, that would be helpful.

23 MR. YOUNG: Yeah, you can go ahead.

24 CHAIRPERSON HILL: Okay, great. All right, so  
25 let's see. All right, does anyone have any more questions

**NEAL R. GROSS**

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

1 for anyone? I don't see anybody saying yes. No? Okay. Ms.  
2 Wilson, do you have any thing you'd like to add at the end?

3 MS. WILSON: Thank you.

4 CHAIRPERSON HILL: Okay. All right. So I do  
5 think it's interesting that, right, things in person, you can  
6 kind of see people and kind of exchange information. So, Ms.  
7 Wilson, I will trust you that you will do what you just said  
8 you will do.

9 MS. WILSON: I'm emailing admin now, and she's  
10 going to email Robert Reed,, so we're on it.

11 CHAIRPERSON HILL: Okay. And, Mr. Amons, can you  
12 hear me?

13 MR. AMONS: Hello?

14 CHAIRPERSON HILL: Yes, can you hear me?

15 MR. AMONS: Okay. You can hear me now, yeah?

16 CHAIRPERSON HILL: Yes.

17 MR. AMONS: Okay.

18 CHAIRPERSON HILL: So, again, I don't know what's  
19 -- we're not going to be able to vote on this today. I don't  
20 know what's going to happen. But again, I trust that you  
21 will reach out to Ms. Glover and do your best to communicate  
22 things that are going on.

23 MR. AMONS: Absolutely, yeah. I'll plan -- I'm  
24 actually in the neighborhood. I'm not far from Ms. Glover's  
25 residence, so I will -- I'll make a point to stop by tomorrow

**NEAL R. GROSS**

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

1 and just reintroduce myself again and give her a proper  
2 timeline.

3 CHAIRPERSON HILL: Okay. All right. All right,  
4 okay. Then I'm going to go ahead and close the hearing and  
5 set this for a decision on June 24th. Mr. Moy, does that  
6 work?

7 MR. MOY: Yes, sir.

8 CHAIRPERSON HILL: Okay. All right, let's see.  
9 All right, so let me excuse you guys. Thank you very much,  
10 Ms. Wilson. Thank you, Mr. Amons.

11 MS. WILSON: Thank you.

12 CHAIRPERSON HILL: Bye-bye. I just -- okay, so,  
13 all right. That's great. I guess we don't have to do  
14 anything else. Correct, Mr. Moy?

15 MR. MOY: Not to my knowledge. I mean, you just  
16 closed this case and the staff doesn't have anything for the  
17 Board.

18 CHAIRPERSON HILL: Okay. Well, Mr. Miller, it was  
19 a pleasure seeing you today. I hope you do well. And it  
20 looked like you were preparing something. I don't know if  
21 you were cooking. It looked like barbecue was getting ready  
22 to -- was it barbeque?

23 COMMISSIONER MILLER: Yes, in the middle of a  
24 thunderstorm.

25 CHAIRPERSON HILL: Hey, that's great. I'm coming

**NEAL R. GROSS**

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

1 over.

2 COMMISSIONER MILLER: Okay. You're welcome  
3 anytime.

4 CHAIRPERSON HILL: Thank you. All right. Okay,  
5 everyone. Thank you so much. We're adjourned.

6 (Whereupon, the above-entitled matter went off the  
7 record at 5:20 p.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 06-17-20

Place: teleconference

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



-----  
Court Reporter

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701