

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 24, 2020

+ + + + +

The Regular Public Hearing convened via Video-
Teleconference, pursuant to notice at 12:00 p.m. EDT,
Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSETT, ESQ.
ALEXANDRA CAIN, ESQ.
JACOB RITTING, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN COCHRAN
MATTHEW JESICK
JONATHAN KIRSCHENBAUM
MAXINE BROWN-ROBERTS
KAREN THOMAS
ELISA VITALE

The transcript constitutes the minutes from the
Public Hearing held on June 24, 2020.

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

	<u>PAGE</u>
Application No. 20213 of Jake Greenhouse	7
Application No. 20069 of Deidra Barksdale	46
Application No. 20053 of District Properts.com Inc.	155
Application No. 19984 of Rupsha 2011 LLC	169
Application No. 20225 of Rula Malky	174
Application No. 20227 of Andrew Lewczyk	189
Application No. 20235 of Bryan Phase 1-E, LLC	194
Application No. 20236 of Bryant Phase 1-B, LLC	199
Application No. 20205 of Christopher Cahill	206
Application No. 20237 of Timothy Holtz	294
Application No. 20184 of Fort Lincoln-Eastern venue LLC	302

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

11:57 a.m.

CHAIRPERSON HILL: All right. The virtual hearing will please come to order. Good morning, ladies and gentlemen. We are convening and broadcasting this public hearing by video conferencing.

This is the June 24, 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 Chair, and Lorna John, board members, and representing the Zoning Commission is Anthony Hood.

Today's hearing agenda is available to you on the Office of Zonings website. Please be advised that this, 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 Zonings 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 oral presentation. Oral presentation should be limited to a summary of your most

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1 important issue points.

2 When you are finished speaking, please turn your
3 microphone off so that your microphone is no longer picking
4 up sound or background noise.

5 If you are experiencing difficulty accessing
6 Webex, or with your telephone call, I'm going to give you a
7 hotline to call, and I'm going to repeat the number. The
8 hotline number is 202-727-5471. Once again, 202-727-5471,
9 if you're having any issues.

10 All persons planning to testify either in favor
11 or in opposition must have signed up in advance and called
12 by name. At the time of the sign-up, all participants must
13 complete the oath of affirmation, as required by subtitle
14 Y408.7.

15 If you wish to file a written testimony or
16 additional supporting documents at the time of your hearing,
17 then please be prepared to describe and discuss it at the
18 time of your testimony.

19 The orders of procedures for special acceptances
20 and variances are in subtitle Y409, and the appeal order is
21 in subtitle Y507. At the conclusion of each case, an
22 individual who is, I'm sorry.

23 The Board's agenda may include previous cases set
24 for decision. After the Board adjourns the hearing, the
25 Office of Zoning, in consultation with myself, will determine

1 whether a full or summary order may be issued.

2 A full order is required when the decision it
3 contains is adverse to a party, including an affected ANC.
4 A full order may also be needed if the Board's decision
5 differs from the Office of Planning's recommendation.

6 Although the Board favors the use of summary
7 orders whenever possible, an applicant may not request the
8 Board to issue such an order. The District of Columbia
9 Administrative Procedures Act requires that the public
10 hearing on each case be held in the open for the public,
11 pursuant to Section 405(b) and 406 of that Act.

12 The Board may, in consistence with its rules of
13 procedures and the Act, enter into a closed meeting on a case
14 for purposes of seeking legal counsel on a case, pursuant to
15 D.C. Official Code Section 2-575(b)(4), and/or deliberating
16 on a case, pursuant to D.C. Official Code Section 2-
17 575(b)(13), but only after providing the necessary public
18 notice, and in the case of an emergency closed meeting after
19 taking a roll call vote.

20 Deliberating of matters of those which relate to
21 other case will and should be heard today, such as request
22 for a postponement, continuous or withdraw, or where the
23 proper and adequate notice of the hearing has been given.

24 If you are not prepared to go forward with the
25 case today, or believe that the Board should not proceed, now

1 is the time to raise such a matter. Mr. Secretary, do we
2 have any preliminary matters?

3 MR. MOY: The staff doesn't have any preliminary
4 matters for the Board, other than those that can be addressed
5 when a case is called, Mr. Chairman.

6 CHAIRPERSON HILL: Okay, great. Then let's go
7 ahead and have our first hearing case, and you can call it
8 whenever you like. I think it's 20213, correct?

9 MR. MOY: Yes, that's correct.

10 CHAIRPERSON HILL: Okay.

11 MR. MOY: So if we can have parties to the table,
12 or the virtual table, this would be case application number
13 20213 of Jake Greenhouse. This is categorized for special
14 exception under the use provisions of Subtitle U Section
15 601.1(c), alley lot use requirements, Subtitle U, Section
16 600.1(e)(3)(b) to construct a new detached principle dwelling
17 unit, RA-2 Zone.

18 This is at the premises here, at the rear of 3rd
19 Street, N.W., between O Street, N.W. and P Street, N.W.,
20 Square 553, Lot 59.

21 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
22 Moy. Let's see. Let's see if we can slowly get everybody
23 in here. I see Mr. Greenhouse. I still don't see Mr. Hunter
24 or, is it Mr. Lapointe?

25 Well, let me go, can you all hear me? Okay. So

1 let me go around the table first, and then, and then we'll
2 see what happens with Mr. Hunter and Mr. Lapointe's cameras,
3 or if they're just planning on participating via microphone.
4 Mr. Greenhouse, could you please introduce yourself for the
5 record?

6 MR. GREENHOUSE: Hey, good afternoon, Chairperson
7 Hill and members of the Board. Jake Greenhouse, the
8 Applicant. Thank you.

9 CHAIRPERSON HILL: Thank you. Mr. DeWerd? You're
10 on mute, Mr. DeWerd.

11 MR. DeWERD: There we go. Hey, Brian DeWerd at
12 1421 3rd Street, and point of order, he has not stated his
13 address. I think you requested it, and he hasn't provided
14 at either meeting.

15 CHAIRPERSON HILL: Okay. Mr. DeWerd, I guess
16 you're asking for Mr. Greenhouse's address. Is that what you
17 were asking for?

18 MR. DeWERD: A point of order, do you ask us all
19 to state our address when we introduce ourselves. He hasn't
20 given his address when he introduced himself.

21 CHAIRPERSON HILL: Sure. So Mr. Greenhouse, I
22 don't know, and actually, this is something that I've always
23 been kind of curious of in the regulations, you need to state
24 an address.

25 I don't necessarily know you need to state your

1 home address, but you need to state an address. So I guess
2 go ahead and give us an address.

3 MR. GREENHOUSE: Sure. So yes, I'm the applicant,
4 once again. Jake Greenhouse, Applicant. It is Square 0553,
5 Lot 0059. This is a vacant lot that I'm applying to build
6 a single-family home on.

7 CHAIRPERSON HILL: Right. And I'm actually going
8 to take the time, because Mr. DeWerd pointed this out, and
9 I'm going to ask Mr. Ritting, because I have always been
10 curious about this.

11 Is the applicant, now, why is the applicant
12 supposed to give their home address? Like, first of all, I
13 don't think that, that doesn't seem like safe information to
14 me, but --

15 MR. RITTING: I don't even know the answer, and
16 I'm not even sure if it's required by the zoning regulations.
17 It may just be the custom of the Board. I don't know the
18 answer.

19 CHAIRPERSON HILL: Okay. So Mr. Moy, can you hear
20 me?

21 MR. MOY: Yes, I'm on.

22 CHAIRPERSON HILL: Yes. Next, for next week, if
23 you can remind me, because I'd like to find out why everybody
24 has to -- I know the, I know their -- and I appreciate Mr.
25 DeWerd pointing this out.

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1 I know that people have to state their name. I
2 don't know why everybody has to state their home address, but
3 that's something that you can, because that's always actually
4 made me feel a little uncomfortable. So you know, but that's
5 something we can take care of. All right.

6 MR. MOY: Okay. I'll look, I'll look, I'll look
7 into it --

8 CHAIRPERSON HILL: Okay.

9 MR. MOY: -- because I believe it's on our witness
10 card in our, in normal times, but --

11 CHAIRPERSON HILL: Okay. They probably have to
12 give an address, I would think, but does it have to be a home
13 address? I don't know.

14 MR. MOY: Yes, that's correct.

15 CHAIRPERSON HILL: Just kind of, kind of, and I,
16 at least we can take the home part out of the, you know,
17 specify what's necessary. So Mr. Hunter, could you please
18 introduce yourself? You're on mute, Mr. Hunter.

19 MR. HUNTER: Yes. Kenneth Hunter, opposition.
20 Should I go ahead and give my home address?

21 CHAIRPERSON HILL: Sure, why not, Mr. Hunter. I
22 don't know.

23 MR. HUNTER: Certainly. Just keep it, keep it
24 consistent. 1423 3rd Street, N.W.

25 CHAIRPERSON HILL: Okay, great. Mr. Lapointe, are

1 you there? Mr. Lapointe, can you hear me?

2 MR. HUNTER: He might be on a call, but he's
3 listening. So --

4 CHAIRPERSON HILL: He just unmuted his microphone.

5 MR. YOUNG: That was me. I unmuted him. I didn't
6 know if he --

7 CHAIRPERSON HILL: Okay. So he may not be there,
8 is what you're saying? Okay. And --

9 MR. YOUNG: Yes, correct.

10 CHAIRPERSON HILL: Okay. All right. So again,
11 Mr. Ritting, this is something for later, as we kind of, I'm
12 curious how this stuff works. If somebody's there, but
13 they're not really there.

14 And so you know, I don't know, for future, I'm not
15 worried about it right now, but it would seem to me that if
16 the person doesn't, like, Mr. Young is letting them into the
17 room right now because they've signed up, right?

18 And so there, they're somewhere in virtual world,
19 right? But if we've now introduced them and they actually
20 don't respond, then I think they should be taken out of the
21 hearing room and put back in as an attendee.

22 But that's for neither here nor there, because
23 it's just like if somebody signed up as a witness and didn't
24 show up in the hearing room. So that's what I'm kind of
25 talking about. All right.

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1 So Mr. Greenhouse, this is your case, right? And
2 I know that there was a bunch of things that we had asked you
3 to go back and look at, and I pulled up, you know, the
4 exhibits here. If you could please walk us through what has
5 happened since the last time you were with us.

6 MR. GREENHOUSE: Sure, absolutely. Mr. Young, is
7 it possible to pull up the presentation to walk through?

8 MR. YOUNG: I didn't, you never emailed me one.
9 Are you, the same one that you had from --

10 MR. GREENHOUSE: Oh, I'm sorry. It would be
11 exhibit submitted on 6/12, the latest BZA presentation,
12 showing changes regarding the last limited scope hearing.

13 CHAIRPERSON HILL: Do you know what the exhibit
14 number is? Is that Exhibit 78?

15 MR. GREENHOUSE: Let me look it up real quick.

16 CHAIRPERSON HILL: I think it's Exhibit 78. So
17 Paul, if you can pull Exhibit 78, but if not, then we can
18 walk through, and I have it up.

19 MR. YOUNG: I am going to try and get it. It
20 might take me a couple minutes.

21 CHAIRPERSON HILL: Okay. You know what, Mr.
22 Greenhouse? Why don't you just go ahead and tell us what's
23 going on, or what's happened, because we've looked through
24 all of the exhibits.

25 MR. GREENHOUSE: Okay.

1 CHAIRPERSON HILL: And I have it up right in front
2 of me right now, so you can reference something if you want
3 to --

4 MR. GREENHOUSE: Okay.

5 CHAIRPERSON HILL: -- as Mr. Young tries to pull
6 it up, but tell us what's happened since the last time.

7 MR. GREENHOUSE: Yes, and you are correct. For
8 the record, it is Exhibit 78, for everyone to reference while
9 we speak. So we left our first limited scope hearing with
10 a couple other items to be continued at today's hearing.

11 The first one was regarding the roof deck and its
12 use, particularly, and how it can be confined to the space
13 that it is, and not a concern of privacy to the neighbors,
14 specifically to the west, our opposition.

15 Explain and describe the proposed emergency
16 egress, so that was option, that was item number 2, and then
17 clarification on the windows, the window designs all
18 revolving around privacy and egress.

19 So following our 6/3 limited scope hearing, I
20 initiated a video conference call with Mr. DeWerd, Mr.
21 Lapointe, and Mr. Hunter to go over items that they want, and
22 just to put it all on the table, how we can improve this.

23 The result of that meeting is reflected in this
24 presentation that was submitted.

25 After the meeting, we had a very productive

1 meeting, and it seemed that we were going in the right
2 direction towards having a general agreement amongst all
3 parties.

4 CHAIRPERSON HILL: Mr. Greenhouse? Mr.
5 Greenhouse, I'm going to interrupt you just for one second.
6 Mr. Hunter, Mr. Lapointe's free to come sit next to you over
7 there, if that's who was there in the background for a
8 second, unless you, he went over to his camera.

9 And so I see, I'm just going to cut to the chase,
10 Mr. Greenhouse. I mean, I see what you did with everything
11 in terms of the frosted glass windows, and then also the
12 transom window.

13 How does that, and I see the deck, in terms of
14 like, you know, the gate that you're putting up, and how does
15 the emergency egress things work?

16 MR. GREENHOUSE: So the emergency egress was
17 obviously the most complicated portion of this. We wanted
18 to create a, I think Paul's pulling it up.

19 So Paul, if you wouldn't mind going to the slide
20 of proposed site plan, I can, a couple pages down. Keep
21 going. Keep going.

22 CHAIRPERSON HILL: Do you want to just go, Paul,
23 to the emergency egress one? It's the one that --

24 MR. GREENHOUSE: There you go. There you go.

25 CHAIRPERSON HILL: Okay, that's fine too.

1 MR. GREENHOUSE: So Chairman Hill, basically we
2 wanted to create a solution that would allow neighbors to get
3 to the public alley.

4 Emergency egress wasn't exactly the right verbiage
5 here, because the emergency egress was out of their house
6 into their safe zone, which would be their back yard, but
7 they wanted further, which was getting from the safe zone to
8 a public alley.

9 So in blatant terms, without doing a corridor,
10 which would take up property lines and property space, I
11 decided that we could put a gate system between every
12 backyard, and my backyard, to allow them, in the event of an
13 emergency, to egress into my yard space, and then go through
14 the yard, as any neighbor would do in any emergency, and then
15 into the public alley.

16 I drew a route, because it's frankly the most
17 viable route to take to get to the public alley, but the
18 reality is, is I'm giving them the ability to walk or run or
19 egress into my yard space, which is the obstacle between them
20 and the public alley.

21 And you know, this came to a thought process as,
22 if we were to move my property line over, it would affect the
23 setbacks, and the structure itself, and I would have to
24 shrink that and shrink the yard.

25 If we were to do the corridor on their side, it

1 would take up three feet or more, so if we just kept it on
2 the property line, all of which I would construct, no matter
3 what, under, you know, with my project, this would allow them
4 to egress as they want into the yard, and then into the
5 public alley.

6 CHAIRPERSON HILL: Okay. All right. Does anybody
7 have any questions for the applicant?

8 MEMBER JOHN: So --

9 CHAIRPERSON HILL: Mr. Young, could you pull down
10 the presentation so I can see everything? Sorry. Ms. John,
11 you had a question?

12 MEMBER JOHN: So did you all discuss what an
13 emergency would be?

14 MR. GREENHOUSE: We discussed that the homeowners
15 were concerned about the lot width, and that their homes
16 could restrict them access to the front yard sometimes, they
17 feel, in the event of an emergency.

18 So their concerns were stemmed off the fact that,
19 and this is how I interpreted it. I can't speak for them,
20 but the fact that in the event of an emergency, because their
21 lots are 12 feet wide, there might be some obstacle blocking
22 them from getting to the front yard, which is their primary
23 and only required source of egress.

24 So what they were asking was to have this
25 additional secondary form of egress, but not just the egress

1 from the structure to a safe zone, but egress from the
2 structure to a safe zone, and then to a public alley. And
3 this was a solution to get that portion from their egress to
4 the public alley.

5 MEMBER JOHN: Yes, but how do you define an
6 emergency? Is that a fire emergency? Did you clarify what
7 that meant?

8 MR. GREENHOUSE: We did not clarify the definition
9 of emergency. It was any emergency route that, emergency
10 situation that needed evacuation from the home to the public
11 alley.

12 Not necessarily from the home, because the safe
13 zone of egress would be their back yard, but an emergency
14 situation that would require them from the home to the public
15 alley, and in the event that the front egress was not
16 available. So this could be a fire. This could be, I can't
17 speak to the list of things, but --

18 MEMBER JOHN: Okay. Thank you.

19 CHAIRPERSON HILL: Chairman Hood?

20 ZC CHAIR HOOD: Mr. Greenhouse, was it full
21 concurrence on this exhibit, the one that we were just
22 looking at, the egress?

23 MR. GREENHOUSE: We had no written approvals.
24 This was a plan that we all spoke about, and it was the first
25 opportunity that we all thought could work.

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1 I can't say for them that they said, yes, this is
2 100 percent what we want to do. Let's move forward. But it
3 was the first option that said moving in the right direction,
4 this could work.

5 ZC CHAIR HOOD: So for me, this, to me, was a
6 showstopper. This right here moves in the right direction.
7 I don't think we need to get balled down and locked in,
8 because at the end of the day, the way I see it, neighbors
9 are going to be neighbors.

10 We can't constitute everything here on the Board,
11 as far as I'm concerned. I mean, you know, if I was to come
12 to you as a neighbor and say, Mr. Greenhouse, I need to bring
13 something through the back, not every day.

14 Maybe once a year. I don't believe that's nothing
15 that we can sit here and legislate, or we can sit here and
16 put in a condition that would work.

17 I think neighbors should be able to work, so I
18 think this, I haven't heard from others. I'm going to hear
19 from others, but I think this is much better than what I saw
20 the last time that we took this up. Thank you, Mr. Chair.

21 CHAIRPERSON HILL: Thank you. Mr. Hart?

22 VICE CHAIRPERSON HART: No questions on this.

23 CHAIRPERSON HILL: Okay. So Mr. Lapointe, could
24 you introduce yourself, please, for the record? You need to
25 unmute yourself, Mr. Lapointe.

1 MR. LAPOINTE: Marc Lapointe.

2 CHAIRPERSON HILL: Okay. All right. Mr. DeWerd,
3 I'm going to start with you, then I'll go to Mr. Hunter, then
4 I'll go to Mr. Lapointe.

5 So you've heard everything that has been proposed,
6 and I guess the only thing that I am, well, I'm curious as
7 to everything you have to say, and what you think of the
8 current proposal, and what I'd like to kind of clarify is
9 that a lot of the things that you guys are talking about, and
10 a lot of the things that we're talking about, I do think are
11 within the zoning regulations.

12 However, I think that the one that was really
13 coming before us was, you know, whether or not that alley is
14 safe, whether it can be used properly for, you know, what
15 they're doing, in terms of the regulations.

16 So Mr. DeWerd, can you tell us what your thoughts
17 are on this proposal, and how things have been moving
18 forward, please?

19 MR. DeWERD: Yes, specifically on that, and what
20 we saw the first time that I feel like our thoughts had been
21 heard at all throughout the entire design process.

22 The issue is that, say, the different points in
23 the fence, or the change in the view of the windows shouldn't
24 have as much weight on whether this should be approved or not
25 within the zoning regulations, and our neighbors being

1 adversely affected.

2 It's that when we worked through it, it's that the
3 most recent plan only takes into account, say, what we talked
4 about and what Marc and Ken talked about without the other
5 neighbors really being taken into consideration.

6 It's that loss of view and putting property there
7 at all within, say, like this limited scope for the hearing,
8 negatively impacts our property values, and it impacts our
9 resale values.

10 So it's that when we take this in, we felt going
11 into the discussion with Mr. Greenhouse, and we went in there
12 with good faith, because the Board asked us to, is that it
13 was already the assumption that this will be built, and if
14 it is built, it, you can have a little bit of a change of
15 something that's going to happen.

16 And it wasn't a question of whether it was going
17 to happen or not. And I think as the neighbors, we wanted
18 our full thoughts to be heard about whether it even really
19 should be able to happen or not at all, because this is a
20 unique lot that doesn't necessarily fit within the rest of
21 the zoning regulations for intended use on the alley lot, and
22 that's why I think we keep coming back, keep coming back to
23 this issue.

24 Specific to the plans, what you'll look at is
25 differences and specific, in areas and measurements. Right

1 now, the base of the roof deck would be at no less than 20
2 feet, which is maximum, with the parapet going 4 feet above
3 that.

4 And so that's why the intended use and adverse
5 impact comes into play when looking at this view of the
6 plans, and the extended limited scope hearing. The parapet
7 roof goes an additional 4 feet above the 20-foot roof line,
8 really does add more to having a wall to look at, limited
9 windows, et cetera.

10 And so I'd just really like the Board to take that
11 into consideration. I appreciate you guys listening to us,
12 and know that this had gone on much longer than the average
13 case.

14 The neighbors will be impacted. Our property
15 values, our resale will be impacted if this is approved. The
16 quality of life will be impacted, and really, when you look
17 at the rear egress, yes, it's a real issue for safety because
18 of the narrow walk, and when you take it in, you know that
19 it took two hearings before Mr. Greenhouse was able to even
20 have that discussion with us, and so we'd like the Board to
21 take that into consideration when looking at procedure, and
22 also whether this application should be approved.

23 CHAIRPERSON HILL: Okay. I mean, Mr. DeWerd, just
24 to comment on a couple of things, you have looked at Subtitle
25 U 601.1, correct?

1 MR. DeWERD: Correct.

2 CHAIRPERSON HILL: And X 901.2, correct?

3 MR. DeWERD: Yes.

4 CHAIRPERSON HILL: Right. So X 901.2, that's just
5 kind of the special exception criteria general, right? And
6 it's not that any, it's not that things can't be built.

7 It's that whether or not it's going to unduly
8 affect the neighborhood, right? And so that's where that,
9 that's the thing that you all are hanging your hat on right
10 now, is kind of the general special exception criteria.

11 The one that was more difficult, I think, to kind
12 of get through was Subtitle U 601.1, right? And I'm sure you
13 have had an opportunity to look through the Office of
14 Planning's report, correct? So --

15 MR. DeWERD: Yes.

16 CHAIRPERSON HILL: -- I guess what I'm trying to
17 say is that, and I'm not trying to cut to the chase here
18 before even Mr. Hunter and Mr. Lapointe have an opportunity
19 to speak, is that it is through this process that one gets
20 heard, and things change, or things happen, and I mean, I'm
21 just letting you know, that's what this process is for. So
22 Mr. Hunter, would you like to go next, please?

23 MR. HUNTER: Yes. I sort of concur with what Ryan
24 has said. I just wanted to take a couple points with Mr.
25 Greenhouse's description of the conversation in which the

1 word, well, actually the term safety zone was only, has only
2 been mentioned up until today.

3 We have never actually defined what our safety
4 zone was. I mean, one of our whole points is that we, the
5 neighbors on the 3rd Street side, needed to have an access
6 pathway to the public alley.

7 Whether or not we considered, we, no, there was
8 never a discussion about the backyards being a safety zone,
9 a safe zone, so I'm not sure where that comes into effect.

10 I guess it, one of our other considerations is
11 that the plan itself about the access to the public alley is
12 not sufficient, and is not what we truly discussed, and have,
13 you mentioned this at the last hearing.

14 We mentioned it with our, in our public, sorry,
15 not the public hearing. We mentioned it in our conversations
16 with Mr. Greenhouse. We thought we were clear about that,
17 but then it just turned around, and he basically just gave
18 us the same plan again as he, well, actually, he gave us the
19 same plan that he gave at the last hearing with the arrows
20 pointing in the direction of a pathway.

21 So we are not in agreement on the egress, and in
22 terms of the roof, we still think there's issues of privacy,
23 more so for our, the P Street side, because it's encompassing
24 the entirety of the rooftop, and there are homes on the P
25 Street side, and we requested that there at least be a

1 shrinkage, either a shrinkage of the area or there has to be
2 some wall, because it's still not, it's still not clear in
3 his design how far, if the roof is sitting on top, he said
4 it's sunken.

5 It's not really clear, so we need a little bit
6 more of a better diagram. But yes, there's still, there's
7 still, there's still issue, is the egress, and the fact that
8 it will adversely affect the neighborhood, and well, the
9 structure itself is going to adversely affect the
10 neighborhood where it is.

11 It's not, it's not consistent with the designs in
12 the area, and I will just leave it at that for now.

13 CHAIRPERSON HILL: Okay. If it's all right with
14 the Board, what I'm going to do is I'm going to let all of
15 the witnesses speak, the parties and opposition speak, and
16 then we can go ahead and go along with questions. Mr.
17 Lapointe, would you have to, is there anything you would like
18 to add?

19 MR. LAPOINTE: Okay. Well, actually, can you hear
20 me?

21 CHAIRPERSON HILL: Yes.

22 MR. LAPOINTE: Oh, okay. I thought I was, okay.
23 The only thing I want to add is the, when he resent the plan
24 to us with the exit from each lot, that they add tree on
25 front of each doors, but now you don't see that because it's

1 not on the plan.

2 So that's why that, to me, I think it's
3 questionable, because I saw on the first plan that they had
4 tree out front, and I point that out to Ken, and it got
5 removed, but it's some of the things that, if it's an
6 emergency that needs to be clear.

7 I don't want to go through trees and all of that.
8 So the clarity with Mr. Greenhouse is not truthful. I will
9 leave it like that.

10 CHAIRPERSON HILL: Okay. Does the Board have any
11 questions for any of the parties in opposition? No? Okay.
12 Mr. Lapointe, if you would just mute your microphone, please.

13 Thank you. Mr. Greenhouse, just in terms of that
14 egress, and to the point, I mean, I guess those, and I'm
15 looking on your presentation now that actually looks at the
16 wooden fence with the, with the red markers of where the
17 egress is.

18 Those then would actually be workable, correct?
19 I mean, they'd be functioning. You have a, you don't have
20 a tree behind that, correct?

21 MR. GREENHOUSE: That's exactly right. So those
22 are depicted as regular entry gates. They --

23 CHAIRPERSON HILL: Okay.

24 MR. GREENHOUSE: -- are accessed, yes, they're
25 functional, 100 percent.

1 CHAIRPERSON HILL: Okay. So that then now is in
2 your plans, and then just so, you know, there's like a line
3 of trees that are behind it. So there won't be trees behind
4 the doors in which people are going to actually have to use
5 at some point?

6 MR. GREENHOUSE: That's right. I mean, for it to
7 be a clear egress, there has to be clear, sorry.

8 CHAIRPERSON HILL: Okay.

9 MR. GREENHOUSE: For the egress, there has to be
10 clear --

11 CHAIRPERSON HILL: That's all right.

12 MR. GREENHOUSE: -- ability to get through.

13 CHAIRPERSON HILL: That's fine. I had a question
14 for the Office of Planning. Ms. Thomas, are you there?

15 MS. THOMAS: Yes. Yes.

16 CHAIRPERSON HILL: Thank you. In terms of, again,
17 this is what I know had come up within the first hearing, and
18 maybe even the second hearing. There are many homes all over
19 the city where the only egress you have is the front door,
20 correct?

21 MS. THOMAS: Yes, that is correct.

22 CHAIRPERSON HILL: And so, and that's where I
23 don't know what the zoning regulations are off the top of my
24 head in terms of, that's a, there's nothing that is required
25 to have a rear egress.

1 MS. THOMAS: Not from a zoning standpoint. I
2 don't know if there's a code requirement. I can't say.

3 CHAIRPERSON HILL: Okay. But that would be
4 something that came up in, when plans are reviewed?

5 MS. THOMAS: Yes, it might. It might --

6 CHAIRPERSON HILL: Okay.

7 MS. THOMAS: -- come up later.

8 CHAIRPERSON HILL: Okay. All right.

9 ZC CHAIR HOOD: Mr. Chair?

10 CHAIRPERSON HILL: Sure, Mr. Hood.

11 ZC CHAIR HOOD: Let me go back to Mr. Hunter, and
12 I apologize.

13 CHAIRPERSON HILL: Sure.

14 ZC CHAIR HOOD: Mr. Hunter, and I heard that
15 conversation with the Chairman and Ms. Thomas. I actually
16 disagree to a point, because we are in, we are in charge with
17 protecting the safety of residents and businesses of the
18 District of Columbia.

19 And that's why we try to fine tune. I would agree
20 that it doesn't have to be, but when I'm looking at a case,
21 you know, I think about cases like the case we voted on over
22 in the southwest, we had a fire.

23 So you watch those kind of things. Our job is to
24 protect the safety and health of the residents of the
25 District of Columbia as well, so that's the key, and I, you

1 know, I hear what Ms. Thomas, and I know what OAG says, but
2 also as in charge, as Commissioners, that's what we're
3 supposed to be doing.

4 Board members as well. But let me ask this, Mr.
5 Hunter. Something is better than nothing, right? Mr.
6 Hunter?

7 MR. HUNTER: Yes. Yes, I guess, yes. In theory,
8 yes.

9 ZC CHAIR HOOD: Well, keep in mind what the
10 Chairman just said, and you know, and if we fine, walk that
11 fine line, then you, we may get nothing.

12 So I just want to throw that out there, because
13 I heard the discussion and what I said, and unless I'm
14 misunderstanding this diagram, that's something.

15 It might not be all of what we want, but you know,
16 we might want to look at that, because at the end of the day,
17 what's beneficial to us in an emergency process?

18 That's just who I am. You may disagree, but
19 something is better than nothing. That's all I have. Thank
20 you, Mr. Chairman.

21 CHAIRPERSON HILL: All right. Thank you, Mr.
22 Hood. Okay. Does anybody have any more questions? I guess
23 I'm going to go ahead and let everybody give a little bit of
24 a conclusion. Mr. DeWerd, if you'd like to start with --

25 MR. YOUNG: So I have, I have one person that's

1 signed up to give public testimony in opposition.

2 CHAIRPERSON HILL: Okay. Let me look at my list,
3 sorry.

4 MR. YOUNG: I have William Flens.

5 CHAIRPERSON HILL: Sure. Okay. You want to bring
6 in Mr. Flens?

7 MR. FLENS: Hi. Can you hear, can you hear me?

8 CHAIRPERSON HILL: Yes. Hi, Mr. Flens.

9 MR. FLENS: Okay.

10 CHAIRPERSON HILL: So Mr. Flens, as a member of
11 the public, you'll have three minutes to give your testimony.
12 The reason why I kind of didn't realize we had any witnesses
13 is this is our third supplemental, well, this is our third
14 hearing on this, right?

15 And so really all of the testimony that one is
16 supposed to be giving is any of the new information that
17 happened from the previous supplemental hearing.

18 You may or may not speak to, I mean, I'm just kind
19 of letting you know, if you can, try to keep it to the
20 information that is on, that is before us right now, which
21 is the third supplemental, or sorry, the second supplemental
22 hearing.

23 However, if you stray, that's fine. I'm just kind
24 of pointing that out to you. There's three minutes on the
25 clock. I don't know if you can see that clock or not. Can

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1 you, Mr. Flens?

2 MR. FLENS: No, but I'll try to keep my own time,
3 Mr. Chairman.

4 CHAIRPERSON HILL: Okay. I'll also time you here.
5 You can begin whenever you like.

6 MR. FLENS: All right. Thank you, and good
7 afternoon, everyone. My name is William Flens. I am the
8 owner of 234 P Street, N.W., and I am strongly in opposition
9 to the applicant's plan, as it would adversely affect my
10 property, which I have owned since March of 2005.

11 So I'd like to just make three points. Again, the
12 issue of eliminating the rear access to the public alley from
13 the rear of my property. I consider that access to be an
14 essential feature of my property because I rely on it for
15 day-to-day maintenance and upkeep purposes.

16 Having that rear access enables me to have
17 handymen access the backyard directly for necessary repairs
18 without having to traipse through the ground floor unit from
19 the front of the house.

20 Under the applicant's plan, that would no longer
21 be possible. Moreover, the applicant's plan would deprive
22 my tenants and me of rear egress to the public alley in the
23 event, in the event of an, of an emergency, as we've been
24 discussing.

25 Similarly, it would hinder access by emergency

1 personnel in the event that they would need to access my
2 property from the rear. And simply put, if, I never would
3 have purchased that property if I knew that it would not
4 permit me to have rear access someday.

5 Secondly, the applicant's plans to build a house
6 with windows and a roof deck overlooking my property would
7 negatively affect my privacy in my back yard.

8 And third, and perhaps most troubling, at no point
9 in the process has the applicant ever contacted me about his
10 proposed plan. So I find it a bit disingenuous that he would
11 attempt to cast this project as somehow benefitting the
12 neighborhood while papering over the very real adverse
13 impacts it would have on my and my neighbors' properties.

14 As I understand, the zoning regulations state that
15 the applicant for a special exception bears the full burden
16 to prove no adverse effect, and I believe that the applicant
17 has clearly failed to do that.

18 CHAIRPERSON HILL: Okay.

19 MR. FLENS: That's all.

20 CHAIRPERSON HILL: All right. Thanks, Mr. Flens.
21 And Board Members just raise your hands. Do you have any
22 questions for the witness? No? Okay. All right. Does
23 anyone have any questions, oh, Mr. Hart?

24 VICE CHAIRPERSON HART: Yes, just a quick
25 question. Mr. Flens, thank you for giving your testimony,

1 or, the question I had was, were you aware that this property
2 was behind your, like, there was another lot behind your
3 house?

4 MR. FLENS: I was aware, and it was never clear
5 if it was city-owned property or not. The owner was never
6 ever made clear to me. And my fence line is drawn in a way
7 that contradicts the fence line that Mr. Greenhouse has
8 claimed.

9 So no, the bottom line is I was never aware of
10 that discrepancy, or whoever owned that piece of land behind
11 my --

12 VICE CHAIRPERSON HART: I mean, I appreciate the
13 information. I just, it's one of these, you know, and I
14 understand that there may be some, evidently there was some
15 confusion over what this, where this particular parcel, who
16 owned this particular parcel, but I appreciate your response
17 for that. Thank you. No other questions.

18 CHAIRPERSON HILL: Okay. So Mr. Flens, can you
19 hear me?

20 MR. FLENS: Yes, sir.

21 CHAIRPERSON HILL: So Mr. Greenhouse, I'm just
22 curious as to where Mr. Flens' property is. Do you, I'm
23 looking at your presentation, and I see the egress, the
24 emergency egress doors on all of the homes. What, is there,
25 is there not an emergency egress door on Mr. Flens' property?

1 MR. GREENHOUSE: That's correct. So the, first
2 off, Mr. Flens, apologies for not getting around to having
3 this conversation with you. It has been a large neighborhood
4 group that we are trying to work with, and issues, and that
5 doesn't mean I don't plan on doing it in the future.

6 So whatever the determination of this case is, I
7 still plan on speaking with neighbors. Chair Hill, to answer
8 your question, if you're looking at the site plan, 234 P
9 Street would be located, the lot that says trash and
10 recycling bins, which is north of the property.

11 CHAIRPERSON HILL: Yes.

12 MR. GREENHOUSE: That lot is 234, if I, if I'm
13 correct. Yes, 234. And so with this egress plan, as you can
14 imagine, it is, if I can speak to it, but in my conclusion,
15 I'll speak to that. But the answer is, no, on the site plan
16 there is no gate to his property.

17 CHAIRPERSON HILL: Okay. All right. Okay. Thank
18 you. All right, Mr. Flens. Thank you so much for your, does
19 anybody have any questions for Mr. Flens? No? Okay. Mr.
20 Flens, thank you --

21 MR. DeWERD: I have, I have a question.

22 CHAIRPERSON HILL: Oh, hold on. Mr. DeWerd, you
23 have a question?

24 MR. DeWERD: It's a just a question, you purchased
25 your lot in 2005, right?

1 MR. FLENS: That's correct.

2 MR. DeWERD: Do you know what year the property
3 had changed hands after that, just to remind us?

4 MR. FLENS: You mean prior to my purchase of it?

5 MR. DeWERD: 459.

6 MR. FLENS: No, I don't know the answer to that.

7 MR. DeWERD: Never mind. Sorry.

8 CHAIRPERSON HILL: That's all right, Mr. DeWerd.
9 All right, Mr. Flens. Thank you so much for your testimony.
10 And --

11 MR. FLENS: You're welcome.

12 CHAIRPERSON HILL: -- you're free to participate
13 as an, go back into the audience. Thank you so much.

14 MR. FLENS: Thank you.

15 CHAIRPERSON HILL: All right. All right. I'm
16 going to get, let everybody have a little bit of a
17 conclusion, and then, first, before I do, well, if any Board
18 Member has a question, just raise your hand.

19 Mr. DeWerd, I'm going to go back in the order that
20 I started. If you want to give me any kind of conclusion
21 you'd like to give.

22 MR. DeWERD: Yes, absolutely. Thank you to the
23 Board. I know that this is taking up an immense amount of
24 your time in terms of issues, and how much time we normally
25 get to present. So thank you for hearing us.

1 And one thing that's really weighed on us as we
2 go through this is feeling as though we've had to show a
3 burden of proof that we've been impacted by what's being
4 proposed, and we really feel like there hasn't been that
5 burden really put on the applicant to show how he's
6 benefitting the neighborhood.

7 So as we go into the review, and you guys make
8 your final decision, just really take a look, please take a
9 look back at our prior testimony, at our submitted documents.

10 See the pictures of a well-kept up backyard that
11 shows how the land is being used today. Also, look at the
12 actions of Mr. Greenhouse. He's essentially put in, perjury,
13 when he put in his last response, going into Zone Hearing 2.

14 We had contacted him on March 12th, and then he
15 put in with his letter that we never contacted him. It's
16 just, he's continued to be dishonest as we've gone through
17 these negotiations.

18 After we met with Mr. Greenhouse to review the
19 plans and give input in the last hearing, he immediately
20 emailed the ANC saying that we had already agreed to the
21 plans that weren't even on paper yet, and we really just had
22 wanted an honest chance to say, view the plans on paper, be
23 able to give feedback, and then decide how to go forward.

24 At this point, I really feel uncomfortable having
25 any contact with Mr. Greenhouse, outside of this Board

1 hearing. He's continually been dishonest, and I really --

2 (Simultaneous speaking.)

3 CHAIRPERSON HILL: Hey, Mr. DeWerd? Hey, Mr.
4 DeWerd? Hey, Mr. DeWerd? Mr. DeWerd? You know, this is not
5 the appropriate place to be telling somebody that they're
6 dishonest, or that you need to speak a certain way, or
7 anything that's going on, right?

8 This is not, this is not the forum for that, okay?
9 And if you want to have a conversation with him about
10 something else, I mean, I find this very difficult, right?

11 And I mean, and I understand what you're saying,
12 and I know that this is very difficult for all of you, right?
13 But it's just not the appropriate place to be calling people
14 one way or the other, or saying that they haven't, it's just
15 not the place.

16 And so really, what we're here for is for zoning
17 regulations, and what has gone on. And as you've said, and
18 I completely get it. I've been doing this now for five
19 years, and I know all of the things that are going on with
20 peoples' homes, and how passionate they are about everything,
21 and I truly understand.

22 It just makes me very uncomfortable to have
23 accusations, and when we're talking about personal character
24 and all these things. It's just, it's just not the right
25 place for it.

1 So please go ahead and, do you have anything in
2 terms of regard to the zoning requirements that we're, that
3 are before us?

4 MR. DeWERD: So very directly is that we brought
5 up questions during hearing 2, in sight of going in to make
6 your final decision. I'd just like to remind people the
7 engineering questions on, can the plans be approved as is
8 when they go to the other boards?

9 I'm realizing that it's not our judgment here, and
10 that I would ask for additional feedback in writing from the
11 Office of Planning that the engineering requirements are
12 being met, that some of the setbacks are being met with the
13 current plans, because I understand that the plan, as
14 written, just looked at the zoning for the lot, but that
15 there are a number of engineering issues that could arise to
16 be able to actually build on it, that I'm unable to see, and
17 just would ask that we get formal written approval in support
18 that they are within the bounds of the regs.

19 CHAIRPERSON HILL: Okay. So Mr. DeWerd, in terms
20 of the plans, that's something that goes through when you get
21 permitting.

22 And so, you know, if they're not, if it doesn't
23 work through permitting, you would find out at that point.
24 It's not something that we deal with.

25 MR. DeWERD: Correct. Thanks for the time.

1 Thanks for taking into consideration. I just want to make
2 sure that I was straightforward in putting issues in front
3 of the Board, and not behind closed doors, just so it's on
4 the record.

5 CHAIRPERSON HILL: Sure. Mr. Hunter?

6 MR. HUNTER: Yes. I am going to go back to, well,
7 I guess in, I guess I have a question, and I guess this goes
8 more towards the Office of Planning, and when I was reviewing
9 the testimony that I had put in my statement in Exhibit 81.

10 First of all, I don't think, I'm unaware, well,
11 sorry. I get, I'm confused of whether or not the Office of
12 Planning actually made a decision clearly in regard to
13 approve the special exception of a, of excess of 100 feet
14 from the minimum requirement, or the maximum requirement 300
15 feet for access to the public alley that would be on P
16 Street.

17 A couple of things that Ms. Thomas specified that
18 she couldn't exactly place where the applicant's homes were,
19 where the, well, I guess she meant our homes. It's in my,
20 I would just look at my Exhibit 81. I'm not very good at,
21 actually --

22 (Audio interference.)

23 MR. HUNTER: -- but anyway, I'll go on and say
24 that I don't think that the Office of Planning did a
25 sufficient due diligence in their assessment of the

1 applicant, of approving the applicant's application, and I
2 believe that the special exception should really be denied
3 based on the burden of proof has really been placed on the
4 opposition, and not been placed on the Applicant, Mr.
5 Greenhouse.

6 I would also like the Board to take into
7 consideration that there is significant opposition to Mr.
8 Greenhouse and this application, and if the Board is leaning
9 toward granting this application, we would like to require,
10 since the plans have changed significantly over time, and
11 plus, this egress situation really is still unresolved, that
12 Mr. Greenhouse goes back to the ANC to get approval, to get
13 their approval to help mitigate any process, and maybe help
14 also give him time and give us time to smooth out any, any
15 opposition in this application.

16 CHAIRPERSON HILL: Okay. Thank you, Mr. Hunter.
17 Mr. Lapointe?

18 MR. LAPOINTE: Okay. So first off, for the Board,
19 thank you very much to listen to all of us for the last three
20 months. I know it's not easy for all of you.

21 But one thing that I really understand why a city
22 has zoning regulation, but it doesn't mean that our code
23 means it's our right. So with some exception, the same way
24 that they ask for the exception and Ms. Thomas said that
25 that's fine, it doesn't mean it's right.

1 And I would tell you the reason why that, first
2 of all, that would change so much of the alley right now.
3 It would have trees would be out, that would change the
4 agreement with also on that corner.

5 And when we talk about DC that's, they want to
6 talk about clean energy and clean environment, and now we're
7 destroying trees, we have less birds, we have less squirrels.
8 My dog is running after squirrel every day, but that's all
9 over after that.

10 And also, that I understand, Mr. Hood, that you
11 said it's better than nothing. But when we bought our house,
12 we thought it was part of the city. We didn't know it was
13 owned by that lot.

14 So because no, nothing but field forever, we went
15 back. Nothing got built there. That's the reason. And at
16 the end of the day is, we had to do what is right for the
17 people, but also for the city, because we have
18 responsibility.

19 We saw so many people that mistaken the past, who
20 were like, what the heck they were thinking when they did
21 that? And I think we, I know I'm getting very emotional
22 about it, but I moved to this city because I love this city,
23 okay?

24 And I really believe on this city, I believe on
25 our government, I believe in cleanness. And to think as if

1 them people on P Street, now they won't be able to take their
2 trash in the alley anymore. Now they will change that to do
3 that on the front door of their house.

4 So, and that's one thing you have to think about
5 all those things, how that will affect the people, and their
6 environment.

7 And I just want to say thank you guys because you
8 did a lot, the Board, to listen to us and all of that. I
9 understand the zoning and all of that, but doesn't mean
10 everything has to be directed. Thank you.

11 CHAIRPERSON HILL: Thank you, Mr. Lapointe.
12 Chairman Hood?

13 ZC CHAIR HOOD: Yes, sir. I'm going to take a
14 personal premises. Just, I appreciate Mr. Lapointe's
15 articulation to us. But Mr. Lapointe, Mr. Lapointe, former
16 council member, John Ray taught me something about 25 or 30
17 years ago. He informed me that when you see an empty parcel
18 of land in this city, you better be very aware that something
19 eventually is going to happen.

20 So I, too, I, too, exactly understand and hear
21 what you're saying. That has also happened to me, but I'm
22 just trying to figure out how we can do what I call a good
23 neighbor policy, and keep it in tune with the discussion that
24 you heard from the Chairman and Ms. Thomas, because I can
25 tell you, because we have to go by the regulations for the

1 most part, but there's always a way to try to fine tune and
2 make it work in a win-win for everybody.

3 So I hear you, I understand you, and I wasn't
4 saying, my response is, I wasn't saying take it or leave it.
5 I'm just saying, let's try to find a way, and I thought that
6 was better than the way that was presented to me previously,
7 and then we also have to stay within the zoning regulations.

8 So that was my whole point behind that. I just
9 wanted to make sure that was clarified. Thank you, Mr.
10 Chairman.

11 CHAIRPERSON HILL: Okay. Hey, Mr. Moy?

12 MR. MOY: Yes, sir.

13 CHAIRPERSON HILL: Do we have 10 more cases today?

14 MR. MOY: Give or take.

15 CHAIRPERSON HILL: Okay. All right. Mr.
16 Greenhouse, go ahead and give me a couple of words in
17 conclusion.

18 MR. GREENHOUSE: Yes. I think that the, I'd like
19 to thank the Board, and also the opposition for every voice
20 being heard. I really did appreciate the last video
21 conference we had with the neighbors.

22 It was the most collaborative we've ever had, and
23 I really thought we were working towards a positive
24 direction. I want to clarify that I did reach out to the ANC
25 to request a re-hearing in the idea that I thought we were

1 moving in the redirection, and I never said I have approval
2 from the neighbors.

3 I can submit that as exhibit by all means. It's
4 an email with my SMD, but what I requested was to be put on
5 the docket for a re-hearing with the ANC so I could eliminate
6 the possibility of having doing a full order.

7 For whatever reason, the ANC never got around to
8 doing that. So I think, in summary, we've taken a lot of
9 steps to make things better for the neighbors.

10 Whether or not it's required, I feel like I'm
11 taking steps to do it, and we've changed windows, we've
12 changed colorization, we've changed privacy elements, we've
13 changed egress, and we're continuously working, and I'm still
14 willing to work towards it.

15 My goal, and it's always been this goal from the
16 very beginning, is to build a home as it is to live in. And
17 so I thank you very much for your time, and appreciate it.

18 CHAIRPERSON HILL: Okay. Does anybody have any
19 more questions for anyone here? All right. So Mr. Moy, can
20 we set this for decision next week?

21 MR. MOY: Yes, sir.

22 CHAIRPERSON HILL: Okay. All right. Well, you
23 guys, I hope you all have a good day. Mr. Hunter, hold on
24 one second. Mr. Hunter, I am about to close the hearing.

25 MR. HUNTER: I'm sorry. I'm sorry. I meant to

1 bring this up earlier, and it's just something that I put
2 into my response. I didn't, when we did the hearing the last
3 time, you were asking each of the applicants beforehand
4 whether or not they had posted notices, because I guess all
5 of the timing had changed in the COVID shutdown.

6 They had to repost their notices. Was that not
7 applicable in this particular case because this was a limited
8 scope hearing in June, in, at the June 3rd? Because you did
9 not ask Mr. Greenhouse if he had reposted --

10 CHAIRPERSON HILL: That's okay. So Mr. Hunter,
11 everything had been posted properly for all of the hearings,
12 for this particular hearing.

13 MR. HUNTER: No, no, in terms of the signage that
14 usually goes onto the property. Now, that was, that was done
15 in case, that was done for the March hearing.

16 CHAIRPERSON HILL: Okay. So Mr. Hunter,
17 understand --

18 MR. HUNTER: But that's --

19 CHAIRPERSON HILL: -- hold on, Mr. Hunter. So Mr.
20 Ritting, you said you seemed like you wanted to say
21 something?

22 MR. RITTING: Oh, yes, I just happen to know the
23 answer to Mr. Hunter's question, which is, as long as it was
24 a continuation hearing, they were not required to repost the
25 property.

1 MR. HUNTER: Okay. Okay.

2 CHAIRPERSON HILL: Okay. All right. So Mr. Moy,
3 let's put this on for decision next week.

4 MR. MOY: Sir, it's done. That would be July the
5 1st.

6 CHAIRPERSON HILL: July 1st. Okay, you guys.
7 Thank you all so much. You have a good day.

8 MR. HUNTER: Thank you.

9 MR. GREENHOUSE: Thank you very much.

10 CHAIRPERSON HILL: All right, Mr. Moy. You can
11 call, I mean, yes. You can call our next case. You all know
12 that, like, I got, I got to go, I got to go somewhere, you
13 know? Like, this, it's a special day for me, okay? I'm
14 going to dinner later.

15 ZC CHAIR HOOD: Well, Mr. Chairman, let me just
16 tell you that mostly all of us, I know that I can speak for
17 the Zoning Commission, we all have had to work on our
18 birthdays, so just join the club.

19 VICE CHAIRPERSON HART: That was, that was an
20 official suck it up, I think.

21 CHAIRPERSON HILL: Right. Actually, that was,
22 actually, that was the official, oh, poor baby. Oh, a little
23 violin right here for you.

24 VICE CHAIRPERSON HART: I'm not even sure what
25 that was. Okay. Mr. Chairman, how about one more case

1 before we go to lunch.

2 CHAIRPERSON HILL: Okay. All right. Mr. Moy, can
3 you call our next case?

4 MR. MOY: With pleasure. That would be case
5 application number 20069 of Deidra Barksdale, as amended for
6 special exceptions from the general penthouse requirements
7 of Subtitle C, Section 1500.4, Subtitle C, Section 1504 from
8 the penthouse setback requirements of Subtitle C, Section
9 1502.1(c), in pursuant to Subtitle X, Chapter 10 for area
10 variance from the penthouse area requirements, Subtitle C,
11 Section 1503.1 to construct a new rooftop access penthouse
12 on an existing semi-detached flat in the RF-1 Zone. This is
13 at 100 S Street, N.W., Square 3104, Lot 804.

14 CHAIRPERSON HILL: Okay, great. Mr. Young, if you
15 could let everybody in. Is it Ms. Barksdale that's there?
16 Can you hear me, Ms. Barksdale? Your microphone, I think,
17 is muted, Ms. Barksdale.

18 MS. BARKSDALE: Hello? Can you hear me?

19 CHAIRPERSON HILL: Yes.

20 MS. BARKSDALE: Okay.

21 CHAIRPERSON HILL: Are you choosing not to use
22 video? I just want to make sure I know.

23 MS. BARKSDALE: Okay. I'm just trying to, I've
24 been listening all morning, so I had everything off, so I'm
25 trying to start --

1 CHAIRPERSON HILL: Sure.

2 MS. BARKSDALE: -- clicking on start, but it's
3 looking like something else is blocking me.

4 CHAIRPERSON HILL: Sure.

5 MS. BARKSDALE: Okay, here we go. Is it, okay,
6 can you see me now?

7 CHAIRPERSON HILL: Yes. There we go. Yes.

8 MS. BARKSDALE: Okay. All right. Good morning.

9 CHAIRPERSON HILL: Good morning. Give me one
10 second. Let me get everybody here in the room.

11 MS. BARKSDALE: Okay.

12 CHAIRPERSON HILL: Well, actually, go ahead, Ms.
13 Barksdale, and introduce yourself for the record, if you
14 wouldn't mind.

15 MS. BARKSDALE: Okay. My name is Deidra
16 Barksdale. I live at 100 S Street, N.W., Washington, D.C.

17 CHAIRPERSON HILL: Okay.

18 MS. BARKSDALE: Happy birthday, Chairman.

19 CHAIRPERSON HILL: Thank you. I appreciate that.
20 All right.

21 ZC CHAIR HOOD: Anytime. You're welcome.
22 Anytime.

23 CHAIRPERSON HILL: Thanks. Thanks a lot. All
24 right. Let's see. Mr. Thomas, can I, can you introduce
25 yourself, please? You're on mute, Mr. Thomas.

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1 MR. THOMAS: Can you hear me now?

2 CHAIRPERSON HILL: Yes.

3 MR. THOMAS: Okay. I'm Bradley Thomas. I am the
4 Chair of Advisory Neighborhood Commission 5E.

5 CHAIRPERSON HILL: Okay, great. Well, welcome,
6 Commissioner.

7 MR. THOMAS: Thank you.

8 CHAIRPERSON HILL: Commissioner, if I could ask
9 you to mute your microphone, and Ms. Barksdale, if you could
10 do the same as I kind of go around everyone. Ms. Everson?

11 MS. EVERSON: Yes?

12 CHAIRPERSON HILL: Could you introduce yourself,
13 please?

14 MS. EVERSON: I'm going to --

15 (Audio interference.)

16 CHAIRPERSON HILL: I can't hear, I can't hear you,
17 Ms. Everson.

18 (Audio interference.)

19 CHAIRPERSON HILL: I can see you now, Ms. Everson.
20 I can't hear you though. It seems I can, I can hear you now.
21 Can you introduce yourself, please?

22 MS. EVERSON: Yes. My name is Denise Everson.
23 I am a partner with --

24 (Audio interference.)

25 CHAIRPERSON HILL: Okay, Ms. Everson. I can't

1 hear you very well. Ms. Barksdale, is Ms. Everson with you?

2 MS. BARKSDALE: No, she's not.

3 CHAIRPERSON HILL: Okay. So, and then Mr. Thomas,
4 I mean, the Commissioner Thomas, you're okay. So Ms.
5 Everson, I wonder if there is a phone number you can call in
6 on maybe.

7 Let me see. Mr. Young, I don't know if you can,
8 can you hear me, Ms. Everson? Okay. Mr. Young, is there a
9 number you can give Ms. Everson to call in to?

10 MR. YOUNG: Yes, give me one second.

11 CHAIRPERSON HILL: Of course.

12 MS. BARKSDALE: I also have Denver Terrance that's
13 trying to get in too. He's part of my team. He's on, but
14 he's not in the meeting.

15 CHAIRPERSON HILL: Okay. Was that Ms. Barksdale
16 that just spoke? Okay. All right. Well, let's first try
17 to get Ms. Everson taken care of.

18 I can't, we still can't hear you, Ms. Everson.
19 We'll get you a phone number, Ms. Everson. Just give me a
20 minute.

21 MR. YOUNG: So Mr. Reid from the Office of Zoning
22 is reaching out to Ms. Everson to tell her how to call in.

23 CHAIRPERSON HILL: Okay. All right. I'm trying
24 to remember, so Ms. Barksdale, it's your application. If you
25 can tell me again, well, why don't we do this? Let's start

1 with you.

2 Ms. Everson, you can at least hear, correct?
3 Okay. So as long as she can hear, then that's, then we can
4 at least kind of move forward a little bit. Ms. Barksdale,
5 if you could tell us what happened since the last time you
6 were with us.

7 MS. BARKSDALE: So since the last time that I was
8 with you, I provided an outline of the timeline of events,
9 as well as submitted some additional exhibits to the record.

10 CHAIRPERSON HILL: Okay, right. So the timeline.
11 Is that the PowerPoint presentation?

12 MS. BARKSDALE: No, there was another, I think it
13 was exhibit, let me pull up the exhibits. I think I have
14 them up.

15 CHAIRPERSON HILL: I guess what I'm asking about
16 is, you have a PowerPoint presentation in here. Is that a
17 PowerPoint presentation that you were trying to give today?

18 MS. BARKSDALE: Yes, because it just highlights
19 some of the key dates and the, and happenings in the
20 timeline.

21 CHAIRPERSON HILL: Okay. So let me, let's find
22 a couple of things. I don't know if, now there's a Mr. Hon,
23 apparently, that's in the room. Mr. Hon, could you, can you
24 speak?

25 MS. HON: Yes, hi, that's Ms. Hon.

1 CHAIRPERSON HILL: Oh, okay. Great.

2 MS. HON: Hi, how are you?

3 CHAIRPERSON HILL: Ms. Hon, can you introduce
4 yourself?

5 MS. HON: Sure. My name is Ms. Hon. I am within
6 200 foot resident of the property we're being discussed,
7 that's being discussed right now, and I am an opposition
8 party.

9 CHAIRPERSON HILL: Okay. So you're a witness?
10 I mean, you're a, you're providing public testimony, correct?

11 MS. HON: I believe so, yes.

12 CHAIRPERSON HILL: Okay.

13 MS. HON: That's what I've come to do.

14 CHAIRPERSON HILL: Right. And so Mr. Bassett, we
15 don't have any parties in opposition, do we?

16 MR. BASSETT: I don't believe we do. Also, to
17 clarify, has Ms. Everson submitted an authorization on behalf
18 of, to act on behalf of the applicant?

19 Because I don't see one in the record, so unless
20 she's done that, it would be the applicant presenting on
21 their own behalf.

22 CHAIRPERSON HILL: Well, I thought Ms. Barksdale,
23 it's your application, correct?

24 MS. BARKSDALE: It is my application, yes.

25 CHAIRPERSON HILL: And so --

1 MS. BARKSDALE: Yes.

2 CHAIRPERSON HILL: -- Ms. Everson, I thought, is
3 not with you, correct?

4 MS. BARKSDALE: She's not with me in the same
5 room. I thought that's what you were asking.

6 CHAIRPERSON HILL: No, no, no. She's here to, I'm
7 asking if she's here to testify on behalf of you.

8 MS. BARKSDALE: Yes, she's going to, she was one
9 of my architects that helped me design the --

10 CHAIRPERSON HILL: Oh, okay. Got it, got it, got
11 it. Okay, never mind. No. So that's what I meant by if
12 she's on your side or not is what I was trying to understand.

13 MS. BARKSDALE: She is, yes.

14 CHAIRPERSON HILL: Okay. All right. So then, Ms.
15 Everson, I guess, well, I mean, Dan, she can just testify to
16 the fact that she's here to support Ms. Barksdale, right?

17 MR. BASSETT: Yes. So she would just be a public
18 witness, and I think Paul could just move her back to the
19 attendees. When you get to public witnesses, she would be
20 able to --

21 CHAIRPERSON HILL: No, but now, I'm confused. Ms.
22 Everson, Ms. Everson is here on behalf of Ms. Barksdale, so
23 she would be normally sitting at the table with Ms.
24 Barksdale.

25 MR. BASSETT: Yes.

1 CHAIRPERSON HILL: So therefore, she's still going
2 to be there. That's fine. So --

3 MR. BASSETT: We need an authorization on record
4 for her to act on behalf of Ms. Barksdale, and I don't see
5 one in the record.

6 CHAIRPERSON HILL: That's fine. So what I'm
7 asking you then, isn't it enough that Ms. Barksdale, right
8 now, says that she can speak on behalf of her?

9 MR. BASSETT: Let me check.

10 MS. BARKSDALE: And there's --

11 CHAIRPERSON HILL: Okay.

12 MS. BARKSDALE: Okay.

13 CHAIRPERSON HILL: That's all right.

14 ZC CHAIR HOOD: Let me help, let me help you out
15 with that. She can actually do it verbally now. We have
16 recorded it, and then she can submit something to the record.
17 So that way we can, let's keep moving.

18 MS. BARKSDALE: And there's Denver Terrance that's
19 also one of my architects, that's, I don't know if he's in
20 the waiting room that needs to be admitted as well.

21 CHAIRPERSON HILL: Okay. Well, let's see if
22 Denver Terrance gets here. All right. So Ms. Barksdale, why
23 don't you go ahead, and I'm going to throw up 15 minutes on
24 the clock here so I know what's going on, if you can see that
25 clock.

1 And Mr. Young, I think, is juggling a bunch of
2 balls right now, so I don't know if he'll get around to
3 giving us a clock. I see, oh, there's Mr. Terrance. Mr.
4 Terrance, do you want to introduce yourself?

5 MR. TERRANCE: Yes. My name is Denver Terrance,
6 and like Ms. Barksdale mentioned, I was the architect on the
7 project, and Denise is, Ms. Everson is a partner also.

8 CHAIRPERSON HILL: Okay. All right.

9 MR. TERRANCE: So obviously we're here in support
10 of Ms. Barksdale.

11 CHAIRPERSON HILL: Okay. So I guess if you, Ms.
12 Barksdale, you know, you are allowing these people to testify
13 in your, on behalf of you, but I guess they need to submit
14 something into the record of that, that would be helpful.
15 All right?

16 MS. BARKSDALE: I could give you that --

17 CHAIRPERSON HILL: Okay.

18 MS. BARKSDALE: -- whenever it's convenient, after
19 this is over.

20 CHAIRPERSON HILL: Okay. So go ahead. Do you
21 need your presentation brought up?

22 MS. BARKSDALE: You can bring it up in a minute.
23 I just, I have some written notes here that I'd like to go
24 through first.

25 CHAIRPERSON HILL: Okay. Well, you've got 15

1 minutes, so you can do whatever you want with it.

2 MS. BARKSDALE: Okay. So I just want to say thank
3 you for the opportunity to present before this body. I'm a
4 single mom and homeowner who purchased my home at 100 S
5 Street on November 11, 1995, over 25 years ago.

6 This date is special because I also had my oldest
7 daughter on January 11, 2005, 10 years after purchasing my
8 home. I am blessed to even be here presenting to this Board
9 because it means that at least at one point, I had enough
10 money to do renovations on my home.

11 My neighborhood was not always one of the most
12 enviable neighborhoods to live in. When the crime rate was
13 high in my neighborhood, I stayed. When the city needed
14 intellectuals in the city, I stayed. When there was a
15 housing crisis, I stayed.

16 I have experienced some very hard and tumultuous
17 times in the city, but I weathered the storm and provided a
18 consistent tax basis to the city. Now that the complexion
19 of the city has changed, I should be able to age in place.

20 My home was a dream in the making. I worked hard
21 and made many sacrifices to get me through to this point.
22 I have had to fight throughout my entire construction period
23 to finally begin to realize my dream, and I'm still fighting.

24 All I wanted to do was provide a healthy
25 environment, a refuge, and place of peace for my children

1 from this cruel world. I followed all the rules that were
2 outlined, and here I am.

3 I respect the work that this body is charged with
4 doing, and the spirit in which you perform your duties. I
5 am here today not because I intentionally or maliciously
6 tried to circumvent any processes that the city has outlined.

7 I am here today because a homeowner, as a
8 homeowner, I acted under the advisement of employees of DCRA.
9 Employees who I believed to know, or should have known, the
10 rules, regulations, and procedures of DCRA.

11 I believed that I had a valid permit for the work
12 that I performed. I am here today because the process that
13 brought me to appear before you today is flawed. I would
14 like to use the majority of my time to address some of the
15 items, which I believe are discrepancies in the OP reports,
16 since I know that this is report, is given great weight.

17 In response to OP memo dated June 12, 2020, at
18 Exhibit 46, the memorandum outlining relief required, no
19 mention that the original Office of Zoning memo dated 2/13/17
20 did not initially include all of the relief that was
21 required.

22 It also did not mention that it required three
23 requests to the Office of Zoning to get the revised memo.
24 In part three of the memo, it talks about exception situation
25 resulting in practical difficulty.

1 OP states that the applicant has not demonstrated
2 an exceptional situation leading to practical difficulty.
3 This provision is very subjective.

4 Funds were spent to build the original structure,
5 and on January 9th, one of DCRA's own inspectors visited the
6 property in response to the picture posted on Twitter on
7 January 7, 2016 by a community resident.

8 The inspector concluded that all construction had
9 been completed in accordance with the permits that had been
10 issued. There is no mention of this inspection in OP's
11 report. The structure was substantially complete on January
12 9th.

13 The elevation drawings were included in the
14 original set of drawings that were submitted to DCRA.
15 Exhibit 4 shows the complete set of drawings that were
16 initially provided to DCRA.

17 It was DCRA's staff that removed the elevation
18 drawings and stated that they were not needed. I have both
19 of my architects here with me that will testify to this fact.

20 Exhibit 4 shows the full set of drawings that have
21 been included in every set of drawings that my architect has
22 provided. Everyone we spoke to in the approval process knew
23 that we were building an additional structure, the structure
24 that we are now referring, requiring relief for a penthouse.

25 I am not sure what multiple remedies the OP is

1 referring to in her report. The only remedy provided that
2 would allow me to keep the structure was to go through the
3 BZA to get relief for a penthouse.

4 In terms of the description on the permit, I,
5 myself, was actually surprised when the permit was issued
6 that that description was still on there.

7 There were multiple discussions with DCRA
8 personnel, and they made other changes to the permit
9 application, and after discussing the project with them in
10 detail, I thought that it would have been adjusted like other
11 items on the application.

12 At the time, I didn't realize the importance of
13 it. The OP report argues that the structure was not
14 substantially complete. The structure today looks very
15 similar to what the structure looked like on January 11th.

16 The Tyvek paper that was on the structures has
17 weathered and blown off. Work was attempted to be done on
18 the base of the structure, which is essentially the roof of
19 my home, but as OP has stated, any time we, that we even went
20 on our roof, the community resident would complain and that,
21 about the work that was being done on the structure.

22 We were attempting to stop water damage to my
23 neighbor's home, and I believe that they will be testifying
24 today as well. I have both of my neighbors that had agreed
25 to testify. OP states the cost extended was self-inflected.

1 I was issued a permit. I built in accordance with
2 the permit, and on January 9th, one of DCRA's own inspectors
3 validated the work completed on the permits.

4 The OP report makes a point to highlight that
5 other stop work orders and infractions were cited on the
6 property. There were several inspections that were completed
7 that are not included in the OP's report.

8 It felt like there was an inspector at my home at
9 least every other week, if not more often. This community
10 resident, I was told, was literally calling every day on my
11 property.

12 We were baffled about why we would have this many
13 inspections. The many delays to address all of these
14 citations, and to take time to walk the inspectors to my
15 project time after time cost me thousands of dollars.

16 As the saying goes, time is money, and it sure was
17 the case for this project. At one point, I was really
18 concerned that I would actually never finish my dream
19 project, and that perhaps my children would never return to
20 the home where they took their first steps.

21 Many of the inspections resulted in the
22 confirmation that everything was being done in accordance
23 with the permits. For as many inspections and stop work
24 orders that were issued, none of the violations resulted in
25 any fines or citations.

1 The inspectors that said that this community
2 resident was making so many complaints that they just knew
3 that something had to, that we had to be committing some sort
4 of violation.

5 I never paid even \$1 in fines, and no infractions
6 have been brought to my attention to date. They were all
7 dismissed. The only remaining issue has been that the
8 penthouse must be approved.

9 I would think that if I was committing so many
10 infractions, and not performing construction in accordance
11 with the rules, that at least one of them would have resulted
12 in a fine of some sort.

13 I acknowledge the rights of District residents to
14 observe and make complaints. However, these complaints must
15 be balanced by homeowners' rights to make improvements.

16 Furthermore, District government has established
17 rules, procedures, and guidelines to be followed regarding
18 complaints, and these rules should not be circumvented.

19 Failure to do so, as described by law results in
20 liability, both civilly and criminally. We are wondering why
21 this community resident's voice was given so much weight.

22 We speculated that she must have a close ally in
23 the DCRA. Also in the OP's report, they reference no
24 substantial detriment to the public good. As I have stated,
25 the structure has now been in place for over four years, and

1 has not caused any detriment to the public good. This
2 provision is also subjective.

3 No substantial harm to the zoning regulation. The
4 structure would house mechanical equipment, as referenced in
5 Exhibit 57. I uploaded these revised drawings on 6/23/20.
6 I didn't realize that these had not been uploaded to the
7 record.

8 I had only previously sent them to Maxine, which
9 is OP's representative. OP, in her report, is referencing
10 conversations that we had relating the original structure,
11 and is using my lack of understanding of the terminology and
12 building regulations, as a layperson, against me.

13 I am a homeowner. I'm not an architect or an
14 engineer. When the structure was originally built, it was
15 built with what we were told could be done as a matter of
16 right.

17 We are now seeking relief under the penthouse
18 provisions, which is what the Office of Zoning advised us to
19 do in order to keep the structure as it is.

20 I am not sure the relevance of any verbal
21 conversations that are now being taken out of context. I
22 have provided written documents to support what I am
23 requesting.

24 The structure would house mechanical equipment.
25 The penthouse would provide additional access to mechanical

1 equipment on the roof. I didn't realize that the new
2 drawings had not been uploaded to the record. In harmony
3 with the general regulations, this is also subjective
4 provision. It would house mechanical equipment and provide
5 access to mechanical equipment on the roof, which is indeed
6 in harmony with the regulations.

7 Affecting neighboring property, the neighboring
8 property is in support of me keeping the structure as it.
9 Relief to penthouse requirements, this is also a subjective
10 provision.

11 What amount of money would not be prohibitively
12 costly? In this age of COVID-19, when you have literally
13 millions of people out of work, what amount is not
14 prohibitively costly? I provided estimates of what it would
15 cost to tear the building down or to make it smaller. All
16 of these options are prohibitively costly to me.

17 Not to mention, the coordination that would be
18 needed in this age of COVID-19 to complete the project would
19 require minimal funds and minimal exposure to the risk of
20 contracting COVID-19.

21 Better design, this is also subjective. Any
22 structure on my roof, which is a corner lot, would be
23 visible, since I live on a corner lot. Visually less
24 intrusive, this is also subjective.

25 The design is in harmony with the home, and lower

1 than existing structures on the original roof. Operating
2 difficulties, I would ask OP, what is this office using as
3 a measuring stick to determine what is prohibitively costly?

4 Again, in this age of COVID-19, spending money on
5 anything that is not of a necessity to live could be
6 considered prohibitively costly.

7 Every effort has been for the housing of
8 mechanical equipment to be in accordance with setbacks. I
9 provided estimates, which I consider prohibitively costly to
10 make the structure smaller or to demolish it.

11 This would be the only way to come in compliance
12 with the setback, and again, I've already stated that my
13 neighbor, who is the adjoining property, has already, is in
14 support of the project.

15 Light and air of adjacent buildings, no effect.
16 Both neighbors are in support. At this time, you can bring
17 up the PowerPoint presentation. I think I have about three
18 and a half minutes left.

19 I just wanted to highlight some of the things in
20 the timeline. This Twitter picture was posted on January 7,
21 2016 by a community resident. Next slide. Next slide,
22 please.

23 On January 9th, this is a record from DCRA that
24 shows that on January 9th, two days later after this picture
25 was posted, that Gregory Watkins performed an inspection of

1 my property in response to this neighbor's complaint, and
2 stated that everything had been done in accordance with the
3 permits that had been issued. Next slide, please.

4 On January 11th -- two days later, 9th, 10th, 11th
5 -- on the 11th, an additional inspection was performed. New
6 results. Now it was determined that the work exceeded the
7 scope of work.

8 Two days later, what had happened between the 9th
9 and the 11th? The other items that were on this list were
10 dismissed. I have never heard anything from DCRA regarding
11 any of these other violations. I have never paid a fine.
12 The only thing that they stated that I needed to do was to
13 come before your, this Board today and to get approval for
14 the penthouse. Next slide, please.

15 January 29th, if there was already a stop work
16 order on the property on the 11th, it came to my house again
17 on January 29th. This is really, shows evidence of how many
18 inspections and scrutiny that I have been subject to. This
19 is really my life right here. This has been the life of my
20 whole entire project. Next slide, please.

21 These are also pictures taken on Emancipation Day,
22 on April 15, 2016. I was having windows installed. We
23 didn't know that Emancipation Day was a holiday, so we --
24 they came and they said, you can't put your windows in. We
25 said fine. We shut everything down. We rescheduled the

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1 windows to be put in. We took pictures.

2 They couldn't even get to my home because there
3 were other people that were doing work and having deliveries
4 done, and what, when we questioned why they only shut down
5 my project was because they said that we only got a complaint
6 about your project.

7 These are the people, even though we do see them,
8 we didn't get a complaint about them, so we cannot say
9 anything to them. Next slide. Additional work that was
10 going on. This is the truck that actually blocked the
11 inspector from getting to my house, and he saw that this
12 work, these things were being delivered.

13 You can see them carrying in wood into the house
14 next to mine, and they were, they were allowed to continue
15 their work. This has been indicative of my entire project,
16 and I'm finished with my presentation.

17 This concludes my presentation. I think there's
18 one more slide. Is there another slide? I see 6 of 8. So
19 these are also other projects that were completed after mine
20 that I tried to get information on to prepare for this
21 hearing, and I never got a response from DCRA.

22 You can see that this is the same kind of
23 structure, a penthouse structure that is obviously under
24 construction, so it -- this was after my project.

25 And there's another, one more slide, I think, that

1 shows another project that is also under construction that
2 was completed after my project, and they are not going
3 through this process.

4 CHAIRPERSON HILL: Okay. Thanks, Ms. Barksdale.
5 Let me think. So I've got a couple of questions for you, and
6 then we'll see how we kind of work through this. I guess,
7 you know, first of all, I'm really sorry that you've gone
8 through this obviously.

9 When, and I wasn't even necessarily thought I was
10 going to get into some of this, but I guess I will actually
11 ask about some of the timing stuff. You, did you, have you
12 consulted with a land use attorney? I'm just curious.

13 MS. BARKSDALE: I have not. I can't afford a land
14 use attorney.

15 CHAIRPERSON HILL: Okay.

16 MS. BARKSDALE: What I -- what I have done is --
17 okay.

18 CHAIRPERSON HILL: No, that's all right. I'm
19 just, I'm not, I'm not against you. I'm just trying to
20 figure it out, okay?

21 MS. BARKSDALE: Yes. I'm just saying --

22 CHAIRPERSON HILL: So --

23 MS. BARKSDALE: -- that this process, you have to
24 have money, to be even sitting at this table, you have to
25 have a certain amount of money to even be in this process,

1 because --

2 CHAIRPERSON HILL: I understand.

3 MS. BARKSDALE: -- you have to have money for
4 renovations, and things of that nature.

5 CHAIRPERSON HILL: What I'm trying to ask you, I'm
6 sorry. What I'm trying to ask you is, do you know what an
7 area variance is? Do you know what the standard is of the
8 test for a variance to be approved?

9 MS. BARKSDALE: Not necessarily, no. I can tell
10 you it's outlined in the OP report, which --

11 CHAIRPERSON HILL: Okay.

12 MS. BARKSDALE: -- I have tried to respond to each
13 of those tests.

14 CHAIRPERSON HILL: Okay. And I know you've
15 brought up a lot of different things, and I think what I'm
16 going to be curious of, again, and I'm going to ask the
17 Office of Planning, is again, just kind of how the timing of
18 things kind of went out or went through.

19 An area variance or a variance is a pretty
20 difficult test for us to go through in terms of, the first
21 problem is, what is so exceptional about your property that
22 requires the variance to be approved?

23 So that's why I'm just asking whether or not
24 you've kind of gone through this and kind of understand what
25 we're charged with trying to do, right?

1 The next is, when do you think you were kind of
2 made aware, and I'm asking you now, when do you think you
3 might be, were kind of aware that there might have been an
4 issue with the design that you were doing on your roof?

5 MS. BARKSDALE: I think around the January
6 timeframe, but at the same time, I felt that it was something
7 that could be worked out, and I would, my priority was really
8 to get back into my house, and so I felt like once I could
9 get into my house, it was something we could work out at some
10 point.

11 CHAIRPERSON HILL: You got January 9th, you said
12 that there was an inspector that came out and saw everything
13 and approved everything.

14 MS. BARKSDALE: He did.

15 CHAIRPERSON HILL: So you thought everything was
16 fine on January 9th. And then on January 11th, you got a
17 stop work order a few days later. So now you knew that there
18 was something wrong, perhaps.

19 MS. BARKSDALE: Yes.

20 CHAIRPERSON HILL: Right? So on January 11th, how
21 much work had been, I'm asking you, right? So on January
22 11th, how much work had been done already to that penthouse?

23 MS. BARKSDALE: It was substantially complete.

24 CHAIRPERSON HILL: Okay.

25 MS. BARKSDALE: The only thing that hasn't been

1 done, wasn't done, which is still not done today, was the
2 interior.

3 CHAIRPERSON HILL: Okay. So the architects are
4 here, right? So Ms. Everson and/or Mr., I'm lost here. Oh,
5 Terrance. Mr. Terrance.

6 So on January 11th, do you know how much work had
7 actually been done, and do you guys know what a variance is?
8 Mr. Terrance, I'll start with you.

9 MR. TERRANCE: I am, I'm familiar what the
10 variance is. I am not sure the state of the work after the
11 11th of January; however, you know, there was a permit that
12 was approved, so I wasn't aware that there was something that
13 needed to be done, because --

14 (Simultaneous speaking.)

15 CHAIRPERSON HILL: You didn't, you didn't know how
16 much -- you didn't know how much work had been done by
17 January 11th when you received the stop work order?

18 MR. TERRANCE: That's correct.

19 CHAIRPERSON HILL: Okay. All right. Does anyone
20 have any questions for the witness? Mr. Hood? Mr. Hood?

21 ZC CHAIR HOOD: Ms. Barksdale?

22 MS. BARKSDALE: Yes?

23 ZC CHAIR HOOD: I, too, am troubled by you having
24 to go through all of this, and especially at that late date,
25 so I'm going to get some more information.

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1 Who gave you the approval? Was it from the Zoning
2 Administrator's Office on the 9th, I believe it was?

3 MS. BARKSDALE: It was an inspector. I don't, I
4 can't tell, there were so many inspectors that were coming
5 out. I assume that they're all under the umbrella of DCRA,
6 but that was, you know, yes. It was under the DCRA inspector
7 that came out on the 9th.

8 ZC CHAIR HOOD: So he basically came out to make
9 sure all your, all your, make sure that all the work that has
10 been done so far, which was probably, what percentage
11 complete was it?

12 MS. BARKSDALE: In terms of all the work --

13 ZC CHAIR HOOD: Yes, when he came out and approved
14 everything.

15 MS. BARKSDALE: It was, everything was
16 substantially complete in terms of the structure and
17 everything like that. He was --

18 ZC CHAIR HOOD: So --

19 MS. BARKSDALE: -- coming out in response to the
20 Twitter post --

21 (Simultaneous speaking.)

22 ZC CHAIR HOOD: Right, I'm familiar with the, I'm
23 familiar with the Twitter. Not that post, but other posts.
24 For the, I'm just, I'm just concerned that you got an
25 approval, I'm just trying to figure out the approval.

1 As the Chairman said, the timeline. For me,
2 that's going to be very critical, and at this time, unless
3 it's in the record, and I may have missed it, I'm looking for
4 the time, and it may be in the record, but I'm really looking
5 for the time.

6 And also, when I get to the Office of Planning,
7 I want to ask them, how many cases have, I've seen some like
8 this before, and I've never seen this type of recommendation
9 in situations like this, but this is some more for me to look
10 at. Thank you, Ms. Barksdale, and thank you, Mr. Chairman.

11 CHAIRPERSON HILL: Okay. Mr. Hart?

12 VICE CHAIRPERSON HART: Thank you, Ms. Barksdale,
13 for stepping us through the timeline. It's very helpful.
14 I do recall, I think you were before us last year, if I, and
15 I can't recall what that, what the relief was that we were
16 looking at, but anyhow I was just trying to understand. I
17 see in the exhibits you have a memo from the Zoning
18 Administrator, Matt LeGrant, from, it looks like the, 2017?
19 February 13, 2017, so that was a year after the stop work
20 order.

21 MS. BARKSDALE: Yes.

22 VICE CHAIRPERSON HART: So the timeline that we're
23 talking about is, you, before 2016, you had an approved plan.
24 Let's say it's 2015, you had an approved plan that was, that
25 had gone through the DCRA review, and was already being

1 constructed.

2 MS. BARKSDALE: Yes.

3 VICE CHAIRPERSON HART: January, you, January 9th,
4 you had an inspector come, and they gave you a, you know,
5 thumbs up. And I'm paraphrasing, so --

6 MS. BARKSDALE: Yes.

7 VICE CHAIRPERSON HART: -- forgive me. But thumbs
8 up, you know, all good. On January the 11th of 2016, you
9 then got a, hold up, there's a problem here.

10 We need to, there's an issue, and that's when you
11 got the stop work order. Subsequent to that, you had, as
12 you've said, a number of these folks that had come, the
13 inspectors had come through, but -- excuse me, not but -- and
14 we now, we also have the Zoning Administrator letter, the
15 determination from, when is this? 2017.

16 So February 13, 2017. So that was a, more than
17 a year later. And in that, it includes two special
18 exception, two pieces of relief that was necessary for your
19 necessary. One of them is, and they're both special
20 exceptions.

21 So all of that is in the, is in the record now.
22 There's also another determination by the -- I saw that
23 somewhere. I can't remember where I saw that now. Oh,
24 there.

25 Revised memo on Exhibit 46, which is dated, give

1 me a second, on May the 20th, that includes the area variance
2 relief. So the area, the variance relief that is now, kind
3 of we're discussing now. So almost three years later --

4 MS. BARKSDALE: Yes.

5 VICE CHAIRPERSON HART: -- would be yet another
6 determination that was required for this. I'm, I guess this
7 is less of a question and is more of a, kind of making sure
8 I understand. And I know that there are a lot of other
9 pieces to this, but I'm trying to understand all of those
10 particular elements.

11 So you're kind of feeling like you've been kind
12 of pulled in different directions in saying, this is what you
13 have, and this is, you know, you can, you can move in this
14 direction. Oh, well wait, no, we've got to, you know, stop.

15 We've got to, have to look at this. And then
16 taking several, well taking a year to come up with a zoning
17 determination letter after the stop work order was issued.

18 Now I don't know if there was something that was
19 in between that, and there probably was, you know, kind of
20 back and forth, some discussion that was happening, but it
21 seems a little bit strange that there would be such a long
22 period between that.

23 And I understand that, you know, you're, we've all
24 got lives. We've all got things that we have to do, and it's
25 very difficult to, you know, you're not being paid to build

1 your, or to redevelop your house, or to redesign your house,
2 so it's -- you've got to either pay somebody to do that, or
3 whatever your time, you spend a little bit more time to get
4 some things done.

5 So I understand some of the delay, but it just
6 seems still a little bit long to have the, that first zoning
7 determination letter a year after the stop work order.
8 Again, not a question, more of a comment.

9 And just so that you're kind of aware, Ms.
10 Barksdale, the zoning regulations have built within them --
11 they're of course a set of rules. Built within them are some
12 adjustments to those rules, and those adjustments are called
13 special exceptions. So you can come to the BZA and get an
14 approval of a special exception if you meet certain criteria.

15 Outside of the zoning regulations are things that
16 are called variances. So you are trying to do something that
17 is outside of what is conceived upon, or conceived with the
18 zoning regs.

19 And so it is a, it's a, typically a harder, well,
20 we call it a higher bar to have to get over to be able to,
21 for the, for the BZA to have to approve those.

22 And I don't know where I am with this right now,
23 but some of that I just wanted to make sure that it was
24 fairly clear where we were. But again, I'll stop and let Ms.
25 John provide her comments as well, or questions that she has.

1 CHAIRPERSON HILL: Ms. John? You're on mute, Ms.
2 John.

3 MEMBER JOHN: Sorry. So my question is for Ms.
4 Everson, the architect, and the crucial issue for me is this
5 timeline between January 7, 2016 and January 12, 2016. Have
6 you seen the permit that was valid during that time? Have
7 you had a chance to look at it? We can't hear you.

8 MS. EVERSON: Can you hear me? Can you hear me?

9 MEMBER JOHN: Now I can. Now I can.

10 MS. EVERSON: I have, I would like to defer to
11 Denver Terrance. I have seen the approved permit, but I
12 would like to defer to Denver.

13 MEMBER JOHN: Right. Did it, do you know if it
14 showed the penthouse? What did it show?

15 MS. EVERSON: We have approved permits that have
16 the penthouse, including electrical plans and structural
17 plans for the penthouse that were approved.

18 MEMBER JOHN: Did it, did it show the area of the
19 penthouse and the height of the penthouse?

20 MR. TERRANCE: I did, this is Denver Terrance.
21 The answer to that question is yes.

22 MEMBER JOHN: And was it stamped?

23 MR. TERRANCE: I believe so, but I'm not sure.
24 I know we submitted, you know, the necessary drawings to get
25 through the permitting approval process.

1 MEMBER JOHN: So how would you prove to the Board
2 that that valid permit existed for the penthouse on January
3 8th, and that's the permit that the inspector looked at when
4 the inspector came in response to the Twitter photograph?

5 That's the issue here, whether or not the
6 inspector looked at the approved permits at that time and
7 decided that, as the inspector said, everything is in order.
8 That's really the issue.

9 MR. TERRANCE: So I think the, I think it's just
10 a matter of going back to look at the permits approval, and
11 the drawings to confirm, you know, going back to that January
12 date.

13 MEMBER JOHN: Okay. So that's it for me. What
14 was, what did the inspector look at? What, how much
15 completion was there at that time? And that would be very
16 helpful.

17 (Audio interference.)

18 MEMBER JOHN: We can't hear you.

19 MS. EVERSON: The inspector -- can you hear me
20 now?

21 MEMBER JOHN: Yes.

22 MS. EVERSON: The inspector reviewed paper
23 drawings that Ms. Barksdale has in her possession that were
24 stamped and approved, and the structure was substantially
25 complete.

1 MEMBER JOHN: Okay. Now is that in the record?

2 MS. BARKSDALE: What are you asking for in terms
3 of what's in the record?

4 MEMBER JOHN: The drawings with the stamp on them.

5 MS. BARKSDALE: The stamped drawings are included
6 in the, in the record, but what I'm saying, he's always
7 provided me with elevation drawings. They were always
8 included in my full package.

9 When I went to DCRA to obtain the permit, and we
10 went back and forth with them, he had to switch, he had to
11 make multiple changes to the permit.

12 It wasn't just, we went up, showed up one day, and
13 the same day, we got a permit. We went back and forth.
14 There was structural changes that had to be made to the
15 design, and the elevation drawings were always included, and
16 have always been provided from Denver to me, and I printed
17 them and I gave them to DCRA, and they took those pages out
18 when they approved the final permit, and said that these
19 elevation drawings were not necessary to be part of the
20 permit package.

21 So what is included in the record is the stamped
22 drawings that show that electrical and structural had
23 approved the drawings, because those were the only pages that
24 DCRA said, stated were needed for this particular permit.

25 (Audio interference.)

1 CHAIRPERSON HILL: Ms. John, your voice -- Ms.
2 John, your sound is going.

3 (Audio interference.)

4 CHAIRPERSON HILL: No, it's still going, Ms. John.

5 (Audio interference.)

6 CHAIRPERSON HILL: We can't hear you, Ms. John.

7 (Audio interference.)

8 ZC CHAIR HOOD: You may have to log off and log
9 back on.

10 MEMBER JOHN: The sound is going? Oh, okay. Let
11 me try again. Can you hear? No?

12 CHAIRPERSON HILL: Yes.

13 MEMBER JOHN: Okay. I'll try to do something.
14 I'm not sure --

15 (Audio interference.)

16 MEMBER JOHN: Okay. Thank you. Go ahead.

17 CHAIRPERSON HILL: Ms. John, why don't you take
18 your --

19 (Simultaneous speaking.)

20 CHAIRPERSON HILL: -- take your video off, and
21 let's see if it works better.

22 MEMBER JOHN: I'm finished. I --

23 CHAIRPERSON HILL: Okay. All right. Well we'll
24 come back around. But still, I think if you turn your video
25 off, turn your video, turn your video off and see --

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1 MEMBER JOHN: Can you hear me now?

2 CHAIRPERSON HILL: Please talk.

3 MEMBER JOHN: Oh, can you hear me?

4 CHAIRPERSON HILL: Yes.

5 MEMBER JOHN: Mr. Chairman, can you hear me?

6 Okay. So I am fine. I have no more questions at this time
7 until I can figure out what's happening with my system.

8 CHAIRPERSON HILL: Okay. I've got to let you
9 know, I think if you just keep, if you keep the video off,
10 I'll be sure to come around and ask you if you have any
11 questions. It might be helpful.

12 MEMBER JOHN: Right. Thank you.

13 CHAIRPERSON HILL: You can try to play with it at
14 lunch. Okay.

15 MEMBER JOHN: Thank you.

16 CHAIRPERSON HILL: All right. Does anyone have
17 any more questions for Ms. Barksdale? Okay. Commissioner
18 Thomas, do you want to take your microphone off?

19 MR. THOMAS: Yes.

20 CHAIRPERSON HILL: Okay. What would you like to
21 tell us, Mr. Thomas, the Commissioner?

22 MR. THOMAS: I have a lot to add. We did submit
23 the Form 129 report in this matter. I signed that form back
24 on November 2, 2019. Ms. Barksdale did present to the
25 Commission, and there was an extensive presentation.

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1 There were questions from the commissioners. Some
2 questions from the public, and the Commission did vote, if
3 I recall, by a vote of eight in favor, with one abstention.
4 There were nine commissioners present that night.

5 There was attached to the report a two-page or
6 page and a half written presentation that was attached to the
7 Form 129. I do wish to make a correction to that document.

8 It refers to our meeting having taken place on
9 October 17th. Reality it was September 17th. We meet on the
10 second, I mean the third Tuesday of each month, third Tuesday
11 of September was the 17th.

12 And the reference to the Bloomingdale Civic
13 Association being the day before was actually September 16th,
14 not October 16th. But other than that, I stand by, and the
15 Commission stands by the report that we submitted.

16 We believed that, we did not receive any
17 opposition from residents, from neighbors at the time. We
18 have not received any since then actually, and so we stand
19 by the report that we submitted back on November 2nd.

20 CHAIRPERSON HILL: Okay, great. Commissioner, so
21 I had a question for you. The, it says that you guys, and
22 I'm not sure, I can't, I'm, I'll pull up your report in a
23 second, but you guys voted on the special exceptions. Did
24 you vote on the variance?

25 MR. THOMAS: I believe we voted on the special

1 exceptions. I don't recall a specific mention of variance.

2 The special exceptions to establish a rooftop
3 penthouse for storage, and to build a penthouse without the
4 one to one setback from the side wall. I believe that's what
5 was, what was before us.

6 CHAIRPERSON HILL: So do you know that if the
7 design that you, the ANC, approved is the design that
8 currently is there? Do you know for a fact that that's what
9 you approved?

10 MR. THOMAS: I do not know, because this matter
11 has not been back before us since September of 2019.

12 CHAIRPERSON HILL: Okay. And so the Bloomingdale
13 Civic Association, again, it seems to have supported the two
14 special exceptions, but do you know if they, and I'm just
15 asking you for your testimony, do you know if they thought
16 about the variance?

17 MR. THOMAS: I cannot speak for the Bloomingdale
18 Civic Association. I was not present at the meeting. I'm
19 not a member of the organization.

20 What we do require, or we recommend before matters
21 are brought before ANC 5E, is that they first present them
22 to the, to the relevant civic association, and then we take
23 input from that as one of the things that we consider when
24 we -- when we contemplate these matters.

25 CHAIRPERSON HILL: Okay.

1 MR. THOMAS: I know that, to answer the question.

2 CHAIRPERSON HILL: Okay. Okay, Commissioner. I
3 can ask the applicant. Ms. Barksdale, do you know, you guys
4 presented in front of the ANC, correct?

5 MS. BARKSDALE: We did. We presented both in
6 front of the Bloomingdale Civic Association and also the ANC.

7 CHAIRPERSON HILL: Okay. When you, when you
8 presented in front of the ANC, did you present with the area
9 variance and the same plans that you have before you?

10 MS. BARKSDALE: It was the same plans that I had
11 presented. The only thing that happened is that it was
12 during the OP's, you know, review of the application that
13 that additional variance came up, and it was this body that
14 said that I did not need to go back to the ANC because I had
15 already presented the same plans that I presented to them,
16 showing that the structure is the same plans that are being
17 presented today, and that are the same plans that are -- that
18 are in the record. Those plans have not changed.

19 CHAIRPERSON HILL: Okay. When you say that, okay.
20 Right. So you didn't present in front of them concerning the
21 variance, and you're saying that we said you didn't have to
22 go back to them? Is that what you said?

23 MS. BARKSDALE: Yes, because when I came back, it
24 was, OP was the one, Maxine was the one that actually
25 discovered --

1 CHAIRPERSON HILL: --- flagged the variance.

2 MS. BARKSDALE: -- that I needed the area
3 variance, and I guess if you could look back at the record,
4 you said that we didn't, I didn't need to go back to the ANC
5 at all.

6 The plans that I had presented actually showed the
7 structure, and it was just a, I guess a technicality in terms
8 of having Office of Zoning add that to their memo.

9 CHAIRPERSON HILL: Okay. Okay.

10 MS. BARKSDALE: So that's what --

11 CHAIRPERSON HILL: Okay. Give me a second. Hey,
12 Ms. Roberts, can you hear me?

13 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman.
14 Are you hearing me?

15 CHAIRPERSON HILL: I can, Ms. Roberts. How are
16 you?

17 MS. BROWN-ROBERTS: Okay. I'm fine, thanks. Nice
18 to see you.

19 CHAIRPERSON HILL: Nice to see you as well. It's
20 a pleasure to see you. Let's see. If, my quick question to
21 you is, who has their microphone on? Oh, Ms. Roberts. Okay.

22 MS. BROWN-ROBERTS: I'm sorry.

23 CHAIRPERSON HILL: You're all right. So actually,
24 if you could, can you just, for the record, I interrupted
25 you.

1 MS. BROWN-ROBERTS: Yes. Good afternoon, Mr.
2 Chairman and members of the BZA. I am Maxine Brown-Roberts
3 from the Office of Planning.

4 CHAIRPERSON HILL: Okay. So Ms. Roberts, the
5 problem that I'm troubled with and I'm going to dig into, I
6 just want to understand the timing of things and how things
7 sort of came about. So the applicant, the variance came up
8 during your review. Is that correct?

9 MS. BROWN-ROBERTS: That's correct.

10 CHAIRPERSON HILL: So they didn't know about the
11 variance until you pointed it out?

12 MS. BROWN-ROBERTS: No, I did -- well right, yes.
13 While I was doing my review, I noticed that they exceeded the
14 square footage for the so-called penthouse, and I brought it
15 to her attention, and I even recommended that she speak to
16 the Zoning Administrator about it.

17 When we had the first hearing, I also mentioned
18 it again, and that's when you, the Board, said that she
19 should, I think, address the variance in, that's one of the
20 requirements for this hearing, that you'd ask for that the,
21 that it be addressed, the variance has to be addressed.

22 CHAIRPERSON HILL: Right. And the, when you had
23 reviewed the application, the penthouse had already been
24 built? Is that correct?

25 MS. BROWN-ROBERTS: Yes, sir.

1 CHAIRPERSON HILL: Okay. And it had been
2 completed?

3 MS. BROWN-ROBERTS: If you look in my report, I
4 submitted at Exhibit 54B, there's a timeline there, which I
5 worked with DCRA, because since it's, you know, all the, all
6 the correspondence was with DCRA.

7 So I spoke to them to get a record from them as
8 to what was given. And so you'll find that in 54B. Also,
9 it refers to, within that exhibit, it also refers to another
10 exhibit, which is Exhibit E, and that is a picture that was
11 taken on January, the January 7th that you've been
12 discussing.

13 CHAIRPERSON HILL: The one that has, that looks
14 like, as though it's been substantially complete?

15 MS. BROWN-ROBERTS: Yes, and there are two, you
16 see two gentlemen there.

17 CHAIRPERSON HILL: Yes.

18 MS. BROWN-ROBERTS: Yes, that was the one that was
19 submitted. So if you look at that, and you look at what it
20 is today, you know, there is a, there's a difference.

21 CHAIRPERSON HILL: I don't see the difference
22 between what there is today. I don't see anything in your,
23 I'd have to --

24 MS. BROWN-ROBERTS: If you look at, okay. If you
25 look in my report, if you look in my report --

1 CHAIRPERSON HILL: Yes, I see it.

2 MS. BROWN-ROBERTS: -- yes.

3 CHAIRPERSON HILL: Okay. All right. The
4 difference you're saying is that they, that it continues to
5 kind of go further back.

6 MS. BROWN-ROBERTS: I --

7 CHAIRPERSON HILL: Is that correct?

8 MS. BROWN-ROBERTS: I don't know. If you look at
9 the --

10 CHAIRPERSON HILL: That's Exhibit H.

11 MS. BROWN-ROBERTS: E, F, G, H. Just a second.

12 CHAIRPERSON HILL: It doesn't matter too much.
13 I was just trying to, I'm trying to understand the timing.
14 So --

15 MS. BROWN-ROBERTS: Right.

16 CHAIRPERSON HILL: Okay. Let's see. All right.
17 So I guess I'm going to jump around a little bit here.

18 There was, I'll come back to you, Ms. Roberts, in
19 one moment. Does anyone have any questions for the
20 Commissioner? No one had a chance yet to ask but me. Mr.
21 Hood?

22 ZC CHAIR HOOD: This is for Chairman Thomas. The
23 one abstention, was that the single-member district
24 commissioner?

25 MR. THOMAS: And interestingly enough, I went back

1 and I watched the video today in anticipation of this
2 meeting, just to find out what the basis of the abstention
3 might have been, and that Commissioner did not speak during
4 the hearing on this matter. So I don't know what his basis
5 of, for abstaining was.

6 ZC CHAIR HOOD: So my initial question is, it was
7 not the single member district commissioner?

8 MR. THOMAS: No, the single member, single member
9 district commissioner, Commissioner Holliday moved for it,
10 moved for this matter to go forward.

11 ZC CHAIR HOOD: Okay. Okay. Thank you.

12 MR. THOMAS: Yes.

13 CHAIRPERSON HILL: Vice Chair Hart, did you have
14 a question? Ms. John, did you have a question?

15 MEMBER JOHN: Can you hear me?

16 CHAIRPERSON HILL: Yes.

17 MEMBER JOHN: I'm still trying to find the exhibit
18 that Ms. Roberts was referencing. I'm looking at the
19 timeline, but I couldn't find Exhibit E.

20 CHAIRPERSON HILL: Exhibit H is the one that I
21 spoke, well I'm sorry. Exhibit, if you look in Exhibit 58B
22 as in boy, and you scroll down, the exhibits are labeled.

23 MEMBER JOHN: Oh. Okay. I, 58, for me, is the
24 letter in opposition.

25 CHAIRPERSON HILL: No, 54.

1 MEMBER JOHN: 54? The supplemental --

2 CHAIRPERSON HILL: 54B as in boy.

3 MEMBER JOHN: Okay. Just give me a second.

4 CHAIRPERSON HILL: Of course.

5 MEMBER JOHN: Okay. So the photograph with the
6 gentleman on the roof, is that the property at 100 S Street?

7 CHAIRPERSON HILL: Yes. That's, you're asking Ms.
8 Brown-Roberts?

9 MEMBER JOHN: Yes.

10 CHAIRPERSON HILL: She is saying yes. Ms. Brown-
11 Roberts -- she said yes, Ms. John.

12 MEMBER JOHN: Okay. And so --

13 (Audio interference.)

14 MEMBER JOHN: -- back to Ms. Barksdale at this
15 point. What would be the difference between this photograph
16 and the one that's in the first photograph in OP's report?
17 It's painted blue.

18 CHAIRPERSON HILL: Your question, Ms. John, I'm
19 sorry, is the difference between Exhibit --

20 (Simultaneous speaking.)

21 (Audio interference.)

22 MEMBER JOHN: The OP photograph, I believe it's
23 in that supplemental --

24 (Audio interference.)

25 MEMBER JOHN: -- report 54, showing the penthouse.

1 So what would you say, Ms. Roberts, is the difference between
2 the two?

3 MS. BROWN-ROBERTS: Well you can see that it's
4 painted. The stop work order was given around that same
5 time, around the January, between the 7th and 12th, the stop
6 work order was given. So it would not have been painted blue
7 at the time. And you --

8 MEMBER JOHN: Okay.

9 MS. BROWN-ROBERTS: -- can see too that on the,
10 I'm not sure what you call those. Those are the rafters.
11 You can see that those are not filled in.

12 MEMBER JOHN: Okay. Okay. Thank you. Thank you,
13 Ms. Roberts.

14 MS. BROWN-ROBERTS: Okay.

15 ZC CHAIR HOOD: Mr. Chairman, I have a follow-up
16 question.

17 CHAIRPERSON HILL: Sure, go ahead.

18 ZC CHAIR HOOD: In this timeline, Ms. Roberts,
19 could, is it safe for me to say that A is, I mean
20 alphabetically, like A happens first, B happens second, C
21 happened third?

22 MS. BROWN-ROBERTS: That was my understanding from
23 speaking with DCRA, who did this timeline. That was my
24 understanding.

25 ZC CHAIR HOOD: So if that's the case, I would

1 ask, as we go further, I would ask that they would just --
2 (Audio interference.)

3 ZC CHAIR HOOD: -- for people like me, because I
4 want to be able to look at A, okay, this is what happened at
5 Exhibit A. This is what happened in Exhibit B, and the date.

6 Even though I know the date's on there, but I
7 think it would be easier as we get ready to continue this
8 case, depending upon what happens, if they would be so kind
9 to do that, I think it would make it easier for everybody,
10 because right now, if I look at this, I might interpret if
11 they say A happened here, this is the date, this is what
12 happened, B, C, D, like that. That's my request.

13 CHAIRPERSON HILL: Ms. Brown-Roberts, I can't hear
14 you.

15 MS. BROWN-ROBERTS: I'm sorry. Instead of having
16 the date first, you state what happened and the date.

17 ZC CHAIR HOOD: Right. So I know you were muted,
18 so you probably were telling me more, but I appreciate it.

19 MS. BROWN-ROBERTS: Okay, no problem, Mr. Hood.

20 CHAIRPERSON HILL: Hey, Dan, are you there? Oh,
21 sorry. Mr. Hart, you got a question?

22 VICE CHAIRPERSON HART: Yes. This is a question
23 for Ms. Brown-Roberts. So I'm trying to get to the
24 exceptional condition aspect of this, but I know that you
25 said that you are, your report is to -- is to deny the

1 application. And you're saying that there is no exceptional
2 conditions.

3 MS. BROWN-ROBERTS: That's correct. That's
4 correct.

5 VICE CHAIRPERSON HART: And you're also saying
6 that they're, you have kind of a somewhat different viewpoint
7 than the applicant on what is, what is, how the timeline came
8 about.

9 MS. BROWN-ROBERTS: Yes. Yes, sir.

10 VICE CHAIRPERSON HART: Or I should say, different
11 interpretation, I believe is a better way to think about it.

12 MS. BROWN-ROBERTS: I don't know if it's different
13 interpretation. I think DCRA went through their records, and
14 you know, looked to see what happened on which date, and
15 that's what in, that's what's in the timeline. You know, I
16 can't, I can't speak on it personally.

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

18 MS. BROWN-ROBERTS: Okay.

19 CHAIRPERSON HILL: Okay. Let's see. Dan, you're
20 their OAG, right?

21 MR. BASSETT: Yes.

22 CHAIRPERSON HILL: Are you, are you not using your
23 screen for a second?

24 MR. BASSETT: I'm not using video right now.

25 CHAIRPERSON HILL: Okay. That's fine. So -- oh

1 yes. So okay. So let's just say, and this is where I'm --
2 we're going to get into the weeds on this one, it looks like.

3 So let's just say that DCRA approved this, and it
4 got built, and then now they're before us after the fact.

5 Can, does that go into anything within the
6 regulations in terms of granting a variance, and/or is there
7 a different path in terms of reliance or something that the
8 applicant could, and maybe Mr. Hood knows. I don't know.
9 The applicant could then get this approved?

10 MR. BASSETT: I don't know off the top of my head.
11 I can do a little bit more research and get back to you on
12 that. I don't know of any reliance arguments that I've seen
13 in my time here.

14 ZC CHAIR HOOD: So in my time, I've seen them, but
15 apparently it changes from, sometimes it changes from month
16 to month, but I could just tell you that there's a, there was
17 a, some reliance case law about predictability, but that's
18 why I think the timeline is going to be important, and it
19 goes back to, also to what the Vice Chair said.

20 So I would, I would ask OAG to -- I'll let them
21 see what it, what the flavor of the day is now, but I can
22 tell you I've seen that reliance argument.

23 I know Allan has produced some years ago about
24 case law. So there's probably some case law out there. We
25 just need to research it. I can't recall what it was. Maybe

1 Ms. John maybe knows what to do on that.

2 MEMBER JOHN: So can you hear me?

3 CHAIRPERSON HILL: Yes.

4 MEMBER JOHN: Can you hear me? I think, I think
5 there is some case law on that, which is why I was stressing
6 that issue of the January 10 inspection date, and whether or
7 not the permits were stamped, or whether that inspector
8 looked at the attic and said that the work was proceeding,
9 you know, I forget the exact words.

10 And then I noticed that the DCRA report is
11 confusing because I don't see a reference to that inspection
12 date. It says January 12th, DCRA visits 100 S Street, and
13 that language does not reflect what's written in the
14 inspection report.

15 So I'm a little bit confused about that. So the
16 issue is, what did, what did DCRA look at, at that time?
17 What was the inspector approving? So that would be my
18 question to Ms. Roberts to get some clarity on.

19 CHAIRPERSON HILL: So okay. So this is, okay.
20 So this is, all right. So Ms. Barksdale, I'm going to jump
21 back over to you in a second, then we're going to go around
22 the horn as to who is still on this call that needs to
23 testify.

24 Ms. Barksdale, at some point, you thought that
25 there was a, and this, I'm just asking, okay, and trying to

1 figure this out. At some point --

2 MS. BARKSDALE: Okay.

3 CHAIRPERSON HILL: -- because to me, if you were
4 worried about, and there was going to be a problem, you
5 wouldn't invest money in something that you thought was going
6 to be a problem, right?

7 MS. BARKSDALE: Right.

8 CHAIRPERSON HILL: And so when did you think that
9 there might be a problem?

10 MS. BARKSDALE: When the second inspector came out
11 on the 11th is when I became aware, but at that point, the
12 structure had already been substantially built. There was --

13 CHAIRPERSON HILL: So that's --

14 MS. BARKSDALE: -- nothing that --

15 CHAIRPERSON HILL: -- 2016 January 11th?

16 MS. BARKSDALE: Yes.

17 CHAIRPERSON HILL: Right? And so then what
18 happened after 2016 January 11th? You got a stop work order,
19 so then you had to stop work, so you haven't worked since
20 January 11, 2016?

21 MS. BARKSDALE: No.

22 CHAIRPERSON HILL: So then what happened?

23 MS. BARKSDALE: So what happened was I ended up
24 having to, we went back and forth with DCRA, and they allowed
25 me to complete the rest of my home after, I --

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1 CHAIRPERSON HILL: Okay.

2 MS. BARKSDALE: -- think it was about six and a
3 half months, they let me, going back and forth, they finally
4 let me complete the rest of my home and not disturb that
5 particular area.

6 CHAIRPERSON HILL: Why did they let -- when you
7 say let you complete the rest of the home and not go into the
8 area that was going to require you to have a variance --

9 MS. BARKSDALE: Yes, that was what they had
10 decided. I mean I'm not sure how they came up with that.

11 CHAIRPERSON HILL: So they let you complete the
12 rest of the home, but not the way it is now?

13 MS. BARKSDALE: They just, I was not able to
14 complete any additional work to that particular, to the
15 penthouse structure. I was just able to complete the rest
16 of my home.

17 CHAIRPERSON HILL: Okay. And is that the way it
18 is now?

19 MS. BARKSDALE: Exactly. It is still unfinished,
20 and actually it's causing damage, and it has caused damage
21 to the -- to the neighbor's house as well.

22 CHAIRPERSON HILL: Okay. So then, so then it's
23 not, and now, Ms. Brown-Roberts, this is what I'm trying to
24 figure out. The part that needs the variance hasn't been
25 built yet. Is that what you're trying to tell me?

1 MS. BROWN-ROBERTS: No, it is built. Oh, yes, it
2 is built.

3 CHAIRPERSON HILL: Okay. So then Ms. Barksdale,
4 what I was trying to understand is, you got a stop work order
5 for January 11th, and at some point, you were allowed to
6 continue to build?

7 MS. BARKSDALE: Yes.

8 CHAIRPERSON HILL: So somebody, you're saying,
9 gave you permission to build everything that's up there?

10 MS. BARKSDALE: No, I'm not, I was completing the
11 rest of my home. That particular area, the penthouse area,
12 had to remain as it was, and the rest of the house was built
13 around it.

14 CHAIRPERSON HILL: So the penthouse area that is
15 in question has not been completed to this day?

16 MS. BARKSDALE: The interior has not been
17 completed. The exterior was substantially complete on
18 January 11th, when the initial stop work order was issued.

19 CHAIRPERSON HILL: Okay. Okay, I think I kind of
20 understand. Mr. Hart, I hope you're following along, as our
21 architect, but not really an architect.

22 VICE CHAIRPERSON HART: Thank you.

23 CHAIRPERSON HILL: So okay. I'm going to let --

24 VICE CHAIRPERSON HART: Actually I do have a
25 question for Ms. Barksdale about the penthouse itself. So

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1 it is fairly significant. I mean it's a, it's a, it's a
2 fairly large penthouse.

3 For, if it were for kind of just mechanical space,
4 so there's other stuff that's in there. There is a floor in
5 there, because you have spiral stairs, it looks like, that
6 goes up to it, yes?

7 MS. BARKSDALE: Yes.

8 VICE CHAIRPERSON HART: Okay. And so inside of
9 the, because those are not structural walls, from what I,
10 from what I can understand, and maybe this is your architect,
11 Mr. Terrance or Ms. Everson, because the penthouse doesn't
12 actually have structural walls, there just, and I'm not sure
13 what the construction is. Is it just, is it just studs that
14 we're talking about?

15 MS. BARKSDALE: No, it's a whole structure. It
16 has walls, it has Hardie board. All that stuff was --

17 VICE CHAIRPERSON HART: Yes, yes, no. What I'm,
18 what I'm, okay. So okay. So there are structural members
19 in the, there's a structural part of the house, and then
20 there are partition walls that you can use to partition the,
21 you know, the main structure from, you know, different parts
22 of the house.

23 The, on the roof, the roof, there is a structure
24 that actually holds up the roof for the penthouse, but it is
25 a, they are 2x4s. You can, you can take those down pretty

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1 easily.

2 You see them on TV all the time. They're taking
3 down partition walls fairly easily, and I'm just trying to
4 understand what is the, what is the necessity to have the,
5 that room to be as big as it is?

6 There's some HVAC in there, but I don't understand
7 what the rest of -- what else is in there.

8 MS. BARKSDALE: So the --

9 (Simultaneous speaking.)

10 MR. TERRANCE: I could --

11 VICE CHAIRPERSON HART: Mr. Terrance or Ms.
12 Everson can be helpful to have that.

13 MR. TERRANCE: So the mechanical room, or the
14 penthouse structure, right now, is, it houses the air
15 handlers for the upper level, and there's duct work there
16 that is in this space, and right now, that's it.

17 So they didn't get a chance to complete the entire
18 interior of this space. So I think that answers your
19 question.

20 CHAIRPERSON HILL: Mr. Hart, you're on mute.

21 VICE CHAIRPERSON HART: Sorry. And I just, no,
22 that did not answer my question. What I'm trying to gather
23 is, I have a plan on Exhibit 57 that shows the penthouse, and
24 it shows an HVAC unit that's in there, but the HVAC unit is
25 pretty small.

1 There's a door that goes out, you know, I guess
2 onto a deck that's there, or maybe it's just, I don't know.
3 But I'm kind of unclear as to how you get from the spiral
4 stair to the, to the, to the door that goes onto the roof,
5 and what's the --

6 MR. TERRANCE: Okay.

7 VICE CHAIRPERSON HART: -- rest of the, I mean I
8 understand there may be some duct work constructed, and stuff
9 that's in there, but it still seems very large for what is,
10 or for what is supposed, what could be in there.

11 And I understand that you might not be able to do,
12 what is it, I think 30 square feet, Ms. Brown-Roberts, is
13 the, is what's allowed?

14 MS. BROWN-ROBERTS: Yes, Mr. -- yes.

15 VICE CHAIRPERSON HART: Okay. So I understand you
16 might not be able to get to that, but it just seems like it's
17 fairly large for, you know, for that.

18 I'm just trying to understand what that, what's
19 kind of in there. So that's what I'm trying to get more
20 information around.

21 MR. TERRANCE: Yes. So it, like I said, there's
22 mechanical equipment and duct work in this space. Ms.
23 Barksdale, did you include pictures, just giving them an idea
24 of what's in the space now? But that's all it is.

25 I mean it's an unfinished floor space, and the

1 door obviously goes out to the roof, which gains access to
2 the condensers that are on the roof.

3 VICE CHAIRPERSON HART: No, I guess I understand
4 that. It's, that's just, I'll leave this alone, but I just
5 was, I'm just saying that it's a fairly sizable room that is,
6 that is up there.

7 10 by 13, something like that? No, less than
8 that. I don't know, it's 130 square feet, so it's a -- like
9 I said, anyhow, it just seems like there might be a way to
10 reduce the size of that.

11 Yes, there's structure there, but it's not, it
12 doesn't seem as though they are, they are structure, it is
13 structure that is, it's only structure for the, for the, for
14 the room itself.

15 It's not like it's holding up any other part of
16 the, of the, of the house. It's just trying to house the
17 mechanical equipment, so anyhow --

18 (Simultaneous speaking.)

19 MR. TERRANCE: That is correct. Your statement
20 there is absolutely correct --

21 VICE CHAIRPERSON HART: Okay.

22 MR. TERRANCE: -- that --

23 CHAIRPERSON HILL: Okay. All right. I mean I
24 don't think we're going to get -- we're going to need more
25 stuff. So we'll see what happens here I think. Mr. Young,

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1 who else is here to testify other than Ms. Hon?

2 MR. YOUNG: I have 1, 2, 3, 4, 5, 6, 7, 8 -- I
3 have 10 people.

4 CHAIRPERSON HILL: Wow. Okay.

5 MR. YOUNG: I have Adrienne Lord-Sorensen from
6 DCRA. And then I have one, two, three, four, five, six, I
7 have seven people who signed up in support, and two in
8 opposition.

9 CHAIRPERSON HILL: Okay. Let me -- why don't you
10 let in Ms. Lord-Sorensen real quick?

11 MS. LORD-SORENSEN: Hi, good afternoon, Chairman
12 Hill and members of the Board.

13 CHAIRPERSON HILL: Hi, could you introduce
14 yourself, please?

15 MS. LORD-SORENSEN: Yes. Hi, good afternoon. My
16 name is Adrienne Lord-Sorensen, Assistant General Counsel
17 with the D.C. Department of Consumer and Regulatory Affairs.

18 CHAIRPERSON HILL: Okay, great. Ms. Lord-
19 Sorensen, it's lovely to see you. So glad you're still
20 around with us.

21 MS. LORD-SORENSEN: Thank you.

22 CHAIRPERSON HILL: Okay. So I'll try to get it,
23 I don't even know if I need to hear from you just yet. I
24 mean I think what we're going to end up needing to see is
25 kind of a timeline, right?

1 And really kind of to understand, because what I'm
2 trying to get my head around is, and I think that's what my
3 fellow board members are trying to understand is, you know,
4 Ms. Barksdale, at some point, thought she had plans, whether
5 it's, you know, her -- no offense to the architects --
6 whether it's the architects' fault, or somebody's fault, or
7 whoever it is, she thought she as building something that was
8 approved by DCRA.

9 And at some point, she was like, wow, I need to
10 get a variance, which is a bigger deal, Ms. Barksdale, than
11 a special exception, right? So that's why we're struggling
12 with this, right?

13 And so I'd like to know what happened, I'd like
14 to know when it was that, and we can have this discussion
15 later, but when it was that the variance came into play, and
16 what was actually built by that time, meaning that, either
17 the architects, or you should've pointed out to Ms. Barksdale
18 that a variance is not something easy to get, and we should
19 dial down the structure.

20 Now if somehow we can go ahead into this timeline
21 that, because of the permits, Ms. Barksdale is not at issue,
22 and the architects aren't at issue, then that brings into,
23 in my opinion, OAG, as to reliance and what it is that, you
24 know, this person, citizen has moved forward with their
25 project.

1 It's not their job to make sure that they're in
2 compliance, right, because they're risking money to get
3 something that they might not be able to get, right? And so
4 I just want to know the timeline.

5 So I'm asking if anyone else from the Board needs
6 anything from DCRA, and then I think we're probably going to
7 take a break before we hear from the witnesses, or we'll hear
8 from the witnesses. Does anyone have any questions for DCRA?
9 I'll start with you, Chairman Hood.

10 ZC CHAIR HOOD: Yes, just the timeline that I'd
11 ask Ms. Roberts to work on to make it kind of a contents, a
12 table of contents to make it easier as we go through the
13 process. Other than that, I don't think I need anything.

14 CHAIRPERSON HILL: Okay. Mr. Hart?

15 VICE CHAIRPERSON HART: I think the very beginning
16 of this, Ms. Sorensen, we had -- it's good to see you.

17 MS. LORD-SORENSEN: Good to see you.

18 VICE CHAIRPERSON HART: Sorry for that. We
19 understood that the applicant was, that the issue about the
20 penthouse was not raised at that point, and is it your
21 understanding that, there was an assertion by Ms. Barksdale
22 that the DCRA, the folks that were actually reviewing the
23 plans, stated that they did not need elevations.

24 MS. LORD-SORENSEN: Okay. So basically --

25 VICE CHAIRPERSON HART: Can you talk about that

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1 just a little bit?

2 MS. LORD-SORENSEN: Yes. So I've had a couple of
3 conversations with Ms. Barksdale, and she has mentioned the
4 same thing to me, and what I've tried to explain to her, it
5 goes back to the scope of work identified on the building
6 permit.

7 So let me direct the Board's attention. Board's
8 indulgence. Okay. So if you look at Exhibit 54B as in boy,
9 Exhibit C, the building permit B1602429, and when you read
10 this description of work, it states, revision of B1404447 to
11 add a spiral staircase to room above master bedroom, and I
12 think this is where all the problem actually starts, because
13 when you look at the plans, the plans that were submitted was
14 an aerial view.

15 There were no elevation plans, and just as an
16 aside, this case is, this case is also pending before OAH.
17 And we were trying to resolve this in that form as well, and
18 we asked Ms. Barksdale to provide stamped elevation plans
19 showing the fourth floor, this penthouse that she is
20 indicating time and time again that DCRA has approved.

21 To date, she has not presented any sort of stamped
22 elevation plans. When you look at DCRA exhibit, if you
23 scroll up to Exhibit B of Exhibit 54B, this is a copy of a
24 stamped north pole elevation plan that was submitted to DCRA.
25 And as indicated by the arrow, there's no depiction of a

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1 fourth floor or a penthouse.

2 And so again, we've asked Ms. Barksdale to provide
3 us a copy of any sort of stamped plans depicting this
4 penthouse fourth floor, and as I stated, to date, we have not
5 received anything. Now --

6 VICE CHAIRPERSON HART: Can I, can I break into
7 this for a second?

8 MS. LORD-SORENSEN: Certainly.

9 VICE CHAIRPERSON HART: Appreciate all of that,
10 and that's very helpful for me. I am just realizing that my
11 computer is about to restart itself, so I may be dropping off
12 in about, in less than five minutes, not because I want to,
13 but because I am being forced to.

14 So on the, you don't have to go into all of it.
15 I was just trying to understand about a portion of that, so
16 I appreciate, you don't need to continue that. I'll look
17 through the, these plans and timeline that we have --

18 MS. LORD-SORENSEN: Right.

19 VICE CHAIRPERSON HART: -- right now, but I do
20 appreciate that. And Mr. Chairman, I'm sorry, but I think
21 I'm going to have to restart, and I'll have to. I'll come
22 back on to the, into the hearing, but I was unaware that this
23 was happening.

24 CHAIRPERSON HILL: Okay. All right. So -- all
25 right. We'll see what happens. And so, you have to restart

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1 because there's a software update or something?

2 VICE CHAIRPERSON HART: Yes. And it's telling me
3 that I've got less than three minutes to -- and it'll restart
4 automatically. And I don't have much choice, of course.

5 CHAIRPERSON HILL: Okay. So, if I think you're
6 going to miss something, then I'll ask you to review the
7 record of what you missed, okay?

8 VICE CHAIRPERSON HART: That's fine.

9 CHAIRPERSON HILL: And then we're probably going
10 to break into lunch. So we'll see what happens when you get
11 back here. Okay? All right.

12 Ms. John, do you have anything for DCRA in terms
13 of what we might want to get from them?

14 MEMBER JOHN: So I'm still interested in that
15 inspector report of January 10th, 2016, the inspection date.
16 And I don't --

17 CHAIRPERSON HILL: You mean January 11th?

18 MEMBER JOHN: January 10th. No, the inspection
19 date was January 10th. And that's the report that says --
20 I can't read it here, but basically, construction work
21 performed, something, reflected the plans that were provided
22 to me today. So my question is, is what were those plans and
23 what was the inspector referring to?

24 And if I understand this correctly, the Exhibit
25 54B does not show the (audio interference). So where were

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1 the steps? When the inspector looked at it, did the
2 inspector use (audio interference). You know, it really was
3 confusing. So that would be my question.

4 And the other thing I would like to see is a
5 record, if one exists, of all of the complaints that DCRA
6 received on this property, and whether or not there were any
7 fines, as well as the stop-work orders.

8 MS. LORD-SORENSEN: I can definitely look into
9 that, Board Member John. The only other type of correction
10 notice was the Notice to Demolish, that was included as part
11 of the timeline.

12 MEMBER JOHN: I saw that.

13 MS. LORD-SORENSEN: Okay.

14 CHAIRPERSON HILL: Which timeline are you
15 referring to?

16 MS. LORD-SORENSEN: I'm sorry. So it was part of
17 the exhibits affiliated with the timeline. So if you look
18 at Exhibit --

19 CHAIRPERSON HILL: 54B?

20 MS. LORD-SORENSEN: 54B as in boy. If you scroll
21 down --

22 CHAIRPERSON HILL: Exhibit K?

23 MS. LORD-SORENSEN: Oh, let me just --

24 CHAIRPERSON HILL: Yeah, I see it. It's okay.

25 MS. LORD-SORENSEN: Exhibit K. Yes, December

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1 12th, 2018, Notice to Demolish.

2 CHAIRPERSON HILL: Okay.

3 MS. LORD-SORENSEN: Because at that point, it was
4 going to get -- it would had -- over a year and a half had
5 passed, and Ms. Barksdale had not sought any sort of relief
6 from the BZA, and so DCRA just decided to take action, and
7 issue the Notice to Demolish.

8 CHAIRPERSON HILL: Okay. Let's see. Okay.

9 ZC CHAIR HOOD: And let me just say, I don't know.
10 It may be good at some point, for Ms. Sorensen to just walk
11 us through this timeline that's here. I don't know. I'm
12 just throwing that out. I don't want to lose sight on that,
13 just in case it's needed.

14 CHAIRPERSON HILL: No, I appreciate it, Mr. Hood.
15 I mean, Mr. Hood, I think we're going to have to come back
16 on this again. Like, I don't think that we're going to be
17 able to -- I think we're going to go through this as best we
18 can, and then come back again and maybe just focus on the
19 timeline. At least that would be my suggestion. And just
20 kind of figure out where stuff is or what's going on.

21 But let me go ahead and, I'm just going to keep
22 chugging through this. And I think -- I do see Ms. Hon is
23 still here.

24 Are you there, Ms. Hon?

25 MS. HON: Yes, I am.

1 CHAIRPERSON HILL: Okay. Now Ms. Hon, you were
2 speaking in support or opposition?

3 MS. HON: In opposition.

4 CHAIRPERSON HILL: Okay. So, Mr. Young, is it
5 possible to take everybody out and bring all the witnesses
6 in?

7 MR. YOUNG: Yeah.

8 CHAIRPERSON HILL: Okay. So you guys, just all
9 bear with me. I'm going to take everybody out except for the
10 board members, and then bring all the witnesses in.

11 By the way, Mr. Hart, can you hear me? Can you
12 turn off your microphone for a moment?

13 VICE CHAIRPERSON HART: My mic is not on.

14 CHAIRPERSON HILL: Okay, but now it's on, correct?

15 VICE CHAIRPERSON HART: Yeah.

16 CHAIRPERSON HILL: You remember how earlier I was
17 feeling a little bit bad about the way that I was going on
18 you first for the decisions?

19 VICE CHAIRPERSON HART: Yes.

20 CHAIRPERSON HILL: I don't feel that way anymore.
21 You can put your mute back on, if you like.

22 VICE CHAIRPERSON HART: What's that for?

23 CHAIRPERSON HILL: I'm just saying, it's a lot of
24 juggling over here.

25 VICE CHAIRPERSON HART: Yeah, I know.

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1 ZC CHAIR HOOD: Bus starting up.

2 CHAIRPERSON HILL: Right, exactly. I don't know
3 where Ms. John -- oh, she's there. Okay.

4 VICE CHAIRPERSON HART: I'm not sure where we are
5 in the hearing right now.

6 CHAIRPERSON HILL: We're hearing from witnesses.

7 VICE CHAIRPERSON HART: Oh, we're going to --
8 okay.

9 CHAIRPERSON HILL: I'm waiting for --
10 Paul, when you get everybody in, you let me know.
11 If everybody can mute -- thank you.

12 MR. YOUNG: You can go ahead and start with these
13 people. I'm still looking for maybe two more.

14 CHAIRPERSON HILL: Okay. All right. So, let's
15 see. Ms. Cotton, could you -- I'm just going to go in
16 whatever order I see here, and then I'm going to ask Paul if
17 -- well, actually, hold on. I have to wait.

18 So, Ms. Cotton, can you hear me? And if you can,
19 if you could turn off your microphone and turn on your
20 camera, if you choose to do so?

21 MS. COTTON: Can you hear me?

22 CHAIRPERSON HILL: Yes.

23 MS. COTTON: Okay.

24 CHAIRPERSON HILL: Could you please state your
25 name and address, and then whether you're in favor or

1 against?

2 MS. COTTON: My name is Karen Cotton, and I live
3 at 82 S Street, within the hundred-foot distance from 100 S
4 Street. And my position is, I am in support of Ms.
5 Barksdale.

6 CHAIRPERSON HILL: Okay. Ms. Cotton, well,
7 welcome to the virtual hearing.

8 MS. COTTON: Thank you.

9 CHAIRPERSON HILL: And I hope it's been exciting
10 thus far.

11 MS. COTTON: It's been long.

12 CHAIRPERSON HILL: Oh yeah. Hey, believe me, this
13 is going to get a whole lot longer. So go ahead, and you're
14 going to have three minutes to speak, and you can start
15 whenever you like.

16 MS. COTTON: Okay. I am in support of Ms.
17 Barksdale finishing her product -- I mean her project. It
18 is on a corner, and Reader's Digest condensed story, I'm an
19 engineer. I work on nuclear power plants. And sometimes
20 when people want to make changes, they -- in the power plant,
21 we give them a variance, like you're giving them, because
22 it's not a risk to the health and safety of the public, and
23 also it could be a undue strain or undue burden for the power
24 plant.

25 So, I really feel that it's not adverse to the

1 public, her addition, and it is a undue strain on her. And
2 everybody can have an opinion on that, but nobody can really
3 determine what's undue for another person.

4 And also, I would like to say that I have had
5 experience with -- I just noticed, when you guys were noting
6 the inspector, I've had experience with Mr. Greg -- Inspector
7 Greg Watkins, and I thought he was very thorough. I would
8 like to jokingly say he threw the book at me, but he was very
9 reasonable, and he worked with me to get things done.

10 So I think that, I feel that if he did the initial
11 inspection, he probably did a very good job, and I have
12 firsthand experience with that. I was on the other end. I
13 was -- he was doing a tenant inspection, so he came up with
14 some things that I needed to do. And he worked with me to
15 get those things done.

16 So, I am in support of Ms. Barksdale. I think
17 that you all should look at the reasonableness of the
18 request. And also, I listened to you all this morning, and
19 one of the comments that you guys made is that you shouldn't
20 make changes based on, you know, a neighbor doesn't like the
21 way something looks.

22 And I just think it's just unfair. And I think
23 that Ms. Barksdale will work very hard to make that look
24 pleasing to the rest of the neighborhood, but she has not
25 been given a chance. I just ask you to give her a chance to

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1 finish her home, and raise her family, and just continue to
2 be a productive citizen in the District of Columbia.

3 I can't hear you now.

4 CHAIRPERSON HILL: Thank you, Ms. Cotton.

5 The -- Ms. Lord-Sorensen, I know you can hear me,
6 or at least I think you hope -- I hope you can hear me. I
7 would be interested in that timeline as to when this
8 inspector was out there. Just, I want to know when this
9 inspection happened.

10 Does anybody have any questions for Ms. Cotton?
11 Okay. Well, Ms. Cotton, I'm going to put you on mute again
12 for a minute.

13 And then, Ms. -- what have I got here? Is that
14 Thomas?

15 MS. THOMAS: Yes.

16 CHAIRPERSON HILL: All right, Ms. Thomas, can you
17 -- are you choosing not to use video, or can you hear me?
18 It doesn't matter.

19 MS. THOMAS: Could you see me? I'm here, or here.

20 CHAIRPERSON HILL: I can't.

21 MS. THOMAS: Okay.

22 CHAIRPERSON HILL: Ms. Thomas, are you in favor
23 or in opposition?

24 MS. THOMAS: I'm in favor, actually.

25 CHAIRPERSON HILL: Okay. Could you go ahead --

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1 you have three minutes. Could you introduce yourself and
2 your home address, please?

3 MS. THOMAS: Sure. My name is Lisa Thomas. I
4 live at 1747 1st Street. I live directly across from Ms.
5 Barksdale, and I've been in the neighborhood since '99. And,
6 you know, Ms. Barksdale's been a great neighbor. She's been
7 a very active member of the community since she's been in the
8 neighborhood. And the addition to her, you know, roof
9 doesn't impede anything, because I live directly across from
10 her, and it doesn't impede any view that I have. And it's --
11 you know, it doesn't impact me at all, basically, with the
12 view.

13 And, you know, it's on the -- she's on the corner
14 as well, and I think that it -- you know, being on the
15 corner, it enhances the block, actually. It enhances the
16 corner of the block, and the structure. It doesn't impact
17 any -- my property value or anything. And I think that it
18 should be allowed.

19 She's been -- it's been a lot of stress on her over
20 these past several years. This is a long time that it's been
21 going on. And, you know, she's really basically beautifying
22 the neighborhood, basically, by -- you know, her house is
23 absolutely gorgeous and, you know, this addition doesn't do
24 anything to impede the effect and the beauty of the
25 neighborhood. So, that's my summary.

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1 Oh, I can't hear you.

2 CHAIRPERSON HILL: Okay, great. Thank you, Ms.
3 Thomas.

4 MS. THOMAS: Okay.

5 CHAIRPERSON HILL: Does the Board have any
6 questions for Ms. Thomas?

7 Okay. Ms. Thomas, I'm going to put you on mute
8 as well, okay?

9 MS. THOMAS: Okay, great.

10 CHAIRPERSON HILL: Ms. Rowell, are you there?

11 MS. ROWELL: Yes, I'm here.

12 CHAIRPERSON HILL: Okay. All right, Ms. Rowell,
13 are you in support or in opposition?

14 MS. ROWELL: I'm in support. This is my sister.

15 CHAIRPERSON HILL: Okay.

16 MS. ROWELL: I actually live in Maryland, in
17 Bowie. And basically, during this whole process, she lived
18 with me during the construction. She bought this home in
19 1995, as she stated earlier, before she even had children,
20 and this has been her dream, to renovate it. When we lived
21 here, I used to live with her. It was like, a mess.

22 So it's finally coming to fruition with the whole
23 renovation. And it just seems like this one community
24 resident has been harassing her. And I just can't
25 understand. And, you know, even my parents and I, at first

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1 we were like, it's too much of a big project, you know, just
2 sell the house and move back to Maryland. And, you know,
3 she's really passionate about living here. She's lived here
4 forever.

5 And I just don't understand why all these
6 inspections and harassments over one community member, you
7 know, that keeps on bringing it up, and calling the DCRA, or
8 whoever she's calling, like every day. It doesn't make any
9 sense. So I feel like it's been, she's been targeted.
10 That's just my personal opinion.

11 And I just would like her to be able to be
12 finished, and not stressed, and crying all the time. It's
13 just a mess. So, I just would like this to be handled as
14 quick as possible, with some kind of decision, whether --
15 whatever it may be, so we could just move on.

16 CHAIRPERSON HILL: Okay. I'm sorry.

17 Does anybody have any questions for Ms. Rowell?

18 Okay. Let me see. Oh. So, Ms. Rowell, and
19 again, like I know that Ms. Barksdale is listening. I mean,
20 you know, we're not here for any particular community member.
21 And I know that like, you know, there's been a lot of things
22 that have been going on.

23 And I mean, I'm just letting you know a hundred
24 percent, like I've been doing this now for five years.
25 Chairman Hood's been doing it for 25 years. This stuff

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1 doesn't happen because of one person making comments, or
2 sending out information or anything like that, right.

3 I mean, you know, and I'm making a joke. Like,
4 this is my birthday. I'm going to be here all fricking day,
5 probably. Okay. And so like, I'm not here because some
6 community member put -- I mean, we're here because we're
7 charged with doing what we're charged with doing, and it's
8 disappointing that they're here.

9 And I'm sure that Ms. Barksdale got to get what
10 she was getting beforehand. We're trying to figure out if
11 a mistake has been made now. I mean, this is almost turning
12 into an appeal. You know?

13 MS. ROWELL: Yes.

14 CHAIRPERSON HILL: So, we're here to see how this
15 goes, but I'm sorry. Okay?

16 MS. ROWELL: Yes. I understand, and I really
17 appreciate the job that you guys are doing. I just feel like
18 other structures have gone up all around her, and nobody's
19 been calling them every day, right.

20 CHAIRPERSON HILL: I hear you, Ms. Rowell. I'm
21 just saying, they're different then. I mean, that -- it's
22 not -- I mean, they don't need what your sister needs.
23 That's why they're not before us. They're different, you
24 know. Okay.

25 MS. ROWELL: Thank you. Okay.

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1 CHAIRPERSON HILL: Sure, you're welcome.

2 Mr. Kirby? Is it Mr. Kirby?

3 MR. KIRBY: Yes. Hello, I'm here.

4 CHAIRPERSON HILL: Hi. Mr. Kirby, are you
5 speaking in support or in opposition?

6 MR. KIRBY: I'm speaking in support.

7 CHAIRPERSON HILL: Okay.

8 MR. KIRBY: I --

9 CHAIRPERSON HILL: Can you give -- hold on. Can
10 you give me your address?

11 MR. KIRBY: Yes, sure. So I'm, I live with my
12 wife at 1738 1st Street. I'm the only property that actually
13 shares a wall and shares a roof with Ms. Barksdale.

14 CHAIRPERSON HILL: Okay. So Mr. Kirby, you got
15 three minutes. You can begin when you like.

16 MR. KIRBY: Okay, great. Well, as I stated, I've
17 -- I'm here today to support Ms. Barksdale's application.
18 My wife and I moved in next door before all this construction
19 began, so we've lived it, obviously not nearly as intimately
20 as she has, but we've, you know, lived through the whole
21 process. And again, I thought it was important for me to be
22 here today because, as I mentioned, you know, I share both
23 a wall and the roof. So the structure very much affects, you
24 know, our home in a number of ways.

25 But having said all that, I still support Ms.

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1 Barksdale in getting this project done. I was, had the
2 benefit of being on this call since the beginning, and I
3 understand some of the technicalities you all are focused on,
4 the difference between certain dates in January 2016. And
5 I know it's not lost on you all that here we are in June
6 2020. You know, I very much support her to get this done,
7 and I implore you all to move as quickly as possible to get
8 this done, given that we're 4-1/2 years.

9 And as Ms. Barksdale had mentioned, there's
10 additional work, you know, just finishing stuff that needs
11 to be done at the roof, that does affect my property as well,
12 just some roof-related stuff that would be easy to fix once
13 she gets the go-ahead, you know, getting that major
14 structural stuff, not the structural stuff that we're talking
15 about today, but stuff that affects water, the way water
16 moves from roof, it gets into, you know, both of our
17 properties, things like that.

18 So, we need to get this done. We need to move
19 forward one way or the other, so it sounds like there's going
20 to need to be another meeting, after some additional timeline
21 stuff is done. I would ask that you try to move that as
22 absolutely quickly as possible.

23 And again, I just want to officially say that I
24 have trust and confidence in Ms. Barksdale. I think that as
25 soon as she gets the go-ahead to finish everything, she'll

1 get it done, she'll get it done right. So, that's all I
2 have, unless you have any questions.

3 CHAIRPERSON HILL: All right, thank you, Mr.
4 Kirby.

5 Does the Board have any questions for Mr. Kirby?
6 Okay. Ms. Lord-Sorensen, if you're listening again, like I
7 am curious as to how work can get done. If there's any kind
8 of work that needs to get done to protect people's homes, I'm
9 just trying to -- I'm curious as to how that is handled.
10 Okay.

11 Let's see, is it Ms. Thomas, or have I already
12 spoken to her?

13 MS. THOMAS: Yes. You've already spoken with me.

14 CHAIRPERSON HILL: Okay, thank you.

15 Ms. Hon, I think you're the last person in this
16 group.

17 MR. YOUNG: We also have Betsy McDaniel on the
18 phone calling in, when you're ready for her.

19 CHAIRPERSON HILL: Okay. Ms. Hon? Can you hear
20 me?

21 MS. HON: Sure. Yes, I can. Yes. Can you all
22 hear me all right?

23 CHAIRPERSON HILL: Yes. Could you please
24 introduce yourself, give your address, and let us know you're
25 in support or opposition?

1 MS. HON: Sure. I'm Ms. Hon. I am within 200
2 feet. And I apologize, but this is the first time that I've
3 been in attendance in any of these. This was the first
4 notification I've received despite having lived here since,
5 I think, the beginning of the construction.

6 So I'm apologizing to you, Ms. Barksdale, for not
7 being part of the conversation earlier. I do want to say
8 that I am -- I apologize that this is the way that we are
9 meeting. I'm aware of the broader circumstances around your
10 project with the neighbors. And I want to say up front that
11 I do believe that your home is beautiful.

12 Having said that, there are certain things that
13 I am in opposition to, that I would like to discuss. And
14 hopefully this is the proper forum to do so.

15 So, I think the first issue is that the property
16 owners don't -- the -- I guess, what I will be referring to
17 as a pop-up, prior to receiving full approval. And now the
18 pop-up has been incomplete since 2016. And if approved, it
19 would set a precedent that invites people to flout the rules.
20 So what's to stop everybody else, including developers, from
21 trying to receive the same type of exemption?

22 And permitting an after-the-fact exemption like
23 this, from someone who didn't, you know, essentially through
24 no fault of their own, didn't follow the proper procedures
25 in the first place simply does, in fact, invite others to do

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1 the same.

2 Second, more of my main concern is that the
3 proposed pop-up exception does violate the current zoning
4 laws, both at the time it was built, and the more recent
5 historic designation. Per RF-1 zoning, penthouses are
6 restricted, and the cap is around 30 square feet. And
7 unfortunately, this penthouse is much larger and does not
8 meet those restrictions.

9 Further, it appears that the owners did not, and
10 have not provided full and complete plans to DCRA, which
11 include the height and elevation, which DCRA would not have
12 approved at the outset. And these zoning laws exist for a
13 reason. And per the stated laws and restrictions, this
14 neighborhood in particular isn't supposed to have these types
15 of pop-ups.

16 This is a rule throughout the neighborhood, and
17 especially now that it's been designated as historic. And
18 granting an exemption would directly impact the integrity of
19 the neighborhood.

20 Third, the owners have not provided a compelling
21 argument as to why they should be granted an exemption.
22 They're arguing for the exemption because they've already
23 illegally built a pop-up, and are now trying to go back and
24 they're trying to get the system to work in their favor.

25 However, no argument today or in prior testimony

1 has been made as to why they should be granted an exception.
2 Further, letters in support for the neighbors are selective,
3 and this is my main point. All do not have roof decks, or
4 their -- and/or their views will not be impacted by the pop-
5 up.

6 Unfortunately, that's not the case for many other
7 neighbors, including myself. And I was never contacted by
8 the owners at any time prior to this, nor in any regard for
9 either a letter of support or even a review of the plans, at
10 which point I would have been able to let them know that
11 their pop-up does and would obstruct my view, and thus
12 adversely impacting my property value.

13 And finally, when I moved to Bloomingdale, I
14 specifically picked this neighborhood because of the building
15 rules and restrictions that preserve the integrity of our
16 neighborhood. It's unique, in that it does try to preserve
17 and maintain an unobstructed view, to the south, in
18 particular, of the Capitol, and the Washington Monument from
19 the neighbors' roof decks or balconies, including my own.
20 It's a prime feature of the neighborhood, and it's preserved
21 by the rules being followed. And an exemption would erode
22 away that preservation.

23 Having said that, Ms. Barksdale, I do want you to
24 know that if it -- if the pop-up and that mechanical closet
25 were significantly reduced, and if my view was be, able to

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1 be restored, that I would be able to work out a compromise.
2 I think your house, again, is beautiful, and I do support you
3 in, you know, getting your house fully complete.

4 Again, my only real complaint and objection is
5 that, you know, the cap is currently restricted at 30 square
6 feet. And if the penthouse pop-up were lower and less
7 obstructive to my view, and less detrimental to my property
8 value, I would be open to discussing revisions of plans that
9 could benefit both of us, and others neighbors' views as
10 well.

11 CHAIRPERSON HILL: Okay. Let's see. Board
12 members, do you have any questions for Ms. Hon?

13 Okay. All right. Okay. Ms. Hon, if I could
14 mute, put you on mute there.

15 Mr. Young, is there any other witnesses other than
16 Ms. -- and who else is with us now?

17 MR. YOUNG: Yes, I have Betsy McDaniel on the
18 phone. And then I was also just made aware that Ms.
19 Barksdale has her two daughters that want to testify, that
20 are in the same room with her. So after Ms. McDaniel goes,
21 I'll bring in Ms. Barksdale, and she has her two daughters
22 that signed up yesterday.

23 CHAIRPERSON HILL: Okay. Ms. McDaniel, can you
24 hear me?

25 MS. McDANIEL: I can hear you. Can you hear me?

1 CHAIRPERSON HILL: Yes, I can. Could you please
2 introduce yourself and give us your address, and then state
3 if you're in favor or -- actually, I know you're in
4 opposition. Could you give us your name and home address,
5 please?

6 MS. McDANIEL: My name is Betsy McDaniel. I
7 reside -- we're 3105, Lot 105, and I am within the 200 feet
8 radius of the applicant's property.

9 CHAIRPERSON HILL: Okay. Well, Ms. McDaniel, it's
10 good to hear your voice. I know that, you know, you've been
11 before us before. I'm going to go ahead and give you three
12 minutes to provide your testimony, and I'll let you know when
13 you're, you know, getting kind of close, you should kind of
14 wrap it up, because you won't be able to see the clock right
15 now. You can't see the clock, correct, Ms. McDaniel?

16 MS. McDANIEL: I can see it. Yes.

17 CHAIRPERSON HILL: Oh. Okay.

18 MS. McDANIEL: I don't know if it's working, but
19 I can see it.

20 CHAIRPERSON HILL: Okay. Then once it -- you can
21 start whenever you like, then.

22 MS. McDANIEL: Thank you. Good afternoon,
23 Chairman Hill and members of the Board. My name is Betsy
24 McDaniel, and I am testifying in support of the staff report.
25 I did contact DCRA to seek an explanation for what was going

1 on at this property, because they had already gotten a
2 permit. They'd already been to BZA and gotten a permit.

3 And -- because at that time -- things are a little
4 better now, but it was really hard to see information online,
5 so I didn't know what was happening. All I could see was
6 they were revising the permits for a staircase. So I
7 contacted DCRA to ask for an explanation of what they were
8 doing.

9 They did not inspect within hours; it was days.
10 And the first inspection was on a Saturday. I don't -- I'm
11 not sure if that affects the quality of the inspection, but
12 they did get an inspection on the following Monday, I
13 believe, and they were issued a stop-work order. I don't
14 know if, from time to time they got permission to do some
15 work to secure the property, but it seemed like the stop-work
16 order was in effect most of the time.

17 The -- and so I -- the OP report cites that if
18 they continued to work, with the stop-work order, then that
19 is really not sufficient cause to grant a variance because
20 of the expense. Their -- for the additional relief required,
21 mid-hearing, I think -- I've heard many cases before where
22 additional relief has come up during the hearing, and there
23 have been options to go back to the ANC or, you know, submit
24 a new application, whatever. So this is not unusual that --
25 this is not the first time this has happened.

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1 It's also not the first time that's happened that
2 there's been a problem with a permit. And two years ago,
3 this Board voted unanimously to make someone alter a
4 beautiful deck, in the alley, that had, was permitted, but
5 they, there were some problems and they went for too big, and
6 you denied the application for a variance for a deck.

7 I'm sorry, I quibble with the design. I don't
8 think a 140-square-foot box on top of the house is
9 attractive. I don't -- I'm not sure it's not set back
10 properly on two sides. The OP report says south side one
11 place, and east side the other place, and I'm not sure that
12 it's not both sides.

13 As has been mentioned, there were -- you know, the
14 plans talk about a room, a closet above the master bedroom,
15 and the bedrooms are on the second floor. And there's a
16 closet room on the third floor. And I think this is a prime
17 example to talk to DCRA about allowing applicants, mid-
18 construction, to make dramatic revisions to their plans.
19 But, it happens, so.

20 Again, I've said many times in my written
21 testimony that I'm very sorry that this has been stressful
22 and so difficult for her. But it's -- it hasn't been easy
23 for me. And you -- I feel like you must grant me the
24 opportunity to say that these were not racially motivated
25 complaints.

1 She says in her, one of her exhibits that they
2 were, my complaints were racially motivated. And our ANC
3 commissioners apparently told her that I was an equal
4 opportunity complainer, and that my complaints were not
5 racially motivated, so I think that's all I have to say.
6 Thank you very much, and happy birthday.

7 CHAIRPERSON HILL: All right, thanks, Ms.
8 McDaniel.

9 God, Chairman Hood, I'm going to get you. When
10 it's your birthday, I hope you're fricking doing this thing.
11 I'm going to call you up.

12 ZC CHAIR HOOD: Well, I've done it about four or
13 five of my birthdays.

14 CHAIRPERSON HILL: Right. I'm going to make sure
15 we get one for you this next time. I'm going to find out
16 what day it is.

17 All right, let's see. Does anybody have any
18 questions for Ms. McDaniel? Okay. All right.

19 Oh no, Ms. Cotton, you don't get to question Ms.
20 McDaniel, sorry. No, no, no. Okay.

21 So let's see. All right, Paul, why don't you
22 bring back on -- and everybody can stay in the waiting room.

23 And Ms. McDaniel, why don't you stay wherever you
24 are.

25 But I'm going to bring back in the other people.

1 And thank you all very much for providing your testimony.
2 Let's see. Give me one second, you guys.

3 All right, let's see. So I just got, I got Ms.
4 Barksdale. Oh, I want Ms. Lord-Sorensen, if she -- if we can
5 get her too. And then, I thought there was a bunch -- oh,
6 everybody's coming in. I thought there was a bunch of
7 people, right.

8 Okay, there's Ms. Barksdale. All right. And
9 then, where is the Office of Planning? Everson.

10 Well, Chairman Hood, you're still there, I guess.
11 I see you. So I got to tell you, I'm going to take this
12 opportunity while all these people are like, clicking in.
13 I really got to say, I am thanking Mayor Muriel Bowser for
14 this opportunity to do this. I really mean it. I really
15 mean it. So, it's just such a blessing to see like, you
16 know, the public, and be able, and an opportunity to do this.
17 It's really -- you know, so I'm saying thank you. That's all
18 I'm saying.

19 All right. Let's see now. So, Ms. Barksdale, so
20 Ms. Barksdale, is this one of your daughters? Is that where
21 we are?

22 MS. BARKSDALE: Yes.

23 CHAIRPERSON HILL: Okay. If you could please
24 state your name.

25 And then, Mr. Young, if you could put on three

1 minutes on the clock there.

2 And please state your name for us.

3 MS. BARKSDALE: Dominique Barksdale.

4 CHAIRPERSON HILL: All right, Ms. Barksdale. So
5 you'll have three minutes, and you can see it on the clock
6 there to your left. And just --

7 MS. BARKSDALE: Okay, thank you.

8 CHAIRPERSON HILL: -- go ahead, begin whenever you
9 like.

10 MS. BARKSDALE: Hello, everyone. I am very proud
11 to live in my home. I took my first steps in this house, and
12 my mother has worked hard to provide me with a nice place to
13 live. I get to be my -- I get to be very close to my
14 friends.

15 When our home was under construction, I had to
16 make a lot of sacrifices. I had to get up really early, so
17 I could go on time, to be on time for school. I ended up
18 being -- it ended up being a very long day because we have
19 to stay in the city until all the activities were completed,
20 and then you have to drive to Maryland to stay with my aunt.

21 When we moved to an apartment in D.C., it was a
22 one-bedroom, and we did not have our own space. Keep in
23 mind, it was four of us. I didn't like staying in the
24 apartment at all. My mother couldn't afford to pay for
25 things for me because she said she had to save her money for

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1 the house renovation expenses.

2 I often -- I had often wondered if we would ever
3 get it, get to move back into our home. I couldn't have been
4 happier when we moved back in. I want my mother to be able
5 to finish the structure so we can finally be free of our
6 renovation, and just be able to sit back and enjoy our house.
7 Thank you.

8 I can't hear you.

9 CHAIRPERSON HILL: I said, thank you, Ms.
10 Barksdale. Ms. Barksdale, is this -- you're unmuted. I have
11 a question for you.

12 MS. BARKSDALE: Okay, yes.

13 CHAIRPERSON HILL: Is this your first public
14 testimony?

15 MS. BARKSDALE: Yes.

16 CHAIRPERSON HILL: You've done a very good job.

17 MS. BARKSDALE: Thank you.

18 CHAIRPERSON HILL: Does anyone have any questions
19 for Ms. Barksdale?

20 ZC CHAIR HOOD: I don't have a question, but I
21 want to second what you said about young Ms. Barksdale, Mr.
22 Chairman. I want to second that.

23 And stay involved, and stay encouraged. And great
24 job, and thank you.

25 CHAIRPERSON HILL: Anyone else like to share some

1 words with Ms. Barksdale?

2 MS. BARKSDALE: I couldn't hear you, Mr. Wood.
3 Mr. Hood.

4 ZC CHAIR HOOD: That was nice of you. Most people
5 don't want to hear me, but I just wanted you to stay
6 encouraged and stay involved in the process, because it
7 really -- believe me, it makes a difference, it makes a
8 difference.

9 CHAIRPERSON HILL: Anyone else? Ms. John, Mr.
10 Hart? Okay. All right. The elder Ms. Barksdale, is there
11 one more Ms. Barksdale?

12 Okay. Is it -- you need to unmute your
13 microphone.

14 MS. BARKSDALE: Okay.

15 CHAIRPERSON HILL: Okay. Could you please state
16 your name?

17 MS. BARKSDALE: My name is Joelle Barksdale.

18 CHAIRPERSON HILL: Oh, it's Mr. Barksdale? Did
19 you say Joel? I'm sorry.

20 MS. BARKSDALE: Joelle Barksdale.

21 CHAIRPERSON HILL: Joelle, okay. If you could
22 please go ahead, you'll have three minutes. There's a clock
23 there, and you can begin whenever you like.

24 MS. BARKSDALE: Okay. I had to put a lot of
25 school activities on hold while our house was being

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1 renovated. I'm so excited to be able to live in my house
2 now, and have friends over -- well, before COVID-19. I like
3 living in a neighborhood where we can walk to stores and
4 restaurants.

5 When we were renovating our home, I would limited
6 -- I had to limit my school activity. The apartment that we
7 had was very small, and I couldn't invite any of my friends
8 over. I'm so glad we are finally able to move back into our
9 house. This house is my mother's dream, and I really want
10 her dream to come true.

11 CHAIRPERSON HILL: Thank you very much for your
12 testimony. And again, as with your sister, I believe you did
13 a lovely job. So thank you very much.

14 Chairman Hood, you have anything you'd like to
15 add?

16 ZC CHAIR HOOD: I would just echo my same comments
17 that I said for the young lady, for the gentleman as well.

18 CHAIRPERSON HILL: All right. Thank you, Chairman
19 hood.

20 VICE CHAIRPERSON HART: Actually, I think they're
21 two young ladies. One is Joelle, the other one is Dominique.

22 ZC CHAIR HOOD: Oh, okay. Well forgive me,
23 because the hood here, the hoodie -- which is my last name,
24 good to see you in a hoodie -- but I would like to say to
25 both of you all, you have done a fabulous and fantastic job,

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1 and stay involved in the process. Thank you.

2 MS. BARKSDALE: Thank you.

3 MS. BARKSDALE: Thank you so much.

4 VICE CHAIRPERSON HART: We have two BZA members
5 in the making, maybe.

6 CHAIRPERSON HILL: Sure. You get -- I -- you --

7 ZC CHAIR HOOD: Well, the Zoning Commission is
8 represented too. So one --

9 VICE CHAIRPERSON HART: Right.

10 ZC CHAIR HOOD: One for the BZA and one for the
11 Zoning Commission.

12 VICE CHAIRPERSON HART: You'll never let us forget
13 that, Mr. -- Chairman Hood.

14 CHAIRPERSON HILL: All right. Let's talk to your
15 mom again. At least we'll get to talk to your mom.

16 Ms. Barksdale, can you hear me?

17 MS. BARKSDALE: I can hear you.

18 CHAIRPERSON HILL: Okay. Well you have lovely
19 children, Ms. Barksdale. You should be proud.

20 MS. BARKSDALE: Thank you.

21 CHAIRPERSON HILL: All right. Let's see now, I
22 think we've heard from everybody, right? I don't think I'm
23 missing anybody. Yes, okay. So, what I'd like to do, and
24 I'd like to find out --

25 Oh, Ms. Brown-Roberts, if you can join us again,

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1 or at least, you know, if you can turn on your camera, just
2 so I can see you.

3 I guess for me, I'm asking all of the members of
4 the Board, this is a little odd, in that I feel as though
5 we're always (audio interference) okay. You know, I mean,
6 Ms. Lord-Sorensen, you're here representing DCRA. And so,
7 you know, I really need to understand what the timeline was,
8 right. I really need to understand where it is that -- it
9 makes no sense to me that Ms. Barksdale would necessarily put
10 herself in jeopardy, right, by thinking she can do something
11 she can't do.

12 I don't know if that means, Ms. Barksdale, that
13 we can grant this or not, because I don't know if it falls
14 within the zoning regulations that we're supposed to look at,
15 right. I just at least need to understand what the timeline
16 is. That's for me, right.

17 So if, Ms. Lord-Sorensen, you can kind of put
18 together some kind of a timeline, that gets us to where you
19 think we are now, that would be helpful. And then Ms.
20 Barksdale would be able to comment on that timeline.

21 Yes, please go ahead.

22 MS. LORD-SORENSEN: The March 2020 submission was
23 the timeline. It provided what happened, going back to, I
24 believe, the first permit, and then of course the secondary
25 permit, which was issued in December, that --

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1 CHAIRPERSON HILL: Can you give me the exhibit
2 number? I'm sorry.

3 MS. LORD-SORENSEN: Yes, certainly.

4 CHAIRPERSON HILL: Right, Exhibit 50? No.

5 MS. LORD-SORENSEN: 54B were the actual exhibits
6 affiliated with Exhibit 54A. That timeline of events was
7 created by DCRA and submitted to OP. So this was created by
8 our office.

9 CHAIRPERSON HILL: Okay.

10 MS. LORD-SORENSEN: And so, when you look at Item
11 2, which was the issuance of the December 22nd, 2015 permit,
12 what I was trying to explain earlier, Chairman and members
13 of the Board, this is where things started to go awry. This
14 is where we had an aerial view of a set of plans, which were
15 only submitted to Structural and Mechanical, because the
16 scope of work pertained to a spiral staircase. There was no
17 mention of any sort of fourth floor or penthouse.

18 So, December 22nd, 2015, that permit was issued.
19 January of 2016, we posted a stop-work order. So once we
20 post a stop-work order, no further work is permitted. Now,
21 there were some instances where Ms. Barksdale said that there
22 was water intrusion, and so we provided what's called limited
23 work authority, where we monitor the situation, and we say
24 okay, you can fix this water problem right here.

25 On several occasions, Ms. Barksdale has approached

1 DCRA, seeking limited work authority to address a water
2 problem. And we've granted her that limited work authority.
3 But at all -- but at no time was she permitted to complete
4 the fourth floor.

5 But when you look at our exhibits, you see that
6 there is plywood, early on, when we first received
7 notification of the alleged illegal construction, and then
8 fast forward, when we go back out there again, there's Tyvek.
9 And now we're hearing that the fourth floor is completed.

10 And I'm not sure how any of this work was done if
11 there was a stop-work order posted. We provided the Board
12 with a number of emails, where we've informed Mr. Barksdale
13 as well as Ms. Barksdale that they're not allowed to do any
14 work. So I'm not sure how the property has changed since we
15 posted the stop-work order. That's still an unknown that I
16 just can't answer at this point.

17 CHAIRPERSON HILL: Chairman Hood -- I got you.
18 Go ahead, Chairman Hood.

19 ZC CHAIR HOOD: Okay. Ms. Sorensen, what was that
20 exhibit you just gave us? I had it open but I lost it.

21 MS. LORD-SORENSEN: So the timeline --

22 ZC CHAIR HOOD: Timeline.

23 MS. LORD-SORENSEN: -- is Exhibit 54A as in apple.

24 ZC CHAIR HOOD: Okay, 54A. Does that line up with
25 54B? Can I cross-reference?

1 MS. LORD-SORENSEN: Yes. Yes, Board Member.

2 ZC CHAIR HOOD: I can look at --

3 MS. LORD-SORENSEN: So when you read -- when you
4 look through Exhibit 54A, it says, Exhibit A. That
5 references the exhibits listed in Exhibit 54B.

6 ZC CHAIR HOOD: Okay. So I can look at those side
7 by side, and I can do my own timeline and go -- okay. So --

8 MS. LORD-SORENSEN: Correct.

9 ZC CHAIR HOOD: So let me ask this from Ms.
10 Barksdale.

11 Ms. Barksdale, could you also -- I am sure you
12 have. Could you review that timeline and see if you have any
13 discrepancies? I'd like to note them before I --

14 MS. BARKSDALE: Well I know that I have at least
15 one discrepancy. And the discrepancy is that the inspection
16 that Gregory Watkins performed on the 9th, that actually was
17 in response to the initial Twitter picture, where he went up
18 -- and you can see on the 7th that that structure was built.
19 And on the 9th, when he came, that structure was also built.
20 And he said that it was all in accordance with the permit
21 that was issued.

22 This particular --

23 ZC CHAIR HOOD: Okay. Let me see --

24 MS. BARKSDALE: -- inspection is conveniently
25 missing from all of OP's documents.

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1 ZC CHAIR HOOD: Okay.

2 MS. BARKSDALE: There's no reference to this
3 inspection at all.

4 ZC CHAIR HOOD: And that's just --

5 (Simultaneous speaking.)

6 MS. LORD-SORENSEN: I can supplement the record.

7 (Simultaneous speaking.)

8 MS. BARKSDALE: -- the elevation drawings. And
9 I see you're -- are you talking, Ms. Sorensen? It looks like
10 you're saying something.

11 ZC CHAIR HOOD: Yes. I got my questions --

12 MS. BARKSDALE: I've already stated how the
13 elevation drawings ended up not in approved plans. They were
14 removed by DCRA employees, in terms of that they were not
15 needed. But on January 9th, Gregory Watkins walked through
16 here. That structure was there. And he said that the plans
17 were in accordance with the permits.

18 ZC CHAIR HOOD: Okay. So --

19 MS. BARKSDALE: If there was a problem --

20 ZC CHAIR HOOD: I think I got it, Ms. Barksdale.
21 Ms. Barksdale --

22 MS. BARKSDALE: -- with the structure at that
23 particular time --

24 ZC CHAIR HOOD: Ms. Barksdale, I think I got it.

25 MS. BARKSDALE: -- then on January 9th, a stop-

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1 work order should have been issued. But what happened is,
2 a community neighbor continued to complain, because she did
3 not get what she wanted, the result that she wanted, and she
4 contacted somebody down there, and they came back down on the
5 11th. And then the whole, whatever happened between the 9th
6 and 11th, now all of a sudden it's now not in compliance.

7 ZC CHAIR HOOD: Ms. Barksdale, I think I actually
8 have it. It would have -- I was trying to get to another
9 point. So, I think you mentioned that in your testimony, but
10 I still would like an -- I think I got that part.

11 Now, Ms. Sorensen, most of the time I look at
12 building permits, and they help me out. Most of them are
13 vague anyway. They have one line. It doesn't really put the
14 whole scope of work.

15 MS. LORD-SORENSEN: Well that's --

16 ZC CHAIR HOOD: I've seen many of them, and I've
17 seen -- it's actually what gets us to the problems, because
18 most of them are very vague, very vague. So would you say
19 that this is a typical one-liner that we do on the permits
20 at DCRA?

21 MS. LORD-SORENSEN: So, we've seen one-liners, as
22 you call it, on the scope of work, however, the one line that
23 was used on the revised permit was very misleading. It
24 referenced an installation of a spiral staircase. It does
25 not mention, oh, and the construction of a penthouse, to

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1 enclose the spiral staircase.

2 And when -- Board Member Hood, when you look at
3 the plans that we -- I believe they were submitted by
4 Barksdale, it might also be part of DCRA's exhibits, it shows
5 again, an aerial view of a spiral staircase. There's no
6 reference to any sort of penthouse, or any other enclosure
7 on top of the building. That was conveniently left out. And
8 there are no approved plans for that fourth floor.

9 And that's what we want to convey to the Board.
10 There are no approved plans for the fourth floor. Even if
11 you look at the original permit, Board Member Hood, there are
12 no approved elevation plans showing the fourth floor. But
13 somehow Ms. Barksdale's under the impression that she didn't
14 have to provide plans showing the fourth floor. If she said,
15 well I'm going to build a staircase, well DCRA, you should
16 have figured out that I'm also going to put a penthouse up
17 there. But that's not the case.

18 VICE CHAIRPERSON HART: Mr. Chairman.

19 MS. LORD-SORENSEN: It's misleading.

20 VICE CHAIRPERSON HART: Mr. Chairman, as this is
21 not actually an appeal, I --

22 MS. LORD-SORENSEN: I guess it's not.

23 VICE CHAIRPERSON HART: I would like to kind of
24 focus on, this is the applicant having to provide us their
25 justification. And if we could keep it to that --

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1 I understand, Ms. Lord-Sorensen, that you have a
2 duty to address, you know, what you see are things that are
3 concerning to you. But I would like to focus it back on the,
4 on it, this as being an application for some special
5 exceptions and for a variance, if I could.

6 ZC CHAIR HOOD: So for me, Mr. Vice Chair, I've --

7 CHAIRPERSON HILL: Talking to Ms. John.

8 ZC CHAIR HOOD: Let me just say -- and I
9 appreciate Ms. John. I want to know what she was holding up.
10 She was holding up something for me to look at, so I'm going
11 to go right to that. But I wanted to go there, because I
12 think the timeline is going to be crucial for me as well, as
13 far as this whole case is concerned. So thank you, Mr.
14 Chair.

15 And thank you, Vice Chair.

16 Ms. John, if you could tell me what that was you
17 were holding up, so I can look at it?

18 MEMBER JOHN: Yes. Thank you, Mr. Hood. I was
19 just reading from the timeline, and that's Item 2, and the
20 scope of work, revision of V1404447 to add a spiral staircase
21 to a room above master bedroom. So where is that spiral
22 staircase going? That's my question. I mean, what did the
23 inspector look at? So that's my other question.

24 So, I think I've asked that before. Thank you,
25 Mr. Chairman.

1 CHAIRPERSON HILL: All right. That's all right.
2 Ms. Sorensen, if you can mute your line, you're muted.
3 Sorry, I unmuted.

4 And Ms. Barksdale, it is nice to kind of -- Mr.
5 Hart, Vice Chair Hart has kind of brought us back to the
6 focus, which is again, I just want to point out, there's an
7 application before us for special exceptions and an area
8 variance, right. So, you as the applicant have to make the
9 argument that you're meeting the criteria for the special
10 exception and the variances.

11 What is now, I think, before us that's an
12 additional thing that we're trying to figure out, is this
13 timeline and whether or not DCRA -- and this is just what I'm
14 kind of trying to figure out, is whether or not DCRA has put
15 you in this situation, and even if they have, whether or not
16 that's something we're able to take into consideration when
17 looking at the regulations.

18 So I'm just letting you know, I don't know where
19 we are, right. Okay. And so, I'm trying to clarify with you
20 what we're looking at. That's what I'm trying to clarify,
21 what we're looking at.

22 MS. BARKSDALE: I was just saying that, from my
23 understanding, in terms of when I was, presented here last
24 time, that there were situations where if DCRA made an error,
25 and what I'm saying is the glaring error is that when they

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1 came on the 9th and said that everything was okay, that that
2 validated all the work that had been done to that date. And
3 that structure was substantially complete as of that date.

4 And so that was what my understanding was when I
5 came before the Board before, that, you know, that there's
6 extenuating circumstances, prohibitive costs and all of these
7 things that factor into a variance and a special exception.
8 And so that's what I'm demonstrating here today, in terms of
9 meeting those criteria.

10 CHAIRPERSON HILL: Okay. And Ms. Barksdale, to
11 follow up, because I don't want to forget this, the 9th
12 somebody came out, but then the 11th, somebody came out and
13 said you had to stop working. So that's only two days later,
14 right. So you know -- you knew -- I'm just trying to say,
15 you knew on the 11th that there was a problem? Okay. All
16 right.

17 And so whatever -- I'm just saying, between the
18 9th and 11th, a whole lot of work isn't getting done, right.
19 It's -- you know, there's not a work that's taking place
20 between the 9th and the 11th. So you knew that on the 11th,
21 there was a problem. Even if you thought that on the 9th it
22 was good, you now knew on the 11th there was a problem.

23 So, I don't -- and now, I actually do want to
24 know, if you can provide something to the record from your
25 architects as to how much work was done by the 11th of

1 January, that would be helpful to me. Right. So, and I --
2 and we have an architect. So whatever they want to submit,
3 that shows what was done by the 9th of January 2016, right.
4 And so, that's what I'd like to know.

5 ZC CHAIR HOOD: Mr. Chairman, can I ask, are we
6 talking about the 9th, January 9th, 2016?

7 CHAIRPERSON HILL: That's what I thought.
8 Correct?

9 ZC CHAIR HOOD: So, maybe I shouldn't say this,
10 but that was a Saturday. So I guess -- does DCRA --

11 Ms. Sorensen, does DCRA go out and do inspections
12 on Saturday?

13 MS. LORD-SORENSEN: We do have inspectors on call
14 over the weekend.

15 ZC CHAIR HOOD: I'm glad to know it. Thank you.
16 Thank you, Mr. Chairman.

17 CHAIRPERSON HILL: Okay. So, I'm going to let
18 everybody try to get what they want.

19 And then, Ms. Barksdale, this is the last thing
20 I'm curious of, for you, because I'm just curious, right.
21 So, I guess you could also let us know from your architects
22 what needs to be done to get you into compliance, and how
23 much that would cost. Right.

24 MS. BARKSDALE: So, I've already talked to the
25 Historic Preservation Board, and they said that a penthouse

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1 would not be allowed under any circumstances under their
2 regulations.

3 (Simultaneous speaking.)

4 CHAIRPERSON HILL: So HPRB would deny the whole
5 penthouse altogether?

6 MS. BARKSDALE: Exactly, yes. So I would have to
7 start this process all over again with HPRB.

8 CHAIRPERSON HILL: So you'd have to take down the
9 whole thing?

10 MS. BARKSDALE: Well, either take it down, or I
11 would start this hearing process with a public hearing, and
12 going through that, which would, could take another five
13 years.

14 CHAIRPERSON HILL: Okay.

15 MS. BARKSDALE: Because this Board, when you guys
16 make a decision, it still has to go through HPRB. So the
17 only way that this kind of -- yes. If you issue me a new
18 permit to make any type of modifications that would require
19 structural, it's my -- this is my understanding, now. My
20 architects might have dropped off, I'm not sure, because this
21 has been a very long day.

22 But I talked to HPRB, and they were saying that
23 because my house is on the corner, you can basically see any
24 structure on my roof, because I'm on the corner, so nothing
25 on my roof would be approved by HPRB. So you could issue me

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1 a permit and say, make it smaller, or even keep the structure
2 the same.

3 The only way that gets me out of this loop of
4 continual hearings and all that stuff is to grandfather me
5 in somehow with the existing structure, so that I don't have
6 to make any modifications. From what I understand, and since
7 the structure was, has been substantially complete, I don't
8 have anything that needs to be done to it that would require
9 a permit at this particular time, because everything that
10 needs to be completed is actually internal.

11 So, that's another twist to this whole scenario
12 in terms of where we are today.

13 CHAIRPERSON HILL: All right. I don't understand.

14 So Dan, or Ms. Brown-Roberts, I mean, if -- I'm --
15 what I'm trying to understand, and maybe somebody can tell
16 me, and Ms. Lord-Sorensen, if you speak up, just raise your
17 hand so I can kind of like find out. But -- and I've got Dan
18 and Ms. Brown-Roberts, right.

19 So I'm trying to understand -- this is another
20 thing I'm trying to understand. If Ms. Barksdale, if we
21 denied the variance, what brings her into compliance?

22 MS. BROWN-ROBERTS: If you denied, then she can
23 make it smaller, to meet the requirements.

24 CHAIRPERSON HILL: Okay. But then she's saying
25 that she still has to go to HPRB?

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1 MS. BROWN-ROBERTS: Well, it's within a historic
2 district, and the historic designation, or the historic
3 district was created, I think after she did the construction.

4 CHAIRPERSON HILL: So then it would be whatever,
5 grandfathered in, it would just have to be made smaller?

6 MS. BROWN-ROBERTS: Yes, yes. I don't know about
7 the grandfathering. When I spoke to the HP staff person,
8 they were -- you know, they were shaking their head and said
9 no, you know, they won't permit it. So, there hasn't been
10 any -- she hasn't gone to HPRB. It's just from HP staff that
11 she's spoken to.

12 CHAIRPERSON HILL: So then if we were to approve
13 this --

14 MS. BROWN-ROBERTS: Yes.

15 CHAIRPERSON HILL: -- she still has to go to HPRB?

16 MS. BROWN-ROBERTS: Possibly.

17 CHAIRPERSON HILL: Possibly?

18 MS. BROWN-ROBERTS: Yes.

19 CHAIRPERSON HILL: So HPRB trumps us?

20 MS. BROWN-ROBERTS: There's always -- you know,
21 when someone has to go to HPRB, you know, usually we say, you
22 know, we'll say, get -- you know, at least speak to the
23 staff. Go through HPRB first before you go through DCRA,
24 because HPRB doesn't have to uphold what the BZA says.

25 CHAIRPERSON HILL: Okay. All right. So this is

1 what I want. So, I want the timeline. I guess we have the
2 timeline. I don't know if you guys want it done in a more
3 like -- I mean, I guess, Ms. Sorensen, if there's a way you
4 can send it in a way that's easier to deal with, I don't
5 know. I mean, you got -- maybe I guess it's easy enough.
6 There's two -- there's A -- you know, there's A and B. And
7 I guess I can -- yes. I guess that's fine. I mean, A and
8 B's fine.

9 So I guess we don't need a new timeline. You guys
10 don't need a new timeline? I'm asking.

11 MEMBER JOHN: I do need a timeline. I need to
12 know what happened when Gregory Watkins went to the site.
13 And that's really important for me because it's not mentioned
14 in the timeline at all.

15 And my question is, if the structure was
16 substantially complete in, on January 10th, which is the
17 inspection date that's mentioned on this record, and the
18 historic designation came after that, I would think there
19 would be some sort of grandfathering. I don't know. That
20 would be something I could, you know, put to Ms. Brown-
21 Roberts to look into, assuming that we granted the
22 application.

23 CHAIRPERSON HILL: Okay, Mr. Hart, what do you
24 need?

25 VICE CHAIRPERSON HART: I don't need anything.

1 I think that we can get the few documents. It sounds like
2 we've -- the few documents, I think that we've requested, and
3 maybe get some clarification on where the -- I'm not even
4 sure if we should start getting into the whole HPRB thing,
5 because that's not under our purview.

6 We're really just focused on whether or not we
7 think that they've met the, you know, the criteria for
8 providing for approving a variance and special exceptions.
9 And I think that we have quite a bit of information, and I'm,
10 I'll be ready to make a decision when we come back, maybe
11 next week or the week after. It depends on the schedule.
12 So I don't need anything else.

13 CHAIRPERSON HILL: Chairman Hood?

14 ZC CHAIR HOOD: I don't need anything. I just
15 think I'm going to look at these timelines. And I would
16 agree with Board Member John about that piece, I think
17 January the 9th or 10th or whatever the date is, that piece
18 that Ms. Barksdale said was missing.

19 And I think the Vice Chair is exactly right.
20 We've had a discussion before about HPRB and BZA. As we
21 know, we do what we do and they do what they do. It's not --
22 nobody trumps us. We don't trump them, they don't trump us.

23 CHAIRPERSON HILL: Oh my God, we used the name.

24 ZC CHAIR HOOD: It was not in that context. It
25 was --

1 CHAIRPERSON HILL: Oh my God. It's like Lord
2 Voldemort from Harry Potter. Wow.

3 VICE CHAIRPERSON HART: Okay. Since I'm actually
4 really getting hungry, can we not start going on that?

5 (Laughter.)

6 ZC CHAIR HOOD: It just started.

7 CHAIRPERSON HILL: Okay, okay, okay. Okay, okay.
8 So, all right. So then, we're going to get the information
9 from Ms. Lord-Sorensen about that one inspection.

10 Ms. Barksdale, you're going to tell me what was
11 done by your architects by, I guess, the stop-work order,
12 like how much work was actually completed by then, right.
13 And I suppose, if you wanted to tell me how much you think
14 it's going to cost for you to do this without the variance,
15 that's what I'm trying to understand, right. And I hope your
16 architects can figure that out, okay, how you do this without
17 the variance, right. Like what's the size of the thing or
18 whatever it's going to cost you, I'd like to know how much
19 it's going to cost.

20 And then the final thing, just to clarify that Mr.
21 Hart keeps pointing out is that, what is before us are the
22 zoning regulations that you're asking relief from? And what
23 I'm not clear on is whether we can take into account all this
24 accusations, in terms of the timing with DCRA, and whether
25 or not you relied on them, and now you're in trouble.

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1 So I don't know where your -- I'm just trying to
2 say, there's two different things going on here that I'm
3 confused about, right. Like, if we're just looking at the
4 application, then we just look at the application. But it's
5 the timing that you're kind of throwing in there, and I don't
6 even know if we're allowed to rule on that. That's what I'm
7 trying to point out to you.

8 So, anybody need anything else? Okay. Ms.
9 Barksdale, do you have anything else you'd like to add at the
10 end?

11 MS. BARKSDALE: No. I think that that's it.
12 Thank you very much.

13 CHAIRPERSON HILL: Okay. Well good luck to you.
14 I really do mean that.

15 And so, let's see, then Mr. Moy -- oh yes, Ms.
16 Lord-Sorensen?

17 MS. LORD-SORENSEN: When would you like the
18 information?

19 CHAIRPERSON HILL: We're going to get a timeline
20 here for Mr. Moy.

21 MS. LORD-SORENSEN: Another timeline, okay.

22 CHAIRPERSON HILL: Yes. Another timeline.

23 MR. MOY: That was good. Okay, Mr. Chairman, I
24 want to put this very simply, and then you could vary by a
25 day or two with the proposed dates I'm going to be giving

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1 you. I think what would be accommodating to the Board would
2 be to bring this back to the Board on July the 15th.

3 And to make that work, if both the parties, DCRA
4 and Ms. Barksdale can make their filings on the same date,
5 which I would suggest would be July 1st, Wednesday, which
6 would be next week. And then the parties can respond to each
7 other's filing a week later, which would be July the 8th, and
8 then bring this back to -- I don't know whether or not you
9 want a decision or continued hearing on July 15th. So you
10 can vary the number of days as you wish from that.

11 CHAIRPERSON HILL: What do you all think? Do you
12 guys need -- do you need more -- do you -- can we do a
13 decision? Okay, okay, all right, so a decision.

14 Okay, so a decision then on the 15th, Mr. Moy.

15 Ms. Barksdale, Ms. Lord-Sorensen, do you guys
16 understand the dates?

17 MS. BARKSDALE: July 1st, it would be the, how
18 much work was completed and how to, if there's a way to do
19 it without the variance, you're asking me? That would be due
20 by the July 1st?

21 CHAIRPERSON HILL: Yes, how much work was
22 completed by that stop-work order, and then what it would
23 cost you to bring it under into -- what you would be able to
24 do without the variance. And actually maybe even the Office
25 of Planning can tell you that.

1 MS. BARKSDALE: Is that something you can tell me,
2 Ms. Maxine Brown-Roberts?

3 PARTICIPANT: You're on mute.

4 MS. BROWN-ROBERTS: I'm sorry. Can you mention
5 that again, please?

6 CHAIRPERSON HILL: Ms. Brown-Roberts, I was trying
7 to figure out if you could help Ms. Barksdale understand what
8 she can do without the variance.

9 MS. BROWN-ROBERTS: Oh yes.

10 CHAIRPERSON HILL: Okay. So Ms. Brown-Roberts can
11 tell you what you can do without the variance. And then you
12 can tell us how much it'll cost you to get to that point.
13 Okay? Okay.

14 All right, well, we're done, right, Mr. Moy?

15 MR. MOY: Okay. Well you clarified the, what you,
16 supplemental information you wanted from Ms. Barksdale. Are
17 we clear on what the Board wishes to have from DCRA?

18 CHAIRPERSON HILL: I think DCRA's supposed to show
19 us what happened with that part with the inspector.

20 MR. MOY: Okay, perfect. Perfect. Okay. We'll
21 write that up in an OZ memo for the record.

22 CHAIRPERSON HILL: Okay. All right, let's take
23 a lunch break. I mean, how much time you all want, half
24 hour? All right. I mean, this is going to go on.

25 Ms. Barksdale, you take care. Bye-bye. Bye-bye,

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1 Ms. Lord-Sorensen.

2 All right. So like, we'll shoot for 3:45? Okay.

3 All right, let's shoot for 3:45. Thank you.

4 (Whereupon, the above-entitled matter went off the
5 record at 3:18 p.m. and resumed at 3:58 p.m.)

6 CHAIRPERSON HILL: You want to call us back in,
7 and then I guess our next application, is that 20053?

8 MR. MOY: Yes, sir. Okay. So, the Board is back
9 in session from its lunch recess, and the time is at or
10 about, let's say 4 o'clock p.m. And the next case
11 application before the Board is Case Number 20053, if I can
12 say, Mohammed Sikder, that's the title. This is captioned
13 advertised for area variance from the side yard requirements,
14 subtitle D, Section 206.2, to construct a new detached
15 principle dwelling unit in a R-1-B Zone, at premises 2433
16 Girard, G-I-R-A-R-D Place, Northeast. This is Parcel 155/7.

17 CHAIRPERSON HILL: All right, Mr. Moy.

18 Ms. John, are you there?

19 MEMBER JOHN: I'm here.

20 CHAIRPERSON HILL: Okay. You want to let
21 everybody in, Paul?

22 MEMBER JOHN: Can you hear me?

23 CHAIRPERSON HILL: Yes.

24 MEMBER JOHN: Okay.

25 CHAIRPERSON HILL: Paul, are you having problems

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1 letting people in? I saw the ANC there for a second.

2 MR. YOUNG: I'm trying to find Mr. Seck, who I was
3 told was having some technical issues, so I'm expecting him
4 to call in.

5 CHAIRPERSON HILL: Okay. Are they both -- this
6 one and the next one, I think they're both the same
7 developer.

8 MR. MOY: That's correct.

9 CHAIRPERSON HILL: Is that correct, Mr. Moy?

10 MR. MOY: Yes, sir.

11 CHAIRPERSON HILL: And he's having problems, Paul,
12 is that correct?

13 MR. YOUNG: I have -- yes, I have the ANC, who's
14 also calling in, and who I can unmute.

15 CHAIRPERSON HILL: Okay. Can I have the ANC for
16 a second?

17 MR. YOUNG: He should be able to speak now.

18 CHAIRPERSON HILL: Hello? Commissioner?

19 MR. YOUNG: He just muted himself.

20 CHAIRPERSON HILL: I don't see them on the screen.

21 MR. YOUNG: No, it's because he's calling in.

22 CHAIRPERSON HILL: Oh, okay.

23 MR. YOUNG: Unless he is the one that is logged
24 in as 5C07.

25 CHAIRPERSON HILL: He may be.

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1 ZC CHAIR HOOD: Yes, he is 5C07. That's his ANC.

2 CHAIRPERSON HILL: Commissioner, can you hear me?

3 Commissioner, I think you need to unmute your -- there you
4 go. Okay.

5 MR. MONTAGUE: Can you hear me now?

6 CHAIRPERSON HILL: Yes.

7 MR. MONTAGUE: Good afternoon --

8 CHAIRPERSON HILL: Commissioner, could --

9 MR. MONTAGUE: Good afternoon, Board Members, how
10 are you?

11 CHAIRPERSON HILL: Good. Could you introduce
12 yourself for the record, please?

13 MR. MONTAGUE: Jeremiah Montague, Jr., Vice Chair
14 and Treasurer, ANC 5C, Commissioner, ANC 5C07.

15 CHAIRPERSON HILL: Commissioner, are you choosing
16 to not use the video camera? I just want to make sure I'm
17 not seeing you for your choice.

18 MR. MONTAGUE: You should see my smiling face very
19 shortly.

20 CHAIRPERSON HILL: Oh, Commissioner Montague, very
21 nice to see you.

22 MR. MONTAGUE: I knew you'd be saw me.

23 CHAIRPERSON HILL: Pardon?

24 MR. MONTAGUE: Yes, I got two things going on, but
25 the 5C07 one works fine for me.

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1 CHAIRPERSON HILL: Okay, great.

2 Mr. Seck, are you there? Mr. Seck, you're still
3 muted. No, you're still muted.

4 Commissioner Montague, were you --

5 MR. MONTAGUE: Yes, sir.

6 CHAIRPERSON HILL: You were watching -- I hate to
7 do this to you, but you were watching from the beginning of
8 the day probably, correct?

9 MR. MONTAGUE: Always.

10 CHAIRPERSON HILL: It's nice to see you. I wish
11 -- you want to trade jobs?

12 MR. MONTAGUE: I thought about that for a half
13 second.

14 (Laughter.)

15 MR. YOUNG: I have Mr. Seck calling in right now,
16 so he should be able to speak.

17 CHAIRPERSON HILL: Mr. Seck, would --

18 MR. MONTAGUE: I wouldn't wish today on anybody.

19 CHAIRPERSON HILL: Well, that's very kind of you.
20 Doing the good work of the City.

21 MR. MONTAGUE: Yes well, you -- on your birthday,
22 you're dealing with all this.

23 CHAIRPERSON HILL: Chairman Hood, I'm coming to
24 find you, buddy.

25 (Audio interference.)

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1 CHAIRPERSON HILL: That's the -- Commissioner, if
2 you could mute your line, let's see -- it looks like --

3 Mr. Seck, you want to unmute again, and let's see
4 if I can hear you?

5 MR. SECK: Yes. Good afternoon, Chairman Hill.
6 Can you hear me?

7 CHAIRPERSON HILL: Yes. Could you introduce
8 yourself, please?

9 MR. SECK: Yes. Good afternoon, Chairman Hill,
10 and by the way, happy birthday. We're in the same month.
11 Mine was a week and a half ago.

12 CHAIRPERSON HILL: Oh.

13 MR. SECK: June 11th.

14 CHAIRPERSON HILL: All right.

15 MR. SECK: Yes, sir.

16 CHAIRPERSON HILL: Happy birthday to you then, as
17 well.

18 MR. SECK: Thank you, thank you.

19 And good afternoon, Chairman Hood. It's good to
20 see you again, it's been a while, and Vice Chair and
21 Commissioner Joan.

22 This -- John, I'm sorry. This is Oumar Seck,
23 with, representing District Properties, at -- we are at 5100
24 Wisconsin Avenue Northwest.

25 CHAIRPERSON HILL: Okay, thank you. Mr. Seck, I

1 guess what I'm a little confused by is like we asked to see
2 revised plans, and you haven't submitted those.

3 MR. SECK: Revised plans?

4 CHAIRPERSON HILL: Yes. And I guess -- and maybe
5 I'm looking at the right thing. I need --

6 Jake, you need to tell me, but I'm looking at your
7 report. The revised plans that need to be provided by July
8 10th, and they weren't submitted. Is that what your --

9 (Simultaneous speaking.)

10 MR. RITTING: It occurred in last July. The
11 Office of Planning stated that additional relief was
12 required, notably lot width and lot area relief. And my
13 understanding was, the applicant was to provide a revised
14 self-certification and revised burden of proof statement.

15 In addition, the Office of Planning, in its
16 section addressing a substantial detriment to the public good
17 stated, in its report, "In order to more closely match the
18 character of the existing street, OP asked the applicant to
19 use siding on the front, including a full front porch, and
20 have a thinner front gable that should also be brought in
21 line with the other houses. The applicant was amenable to
22 those changes, and indicated that revised plans will be
23 submitted into the record."

24 And it doesn't appear that there were any revised
25 plans submitted. So, those are the outstanding issues.

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1 CHAIRPERSON HILL: Mr. Seck, are you aware of
2 these? Are these the ones, are these the submissions of --

3 MR. SECK: Yes. Chairman Hill, no, I am not aware
4 of those. Again, this -- yes. I will then in this case let
5 the Board decide to vote -- I mean, if it is possible to
6 postpone, we can get this back. I am sincerely not aware of
7 this. This catches me off guard.

8 CHAIRPERSON HILL: Mr. Ritting -- I mean, Mr.
9 Jesick, can you hear me?

10 MR. JESICK: I can, Mr. Chairman.

11 CHAIRPERSON HILL: Okay. And --

12 MR. JESICK: Can you hear me?

13 CHAIRPERSON HILL: Yes. Would you like to
14 introduce yourself, Mr. Jesick?

15 MR. JESICK: Thank you. My name is Matt Jesick,
16 representing the Office of Planning for this case.

17 CHAIRPERSON HILL: Mr. Jesick, it's lovely to see
18 you.

19 MR. JESICK: You too, Mr. Chairman. Thank you.

20 CHAIRPERSON HILL: This is great, great.
21 Everybody's like, you pop up, and they're still live, and all
22 is good, it's great. All right. So, Mr. Jesick, can you
23 explain to the applicant what you need?

24 MR. JESICK: I believe the plans in question were
25 submitted at Exhibit 37. Those are the -- I believe those

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1 are the latest plans. They were submitted after our report
2 was filed into the record. I do not seek updated self-
3 certification in the record. We did evaluate those areas of
4 relief, the lot area and lot width in our report.

5 So, you know, it'd be up to OHD or the us to
6 decide if you need the new self-certification or not.

7 CHAIRPERSON HILL: We could -- I mean, Mr. Moy or
8 Mr. Ritting, I mean, they are -- how could -- can we move
9 forward now?

10 MR. RITTING: I don't suggest that you do. I
11 think you should clear up what relief they're requesting and
12 make them state that on the record before you move to
13 approve, certainly. You can do that today anyway, because
14 you got to schedule for another meeting because of the
15 virtual hearing.

16 CHAIRPERSON HILL: Say that again.

17 MR. RITTING: I don't think you can take action
18 to approve this.

19 CHAIRPERSON HILL: No, I'm not -- that's what I'm
20 saying, can we hear the hearing today? I'm sorry.

21 MR. RITTING: You could, yes. If the applicant
22 is -- and if they're ready to talk about the relief that they
23 actually need, then yes, you could go ahead with it. I'm not
24 so sure, if Mr. Seck is saying that he wasn't aware that he
25 even needed to ask for this relief, how he's going to be

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1 prepared to talk about it today, but that's up to you,
2 whether you want to go ahead with this today or continue it
3 for another date.

4 CHAIRPERSON HILL: Okay, Mr. Seck, can you hear
5 me?

6 MR. SECK: Yes, Chairman Hill.

7 CHAIRPERSON HILL: Mr. Seck, what I'd like you to
8 do is get together with the Office of planning, understand
9 what --

10 MR. SECK: Okay.

11 CHAIRPERSON HILL: -- relief you actually need.

12 MR. SECK: Okay.

13 CHAIRPERSON HILL: Revise the self-cert, and then
14 make an argument for the relief you're requesting.

15 MR. SECK: Okay. Okay.

16 CHAIRPERSON HILL: Okay?

17 MR. SECK: Yes. That's --

18 CHAIRPERSON HILL: Chairman Montague, I'm sorry.
19 I know you guys are in denial, and I assume you'll still be
20 in denial when the new time frame comes up. Are you here for
21 the next one as well, or no?

22 MR. SECK: Yes.

23 CHAIRPERSON HILL: No, I meant -- I'm sorry, I
24 meant Commissioner.

25 MR. SECK: Oh, I'm sorry.

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1 MR. MONTAGUE: I am actually here. Commissioner
2 Manning, who would have been on 0225 is, apparently went to
3 the emergency room this morning. So I was -- didn't -- I
4 couldn't sign up for that one, and I'm also here for 20184.

5 CHAIRPERSON HILL: Oh, okay. So that's later in
6 the hearing. I'm sorry. All right, so --

7 MR. MONTAGUE: That's okay.

8 CHAIRPERSON HILL: All right, so Mr. Seck, do you
9 understand what you need to do for this one? You're on mute,
10 Mr. Seck.

11 MR. SECK: Oh, yes. Chairman Hill, I'm sorry.
12 I didn't know you were addressing me. You said, if I'm aware
13 of what's needed?

14 CHAIRPERSON HILL: Yes. I'm saying please circle
15 back to the Office of Planning, understand how to revise your
16 application, and please submit information into the record
17 making the argument for the requested relief. Okay?

18 MR. SECK: Absolutely. Yes.

19 CHAIRPERSON HILL: Mr. Moy, when can we reschedule
20 this?

21 MR. MOY: It's --

22 MR. SECK: May I ask --

23 MR. MOY: -- overlaying as they have been, which
24 means it pushes this a little further out, but that's the
25 guidance. I'm certainly looking at probably late July. I'm

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1 looking at July 22nd. We have two applications and one
2 appeal. We could put this one as a third application, with
3 the appeal on July 22nd.

4 CHAIRPERSON HILL: Okay, let's do that.

5 Commissioner Montague? I know you can hear me.
6 Is there anything that Mr. Seck can do to get the approval
7 from the ANC?

8 MR. MONTAGUE: I doubt it very seriously. The
9 community opinion has not changed on it. And given our
10 concerns, we have prepared a presentation based on the
11 revised drawings that the applicant had submitted. And you
12 should have that as a PDF and a PowerPoint presentation,
13 which was sent to Mr. Young, at like quarter of 5 yesterday
14 morning.

15 CHAIRPERSON HILL: Yes, I see them, Commissioner.

16 MR. MONTAGUE: Okay. So no, our Commission now
17 is technically in recess, or we're only handling special
18 things. But there's no change in the position of the people
19 who live within 100 or 200 feet of the community in general.

20 CHAIRPERSON HILL: What would you like to see
21 happen on that lot, Commissioner?

22 MR. MONTAGUE: We would like to see that house not
23 built at all.

24 CHAIRPERSON HILL: So you would just like the lot
25 to be empty?

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1 MR. MONTAGUE: Yes. But without getting into the
2 long story of how we got here, the original property owner
3 at 2431 held both parcels on each side. When she passed
4 away, her heirs sold the parcels as three separate things.
5 The applicant believed that they could build a house on the
6 25-foot-wide parcel if they got relief from the Board of
7 Zoning Adjustment. We think that that house, as described
8 in the most revised document still does not fit in with what
9 would make it an acceptable structure.

10 CHAIRPERSON HILL: Okay.

11 MR. MONTAGUE: When that -- and, I mean, I've
12 spent literally 70 or 90 hours working on drawings. I had
13 to reconstruct 13 different houses, and the elevation going
14 from zero to minus 40 feet from -- to show the relative
15 position of this proposed structure in relationship to the
16 existing structures. So that's what's in that presentation.

17 CHAIRPERSON HILL: Okay. I appreciate it,
18 Commissioner. I can see you've done a lot of work also. I
19 was just curious if there was any way that you would be in
20 support of this. All right. That's okay.

21 MR. MONTAGUE: Thank you for asking.

22 CHAIRPERSON HILL: Yes. Thank you for answering.
23 All right. I will then see you guys on July 22nd.

24 MR. RITTING: Could I make a suggestion that we
25 set dates for the applicant to get this information, and for

1 any parties to respond? And I propose that if the hearing
2 is going to be the 22nd of July, that they submit the
3 documents by July 8th, and then give the other parties seven
4 days to respond. That would be July 15th.

5 MR. MOY: Yes, Mr. Chairman, I was going to
6 suggest, given the quantity of the file, and that the
7 application submit -- I'll leave it up to you, and submit by
8 Friday, July 3rd, and have responses by the 10th, July 10th.
9 That would give more time for the Board to review the
10 materials.

11 CHAIRPERSON HILL: Mr. Seck, can you hear that?

12 MR. SECK: Yes. And I was going to interject.
13 Thanks for thinking about me. I would like to keep the July
14 8th, if that is possible, as Mr. Ritting said. That would
15 give us time to gather all this, interact with Office of
16 Planning, make sure we cover all the loopholes.

17 CHAIRPERSON HILL: I think the 8th is fine, but
18 then if you do the 8th again, what's happening, Mr. Ritting,
19 with the 8th? I didn't look at a calendar.

20 MR. RITTING: I'm not sure.

21 CHAIRPERSON HILL: So you're saying --

22 MR. RITTING: I think we're in Mr. Moy --

23 CHAIRPERSON HILL: Then, Mr. Moy, if we do the
24 8th, we're giving the applicant two weeks, then 8th, then
25 what? Then the ANC will get a week, to the 15th?

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1 MR. MOY: Yes.

2 CHAIRPERSON HILL: And then we're back on the
3 22nd. I don't think the ANC is going to change any of their
4 stuff.

5 MR. RITTING: Right.

6 CHAIRPERSON HILL: And so, you know, I think
7 they're okay. I'm just not speaking on behalf of the ANC,
8 but -- and so, let's keep it -- let's let Mr. Seck have his
9 deadline for the 8th.

10 And Mr. Seck, please work with the Office of
11 Planning and actually put together your own argument as to
12 how you're needing the relief requested. And --

13 MR. SECK: Yes, yes.

14 CHAIRPERSON HILL: And we'll then -- then, so the
15 8th, Mr. Moy, the 15th, and then we're back on the 22nd?

16 MR. MOY: Yes.

17 CHAIRPERSON HILL: Okay? All right, Mr. Montague,
18 see you --

19 MR. SECK: Okay, thank you.

20 CHAIRPERSON HILL: -- and maybe, and Mr. Seck, why
21 don't you stay right there, because you're next.

22 MR. SECK: Okay.

23 MR. MONTAGUE: All right, thank you very much.

24 (Simultaneous speaking.)

25 MR. MONTAGUE: Be back when the next --

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1 CHAIRPERSON HILL: I think we should get extra
2 credit from the Mayor for this one. I think it should be
3 like a gold star somewhere on the report card.

4 ZC CHAIR HOOD: You're really just making up time
5 for March and April, so I don't know if you want to get a
6 gold star.

7 (Laughter.)

8 VICE CHAIRPERSON HART: Wait. Do I hear -- is
9 that a bus?

10 (Laughter.)

11 CHAIRPERSON HILL: All right, Mr. Moy, call the
12 next one, please.

13 MR. MOY: All right, thank you, sir. That would
14 be Case Application No. 19984, Rupsha 2011, LLC, as amended
15 for special exceptions under the new residential development
16 provisions of Subtitle U, Section 421.1, and under the
17 inclusionary zoning requirements, Subtle C 1001.2(b)(3), to
18 construct an eight-unit apartment house, RA-1 Zone at 2908
19 N Street Southeast, Square 5507, Lot 2.

20 CHAIRPERSON HILL: Great, thank you.

21 Mr. Seck, could you please introduce yourself?

22 MR. SECK: Yes, Chairman Hill. Good afternoon,
23 everyone. My name is Oumar Seck, representing Rupsha 2011,
24 LLC at 5100 Wisconsin Avenue Northwest.

25 CHAIRPERSON HILL: Great, thank you. Mr. Seck,

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1 could you please walk us through what you're trying to do and
2 why you believe you're meeting the criteria for us to grant
3 the application?

4 MR. SECK: Yes, Chairman Hill. If I may, I would
5 like to briefly walk you through quickly. I know it's been
6 a long day for everyone. This case, to me, should be a
7 simple one. It's an eight-unit apartment we're proposing to
8 build at 2908 N Street North -- Southeast. And as per
9 Subtitle U, Chapter 421.1, it requires a special exception
10 from BZA for a new residential development.

11 We're proposing three floors plus a cellar level.
12 It'll be a mixture of two-bedroom units as well as three
13 bedrooms, and also at different floors, different mix.
14 Basically, in the description of the site and surrounding
15 area, the subject property is located in Twining
16 neighborhood, at the middle of Anacostia Road and 29th Street
17 North -- Southeast.

18 It is supported by an adequate number of
19 educational facilities, such as Randle Highlands Elementary
20 School, Sousa Middle School, and Anacostia High School.

21 The site is currently an RA-1 Zoning District,
22 designed to protect quiet residential areas. The table that
23 I'm getting ready to go through quickly is show the zoning
24 requirements for construction of such building in RA-1 Zone.
25 Basically, the lot occupancy requirement is 40 percent. We

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1 are under by -- we are at 36 percent.

2 CHAIRPERSON HILL: Mr. Seck, Mr. Seck?

3 MR. SECK: Yes.

4 CHAIRPERSON HILL: May I interrupt you. I'm
5 walking through your application and pulling up a bunch of
6 stuff. I'm just going to jump around to some questions.

7 MR. SECK: Okay.

8 CHAIRPERSON HILL: What happened at the ANC? I
9 don't see any report from them.

10 MR. SECK: They did send us an email, and said
11 that they posted it with approve. And we also got the
12 approval. We have a support letter, by the way. And our
13 office staff did upload it as -- did see it uploaded in the
14 IZIS.

15 CHAIRPERSON HILL: Okay. You just did --

16 MR. SECK: It should be --

17 CHAIRPERSON HILL: I see it. Okay.

18 MR. SECK: Yes.

19 CHAIRPERSON HILL: All right.

20 MR. SECK: Yes, so let -- they voted 7 to 0 to
21 support the application.

22 CHAIRPERSON HILL: Okay. All right. I'm -- as
23 I said, I'm walking through all this stuff.

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

1 Mr. Hart?

2 VICE CHAIRPERSON HART: Was there something about
3 trees that we were looking at, the OP report had requested?
4 I'm just trying to figure out where we are with that. There
5 was the Urban Forestry, you know, kind of check in with Urban
6 Forestry about the trees on the site? I just want to make
7 sure that that's actually been -- there are no issues with
8 that. And am I thinking the right case? That's also what
9 I'm asking.

10 CHAIRPERSON HILL: Time to --

11 VICE CHAIRPERSON HART: That was for Mr. Seck.

12 MR. SECK: Oh, okay. Yes, for Urban Forestry,
13 what we always do is -- right now, we haven't cut any tree
14 down. And we -- I'm not aware of any special tree that will
15 impede -- will -- which this building would impede on.
16 However, we do have always Urban Forestry inspector come
17 survey the property with us and issue permits accordingly,
18 and also the tree protection zone where it's needed. But so
19 far, I don't see any objection from DDOT, Urban Forestry
20 Division.

21 VICE CHAIRPERSON HART: I appreciate that. Thank
22 you. I am also seeing, on Page 77, it looks like there's
23 some information regarding the trees and removal stuff, so
24 no further questions.

25 CHAIRPERSON HILL: Mr. Hood, Ms. John, no? Okay.

1 All right, I'm going to turn to Ms. Vitale.

2 MS. VITALE: Good afternoon, Mr. Chair and members
3 of the Board. Elisa Vitale with the Office of Planning, for
4 Case 19984. I'm standing in for my colleague Anne Fothergill
5 this afternoon. The Office of Planning is recommending
6 approval of the special exception relief to construct a new
7 eight-unit apartment building and for the IZ bonus density.

8 As just noted, the applicant did provide the tree
9 protection plan information at Exhibit 77. This concludes
10 my report, and I'm happy to answer any questions. Thank you.

11 CHAIRPERSON HILL: Thank you, Ms. Vitale. It's
12 lovely to see you today.

13 MS. VITALE: Good to see you.

14 CHAIRPERSON HILL: Thank you. Does anybody have
15 any questions for the Office of Planning?

16 Okay. Mr. Seck, do you have any questions for the
17 Office of Planning?

18 MR. SECK: No, Chairman Hill. Thank you.

19 CHAIRPERSON HILL: Okay. Is there anybody here
20 wishing to speak in support or opposition, do you know, Mr.
21 Young?

22 MR. YOUNG: I have no one signed up.

23 CHAIRPERSON HILL: Okay. All right. Then if
24 that's the case, then Mr. Seck, do you have anything that
25 you'd like to add at the end?

1 MR. SECK: No, thank you. Thanks for giving me
2 the opportunity to present the case.

3 CHAIRPERSON HILL: Okay. Unless the Board has any
4 further questions, I'm going to put this on for decision for
5 next week. Okay, that would be July 1st. Okay great.

6 All right, Mr. Seck, thank you.

7 MR. SECK: Thank you very much, and have a
8 wonderful rest of a birthday, today. Thank you. I wish you
9 many more. Thank you everyone.

10 CHAIRPERSON HILL: Thank you. You as well, Mr.
11 Seck. You as well.

12 MR. SECK: Thank you, thank you.

13 CHAIRPERSON HILL: All right. Okay. The next
14 case, Mr. Moy, when you get a chance.

15 MR. MOY: All right, thank you, Mr. Chairman. So
16 moving right along, this is Case Application No. 20225 of
17 Rula Malky, M-A-L-K-Y, as amended for special exceptions
18 under Subtitle F, Section 5201, and lot occupancy
19 requirements, Subtitle F, Section 304.1, governing side yard
20 requirements, Subtle F, Section 305.1, to construct a rear
21 deck addition to an existing attached principal dwelling
22 unit, RA-1 Zone. This is at 3235 Fort Lincoln Drive,
23 Northeast, Square 4325, Lot 1025.

24 CHAIRPERSON HILL: Okay, great. Let's see. I
25 don't know. Is -- I'm waiting for then, Mr. Young, you can

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1 click --

2 One second, please. Thank you.

3 MS. MALKY: Sure.

4 CHAIRPERSON HILL: It's nice to see you.

5 I guess, if the ANC Commissioner is not part of
6 this, I don't think, Mr. Young. And neither is Mr. Seck.
7 Oh, he is? Oh, okay. Never mind. Maybe -- oh he is, maybe.

8 MR. YOUNG: I thought he said he was.

9 VICE CHAIRPERSON HART: He said he was here
10 because there was somebody else, I think it was somebody
11 else's --

12 CHAIRPERSON HILL: Go ahead and bring him back in
13 if you can, Mr. Young. And we'll see what happens.

14 ZC CHAIR HOOD: I think he said Chairman Manning
15 had to go to the emergency room, so that --

16 CHAIRPERSON HILL: Yes.

17 ZC CHAIR HOOD: Yes.

18 (Simultaneous speaking.)

19 CHAIRPERSON HILL: Okay. Ms. Malky --

20 MS. MALKY: Malky, hello.

21 CHAIRPERSON HILL: Malky, Ms. Malky. Could you
22 please introduce yourself for the record?

23 MS. MALKY: Yes, hi. Good afternoon, everybody.
24 My name is Rula Malky, and I reside, along with my husband,
25 at 3235 Fort Lincoln Drive, Washington, DC.

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1 CHAIRPERSON HILL: Okay. Well, Ms. Malky,
2 welcome. If you would, please walk us through your
3 application and why you believe you are meeting the criteria
4 for us to grant your requested relief.

5 MS. MALKY: Yes.

6 CHAIRPERSON HILL: There's 15 minutes on the clock
7 but, you know, whatever you need to use. If you can make it
8 -- please start whenever you like.

9 MS. MALKY: Sure. I know it's been a long day,
10 and happy birthday, by the way. So, we live on Fort Lincoln
11 Drive, and a few years ago, our row houses was allowed to
12 build decks. But in order for us to do so, we're required
13 to request an extension, from Section F 304.1 and F 305.1.
14 And it is, the type of relief is a special exception to allow
15 us to build a deck off the second story of the rear of our
16 house.

17 So we went through all of the requirements that
18 were required by us from the DCRC and the Zoning Office. We
19 presented our case on February 18th to the ANC. And we also
20 contacted our neighbors in a 200-foot radius. We contacted
21 our adjacent neighbors. And here we are right now.

22 We also got the approval for recommendation from
23 Mr. Jesick by email, prior to the original hearing, which was
24 supposed to be on March 25th, but here we are right now due
25 to the pandemic.

1 We have done all the necessary paperwork, a lot
2 of visits to the Zoning Office. And thank you for allowing
3 us the opportunity to present our case.

4 CHAIRPERSON HILL: Okay, great. So just to be
5 clear, I guess, for the Board, I mean, the notice went out
6 to the 200-footers in Exhibit 37, the notice to the parties
7 went out to Exhibit 39. You guys did post the original
8 hearing date, right, and there's an affidavit of maintenance
9 for that, correct, Ms. Malky?

10 MS. MALKY: Correct. We posted the original
11 signage for the original hearing, and I did, I posted them
12 again two weeks ago in preparation for this hearing. The
13 orange posters, right?

14 CHAIRPERSON HILL: Yes.

15 MS. MALKY: Yes.

16 CHAIRPERSON HILL: Okay.

17 MS. MALKY: And I took pictures.

18 CHAIRPERSON HILL: Okay, great. So I don't have
19 any issues with posting. Let's see.

20 So, all right, does the Board have any specific
21 questions for the applicant? Okay. I'm going to turn to the
22 Office of Planning.

23 MR. JESICK: Thank you, Mr. Chairman and Members
24 of the Board. This is Matt Jesick, representing the Office
25 of Planning for Case 20225. Can you hear me?

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1 CHAIRPERSON HILL: Yes, I can hear you. We can
2 hear you. Thank you.

3 MR. JESICK: Great. The Office of Planning can
4 rest on the record in support of the application, but I'd be
5 happy to take any questions. Thank you.

6 CHAIRPERSON HILL: All right, thank you.

7 Does -- I'm just looking at some stuff on the
8 record. Does the Board have any questions for the Office of
9 Planning? Okay. I see Commissioner Montague has joined us
10 again.

11 Commissioner, are you here to speak on behalf of
12 the ANC?

13 MR. MONTAGUE: In the absence of Commissioner --
14 Commission Chair Manning, yes, I'm in her place today.

15 CHAIRPERSON HILL: Okay. Would you please provide
16 us with your testimony?

17 MR. MONTAGUE: Very simply, the applicant did come
18 before the single-member district, and spoke to the
19 neighboring HOA, got approvals or at least an agreement. And
20 when they came before the full Commission, the full
21 Commission showed no objection with the applicant having
22 fulfilled the requirements to get to this point, and
23 therefore we voted in favor of it, unanimously.

24 CHAIRPERSON HILL: Okay, thank you. Well we hope
25 your colleague does well at the emergency room, Mr.

1 Commissioner.

2 MR. MONTAGUE: Thank you.

3 CHAIRPERSON HILL: All right. Does the Board have
4 any questions for the Commissioner?

5 Ms. Malky, do you have any questions for either
6 the Office of Planning or the Commissioner?

7 MS. MALKY: I'm all good, sir. But maybe, is
8 there a chance to allow our neighbors to go in on the hearing
9 and state their, you know, their support? Because they're --

10 CHAIRPERSON HILL: That's what's happening next,
11 Ms. Malky.

12 MS. MALKY: Perfect.

13 CHAIRPERSON HILL: Okay. So Paul, you said there
14 are people wishing to speak; is that correct?

15 MR. YOUNG: Yes. I'll bring a -- there's a couple
16 that are in here, and a couple that are calling in by phone.
17 So I'm going to bring in first the people that are logged in,
18 and then you can take the phone calls after you hear from
19 them.

20 CHAIRPERSON HILL: Okay. Is it Mr. Nolen?

21 MR. NOLEN: That's correct.

22 CHAIRPERSON HILL: Mr. Nolen, could you go ahead
23 and introduce yourself for the record, lease?

24 MR. NOLEN: Yes. My name is Anthony Nolen. I'm
25 a resident of 3279 Fort Lincoln Drive, Northeast.

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1 CHAIRPERSON HILL: Are you speaking in support or
2 opposition, Mr. Nolen?

3 MR. NOLEN: In support.

4 CHAIRPERSON HILL: Would you like to go ahead and
5 give your testimony, Mr. Nolen?

6 MR. NOLEN: Sure. We're here today as a result
7 of many years' labor from people like myself, who's a
8 previous Board Member, and with a pretty significant amount
9 of support throughout the community for those members of our
10 larger Dakota Crossing community who live along Fort Lincoln
11 Drive, to share the same sort of amenities that those members
12 who live closer to South Dakota Avenue, along 33rd and 31st
13 Place, as well as the sort of amenity as our growing
14 community has, which is to basically build outdoor space.

15 Our current situation is basically a real estate
16 construction. We were limited to our current, the way our
17 houses are currently made up, you know, basically as a way
18 for our builder, you know, to amenitize some houses over
19 others. And as our community, meaning Fort Lincoln, writ
20 large, is developed, it has become basically standard that
21 all of the homes in this community have outdoor space.

22 So, I'm very happy to hear that, at least thus
23 far, the Board sounds to be in support of, you know, allowing
24 us to return to a state that is in line with the larger
25 community, and we appreciate your consideration.

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1 CHAIRPERSON HILL: Thank you, Mr. Nolen.

2 Is it Mr. Wynn? Mr. Wynn, are you there? Now
3 you're muted, Mr. Wynn. You weren't a moment ago, unless
4 Paul did that. Mr. Wynn?

5 All right, Paul, you said there were some people
6 on the phone?

7 ZC CHAIR HOOD: Mr. Chairman?

8 CHAIRPERSON HILL: Yes?

9 ZC CHAIR HOOD: Mr. Chairman, can I interrupt real
10 quick? I want a clarification. I need to go to Mr. Jesick.
11 Is that okay?

12 CHAIRPERSON HILL: Of course.

13 ZC CHAIR HOOD: Mr. Jesick, this was a PUD, I
14 believe, or was it a map amendment?

15 MR. JESICK: It was actually a BZA case, Mr. Hood.

16 ZC CHAIR HOOD: BZA case? Okay. It was a --
17 okay, so this is not the -- okay. I'm getting confused,
18 because I'm trying -- I think I sat on this, and I'm just
19 trying to figure out why -- and this goes to Mr. Nolen's
20 point. I'm just trying to figure out why that we allow some
21 decks and not some decks.

22 And maybe that's for another discussion, but it's
23 just curious to me why we're even at this point. But anyway,
24 that's maybe for a later discussion, unless you have some
25 insight on it to help me recall.

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1 MR. JESICK: I'm afraid I don't have any insight
2 into the outright prohibition on certain properties having
3 decks. There was a condition in the original BZA order that
4 the only addition a homeowner could make was a 10 by 10 deck.
5 And to my knowledge, the way it was framed was, the condition
6 required the developer to put that as a covenant. But that
7 covenant has since been amended by the homeowner's
8 association.

9 ZC CHAIR HOOD: Okay.

10 MR. JESICK: I think it's fine to proceed forward.

11 ZC CHAIR HOOD: Yes, I think it's fine. I just
12 want to make sure that we don't go back and reinvent, make
13 the mistakes again, because to me, think that was a mistake
14 made on our part. I actually sat on that case. So thank
15 you.

16 Thank you, Mr. Chairman.

17 Thank you, Mr. Jesick.

18 CHAIRPERSON HILL: Mr. Young, you want to try to
19 let in the two people on the phone?

20 MR. YOUNG: Yes. I have, first, Dante Richardson.

21 CHAIRPERSON HILL: Mr. Richardson, can you hear
22 me?

23 MR. RICHARDSON: I can hear you. Can you hear me?

24 CHAIRPERSON HILL: Yes. Could you please state
25 your name and home address, and also if you're in favor or

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1 opposition?

2 MR. RICHARDSON: Sure. Name is Dante Richardson.
3 Address is 3237 Fort Lincoln Drive, Northeast, and I am in
4 favor.

5 CHAIRPERSON HILL: Okay. Could you give us your
6 testimony please, Mr. Richardson?

7 MR. RICHARDSON: Well, I am the next door
8 neighbor, and I have a deck, and am also the current
9 President of the HOA. I was just trying to speak to the
10 earlier question. Regarding the HOA rules, we actually had
11 a vote on that back in August of 2017. And we crossed the
12 threshold, and I think probably only 10 people out of 210
13 voted against it. So it was overwhelming, to allow decks to
14 be built on rear-loading houses.

15 Right now, the reason why there's a discrepancy
16 is that, based on the zoning rules, houses that are on the
17 edge have more, better -- on the end units, they have more
18 land. And so they're able to build the decks like I did, and
19 still come within the standards for the zone.

20 So that's why we're in this position, where some
21 people can have a deck without having to ask for something
22 special, like Rula, my next door neighbor is doing, and
23 others have to ask for this.

24 CHAIRPERSON HILL: Okay. Is that -- are you done
25 with your testimony, sir?

1 MR. RICHARDSON: Well, that's the start. Yes.

2 CHAIRPERSON HILL: Okay. All right, great. All
3 right.

4 Mr. Young, there's one other person?

5 MR. YOUNG: Yes. I have -- well, there's a couple
6 more, actually. I have, I think, three more.

7 CHAIRPERSON HILL: On the phone lines?

8 MR. YOUNG: Yes. This --

9 CHAIRPERSON HILL: Okay.

10 MR. YOUNG: I am going to unmute Dale Hamilton.

11 CHAIRPERSON HILL: Mr. Hamilton, can you hear me?

12 MR. HAMILTON: Yes. Can you hear me?

13 CHAIRPERSON HILL: Yes. Could you please state
14 your name and home address, and whether you're in support or
15 in opposition?

16 MR. HAMILTON: All right. My name is Dale
17 Hamilton. I live two doors down, at 3231 Fort Lincoln Drive,
18 Northeast. And I'm in favor of the deck.

19 CHAIRPERSON HILL: Okay. Could you please give
20 us your testimony?

21 MR. HAMILTON: With my testimony, I concur with
22 what has been said already. And to put, elaborate on what
23 Dante talked about, for this section of the Fort Lincoln
24 community, we are listed under RA-1. So that limits our lot
25 occupancy and our rear assessments, whereas other areas

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1 within Fort Lincoln, they're RA-4. And so they have more
2 room in order to support the deck.

3 So, we passed a (audio interference), but it's
4 going through this process that has been a hindrance. So,
5 you know, we definitely support a deck, and hopefully maybe
6 someone in Zoning could reassess our area to make sure that
7 we're in line with other communities within Fort Lincoln.

8 CHAIRPERSON HILL: Okay. Mr. Young, who's the
9 next person?

10 MR. YOUNG: I have Hamid Bidani.

11 PARTICIPANT: Who is that?

12 CHAIRPERSON HILL: Mr. Hamani, is it Hamani?

13 MR. BIDANI: Yes. Actually my name is Hamid
14 Bidani.

15 CHAIRPERSON HILL: Bidani?

16 MR. BIDANI: Yes, sir.

17 CHAIRPERSON HILL: All right, Mr. Bidani, could
18 you please state your name and home address, and whether
19 you're in support or opposition?

20 MR. BIDANI: Sure. My name is Hamid Bidani, and
21 my address, actually home address is 10018 Erion Court,
22 Bowie, Maryland 20721. I'm actually a contractor.

23 CHAIRPERSON HILL: All right, sir. And what --
24 are you in support or opposition?

25 MR. BIDANI: Sure, I'm in support and favor of the

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1 deck.

2 CHAIRPERSON HILL: Okay. Could you please give
3 your testimony?

4 MR. BIDANI: Sure. Actually, I as a contractor,
5 when I went to visit the site, I saw a lot of houses, as they
6 mentioned, have that large side, I mean, end unit as well as
7 the middle unit, if you call that. And I think there is no
8 reason for deny that, her deck.

9 CHAIRPERSON HILL: Okay, thank you, Mr. Bidani.

10 MR. BIDANI: Sure.

11 CHAIRPERSON HILL: Mr. Young, who is next?

12 MR. YOUNG: Next I have Melinda Riddick.

13 CHAIRPERSON HILL: Ms. Riddick, can you hear me?

14 MS. RIDDICK: Yes, I can. Can you hear me?

15 CHAIRPERSON HILL: Yes. Could you please state
16 your name and home address, and whether or not you're in
17 support or in opposition?

18 MS. RIDDICK: I am Melinda Riddick, R-I-D-D, two
19 Ds like dog, I-C-K, and I am -- my address is 3227 Fort
20 Lincoln Drive, Northeast, Washington, DC, and I am in support
21 of Ms. Malky's deck.

22 CHAIRPERSON HILL: Okay. Could you give your
23 testimony please?

24 MS. RIDDICK: Yes. I just compared with everyone
25 else. I am in support of Ms. Malky getting a deck built for

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1 the back of her home. I think it's a wonderful idea. And
2 it's also her pursuit of happiness, and we are all in support
3 of her. I am also the Secretary on the HOA board, and we --
4 there was approval in 2017 that the neighbors on Fort Lincoln
5 Drive, or those who have garages on the back of their homes
6 could be allowed to have decks.

7 And unfortunate she has to go through the process
8 of having a boarding, zoning hearing, and has got some
9 denials and because those who are not end units, the
10 townhomes on end unit did not have to go through this
11 process.

12 So I am -- we are all here, and been waiting all
13 morning to give her support, and to share our testimony with
14 you all, to let you all know that she will not be intrusive
15 on any of the neighbors, and I think it's a wonderful idea,
16 and I do support her. And that's just, that's my testimony.

17 CHAIRPERSON HILL: Well great. Well Ms. Riddick,
18 it's kind of you to wait around. I'm sure your neighbor
19 appreciates the support. And thank you for your testimony.

20 Mr. Young, who is next?

21 MR. YOUNG: I have no one else, except if you
22 wanted to see if Gerard Wynn (phonetic) is able to speak.

23 CHAIRPERSON HILL: Sure. Thank you for remind me.

24 Mr. Wynn, are you there? No. I guess Mr. Wynn is
25 not there. Okay. All right.

1 Ms. Malky, is there anything you'd like to add at
2 the end here? It does sound like you've gotten yourself
3 pretty well organized. Is there anything you'd like to add
4 at the end? You're on mute, Ms. Malky.

5 MS. MALKY: Sorry. Is this better?

6 CHAIRPERSON HILL: Yes.

7 MS. MALKY: Mute, good. I really would like to
8 thank, my husband and I would like to thank all of you for
9 such a long day. And on a personal note, I couldn't be
10 happier living in Washington, DC. I have been welcomed by
11 the neighborhood and by the community. And my neighbors are
12 just amazing. And we really care for our community, and
13 we're happy to see all the development that's taking place.
14 And that's it.

15 CHAIRPERSON HILL: Well, Ms. Malky, it's wonderful
16 that you're here, and we're glad to have you a member of our
17 community.

18 MS. MALKY: Likewise, thank you.

19 CHAIRPERSON HILL: All right. Does the Board have
20 anything else they'd like to add?

21 ZC CHAIR HOOD: Yes, Mr. Chairman, right quick.
22 This is just, I'd like for us to look at that whole piece.
23 I know it's not the mains of this case. But I see the BZA,
24 if everybody comes in and do a one by one, it may be
25 something that -- I don't know if you all have looked at

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1 this, but I'm going to follow up with Office of Planning as
2 well, during the zoning hearing, but we need to see if it's
3 something we can do to look at doing this. Exactly what one
4 of the witnesses said, it's (audio interference).

5 So, just keep that in your parking lot.

6 MR. JESICK: Yes, Mr. Hood. I will do that, and
7 I'll pass it along to Ms. Steingasser.

8 ZC CHAIR HOOD: Yes. Follow up with her. Thank
9 you.

10 CHAIRPERSON HILL: Great, perfect.

11 All right. So, Mr. Moy, we're going to close this
12 hearing. I'm going to close this hearing, and we'll set this
13 for decision next week on July 1st.

14 MR. MOY: Yes, sir.

15 CHAIRPERSON HILL: Okay. All right, thank you all
16 very much.

17 MS. MALKY: Thank you.

18 CHAIRPERSON HILL: Bye-bye.

19 MS. MALKY: Bye.

20 CHAIRPERSON HILL: And then, Mr. Moy, you can call
21 our next when you get a chance.

22 MR. MOY: Okay. Before the Board is Case
23 Application No. 20227, Andrew Lewczyk, L-E-W-C-Y-Z-K, caption
24 advertise for a special exception under Subtitle D, Section
25 5201 from the rear yard requirements of Subtitle D, Section

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1 306.2, and pursuant to 11 DCMR Subtitle X, Chapter 10 for
2 area variance from the lot occupancy requirements of Subtitle
3 D, Section 304.1 to construct a second story rear deck to an
4 existing attached principle dwelling unit, R-3 Zone. This
5 is at 227 Douglas Street, Northeast, Square 3553, Lot 97.

6 CHAIRPERSON HILL: Okay, great. Is it Mr. --
7 could you pronounce your name for me, sir?

8 MR. LEWCZYK: It's spelled -- it's pronounced
9 Lewczyk, and it's also misspelled, so let me correct it for
10 the record. My last name is spelled L-E-W-C-Z-Y-K.

11 CHAIRPERSON HILL: Lewczyk, Lewczyk.

12 MR. LEWCZYK: Yes, Lewczyk.

13 CHAIRPERSON HILL: Lewczyk. All right, Mr.
14 Lewczyk, there's a little bit of a delay with your audio, I
15 think, but I think we should be okay with it. If you want
16 to go ahead and provide your testimony as how you believe
17 you're meeting the criteria for us to grant the application.
18 And please begin whenever you like.

19 MR. LEWCZYK: Yes, thank you very much. As I
20 said, my name is Andrew Lewczyk. I reside at 227 Douglas
21 Street, Northeast, Washington, DC. I am applying to, for
22 permission to build a deck on the back of my house.

23 When I bought the house in 2018, there was a door
24 off my kitchen, which I assumed would, at some future point
25 I would be able to build a deck. I am applying for a

1 variance, and a special exception. The deck that I'm
2 proposing to build would not impact on the lights or privacy
3 of my neighbors.

4 I have checked with my next door neighbor at 225
5 Douglas Street, if she objected or not. She did not object.
6 She told me that verbally. I did not get that in writing.
7 My apologies.

8 In addition, the deck would not be -- there are
9 other decks in the neighborhood that would be similar to the
10 deck that I'm building, so I don't believe it would be out
11 of character. In addition, I'm proposing to build this deck
12 as to improve the nature of the alley, and not to detract
13 from it.

14 Regarding the ANC, I contacted them in March, but
15 did not hear back from them. When my hearing was
16 rescheduled, I emailed them on June 12th, and I did not hear
17 back, unfortunately. So I don't know if that's a necessary
18 step before we move forward.

19 And just to sum up, the reason I want to build
20 this deck is just to enjoy outdoor space. My current walk-
21 out on the lower level is where my car is parked, and it
22 opens out to the alley, so I would like to build this deck
23 just so I could out and enjoy the nature. Thank you very
24 much.

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

1 Does anybody have any questions for the applicant?

2 Okay. I'm going to turn to Mr. Cochran.

3 MR. COCHRAN: Good afternoon, Mr. Chair. And in
4 advance, I wish you happy birthday for next year.

5 OP is happy to stand on the record, but we're of
6 course here to answer any questions you might have. We're
7 in support of both the special exception and the variance.

8 CHAIRPERSON HILL: Thank you, Mr. Cochran.

9 Well, you know, I got to say, Mr. Hood, you
10 started this birthday thing. And I must say, it's actually
11 quite nice. I shouldn't tease about it. I'm enjoying it
12 very much, because I'm here all day, and I'm appreciating it.
13 So thank you, Chairman Hood, for bringing that up.

14 ZC CHAIR HOOD: We enjoy you being with us, and
15 we are sorry that you're going to miss your dinner.

16 CHAIRPERSON HILL: Thank you.

17 And Mr. Cochran, if I'm here next year to wish me
18 a birthday, we'll see.

19 MR. COCHRAN: It's going into my Outlook Calendar.

20 (Laughter.)

21 CHAIRPERSON HILL: Yeah, okay. All right.

22 MR. COCHRAN: There's no end date.

23 CHAIRPERSON HILL: Yes. Mr. Cochran, okay.

24 Does anybody have any questions for Mr. Cochran?

25 Mr. Lewczyk?

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1 MR. LEWCZYK: Yes. I notice one discrepancy in
2 the OP recommendation memo. The proposed deck, as is
3 described in the memo, it states that there are stairs that
4 are to lead off the deck. That is incorrect. I do not want
5 stairs. The only access to the deck will be from the kitchen
6 door. That is it.

7 MR. COCHRAN: That's fine. I think what we were
8 saying was that any addition to the house would require a
9 variance, and stairs are used as an example, perhaps
10 inappropriately.

11 CHAIRPERSON HILL: Okay. So Mr. Cochran, I am
12 curious, like it does seem -- I mean, why -- kind of to Mr.
13 Hood's point, before like, it seems like a nominal small
14 deck. How come you need a variance for it?

15 MR. COCHRAN: Because there -- it's an
16 exceptionally small lot. It's only 43 percent of what's, the
17 1958 zoning regulations required. It's about 615 square feet
18 of floor. And that already occupies about 73 percent of the
19 lot. So, they're already in variance land.

20 CHAIRPERSON HILL: Okay. I got it. Thank you.
21 Anyone else for Mr. Cochran? All right. Okay.
22 Mr. Young, are there people here wishing to speak? Mr.
23 Young, you're muted if you're trying to say something. I'm
24 going to look at my list also. I don't know if we --

25 MR. COCHRAN: Mr. Chair, for the record, I

1 probably have said that I'm Stephen Cochran with the Office
2 of Planning, representing the OP on BZA 20227.

3 CHAIRPERSON HILL: Thank you, Mr. Cochran.

4 I still don't hear Mr. Young, but I'm looking at
5 our list here, if anybody signed up. Okay, I don't have
6 anybody signing up. I mean, I do see some letters from the
7 -- that are in the record. But does the applicant have
8 anything they'd like to add at the end?

9 MR. LEWCZYK: No. Thank you very much for your
10 consideration and I look forward to your decision.

11 CHAIRPERSON HILL: Okay, great.

12 All right, Mr. Moy, we're going to put this on for
13 decision next week.

14 MR. MOY: All right, thank you. Done.

15 CHAIRPERSON HILL: Okay. So that's July 1st. I'm
16 officially closing the hearing. Thank you all very much.
17 See you next time.

18 And then, Mr. Moy, you can call our next case.

19 MR. MOY: Thank you, Mr. Chairman. So that would
20 be Case Application No. 20235, Bryant Phase 1-E, LLC.
21 Caption, advertised for a special exception under Subtitle
22 C, Section 909.4, property loading requirements, Subtitle C,
23 Sections 908.1 and 908.3. This would construct a seven-story
24 mixed use building in the MU-7 Zone. That apartment's at 600
25 Rhode Island Avenue, Northeast, Square 3629, Lot 819.

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1 CHAIRPERSON HILL: Great, thank you.

2 Mr. Young, can you bring everybody in?

3 MR. YOUNG: Hey, sorry. Give me one second.

4 CHAIRPERSON HILL: Sure. Somebody is typing on
5 their computer, if they can mute.

6 Mr. Lewis, are you the only one?

7 MR. LEWIS: There are three of us, Matt Bailey,
8 from MRP, and Dennis Connors of SK&I, are also scheduled to
9 participate.

10 CHAIRPERSON HILL: Okay. I'll wait until they
11 come forward, then.

12 Is somebody here from Goulston & Storrs?

13 MR. LEWIS: That's me.

14 CHAIRPERSON HILL: Oh. Okay. Mr. Lewis, are you
15 new with them?

16 MR. LEWIS: I've been at Goulston for about five
17 years.

18 CHAIRPERSON HILL: Have you been before us?

19 MR. LEWIS: Once or twice.

20 CHAIRPERSON HILL: Oh really? I apologize for not
21 recognizing you. You must not cause a lot of problems, Mr.
22 Lewis.

23 MR. LEWIS: Oh, I've got my quarantine beard.

24 CHAIRPERSON HILL: Oh, is that what it is?

25 MR. LEWIS: Yeah.

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1 CHAIRPERSON HILL: I think it's that you don't
2 cause a lot of problems, Mr. Lewis. I recognize the trouble
3 right away.

4 Let's see. So, Mr. Lewis, I'll let you go ahead
5 and begin. If you want to walk us through your applicant --
6 your client's application, and why you believe you're meeting
7 the standard for us to grant the request for relief. And
8 begin whenever you like.

9 MR. LEWIS: Thanks. Well, as I mentioned, for the
10 record, David Lewis, Goulston & Storrs, 1999 K Street, and
11 here on behalf of MRP and its affiliate, 1-E Bryant Street,
12 LLC. And yes --

13 CHAIRPERSON HILL: Which exhibit are we looking
14 at?

15 MR. LEWIS: We filed the presentation on Monday.
16 I think it's Exhibit 47. Yes, 47.

17 CHAIRPERSON HILL: Okay. I'm going to -- can you
18 just speak to the standard of the relief requested?

19 MR. LEWIS: Sure, yes. And, you know, Matt
20 Bailey, from MRP is here, if there are questions about the
21 overall development or the community process. And Dennis
22 Connors will be our -- from SK&I is here. He can talk to any
23 design, really, considerations if there are questions, but
24 I'll go right to the special exception.

25 CHAIRPERSON HILL: Okay. Let me just -- there

1 are a couple of things real quick. So, for the Board, we did
2 -- there is the notice to the 200 there is in Exhibit 36,
3 notice to the parties in Exhibit 38. And then, it looks as
4 though there's a waiver request for notarization
5 requirements. What are you asking a waiver for, Mr. Lewis?

6 MR. LEWIS: We posted the property in accordance
7 with the zoning regulations, and maintained the posting in
8 accordance with the zoning regs. Ordinarily, the affidavit
9 maintenance needs to be notarized. We're asking for a waiver
10 from the notary requirements.

11 CHAIRPERSON HILL: Got it. Okay. I don't have
12 a problem with that, or I don't have a problem concerning the
13 waiver for the notary requirements, unless one of the board
14 members wants to speak up. So I'll go ahead and grant that.

15 Then, there's also, it looks like, Mr. Bailey --
16 I don't know, Mr. Connors and Mr. Van Pelt are all in our
17 witness block. There's a Mr. Solomon. I guess if we get to
18 him, or is he with us?

19 MR. LEWIS: He's not. He's not.

20 CHAIRPERSON HILL: Okay.

21 MR. LEWIS: He really didn't weigh in on this, so
22 we didn't include him in our certification --

23 CHAIRPERSON HILL: Okay. All right. So now
24 please continue, Mr. Lewis.

25 MR. LEWIS: Sure. I'll (audio interference) at

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1 the time, (audio interference) standards. I'm happy to
2 address the community process for design considerations, if
3 you all have questions.

4 CHAIRPERSON HILL: Mr. Lewis, could you --

5 Mr. Young, could you drop the presentation so I
6 can see Mr. Lewis a little bit more clearly.

7 Mr. Lewis, your voice is kind of breaking up, in
8 and out. So maybe just speak a little slowly.

9 MR. LEWIS: Okay. Just let me know if there's
10 further issues.

11 CHAIRPERSON HILL: Okay. Does the Board have any
12 questions directly for Mr. Lewis? Okay. I'm turning to the
13 Office of Planning, Ms. Thomas.

14 Ms. Thomas, we can't hear you, if your mic is on.

15 MS. THOMAS: Yes. Good afternoon, Mr. Chairman.
16 Karen Thomas with the Board of Planning -- with the Office
17 of Planning, I'm sorry. OP is going to rest on the record
18 of our report in support of this application, and I'll be
19 happy to take any questions. Thank you.

20 CHAIRPERSON HILL: Okay. Thank you, Ms. Thomas.

21 Does the Board have any questions for the Office
22 of Planning? All right. Does the applicant have any
23 questions for the Office of Planning?

24 MR. LEWIS: No.

25 CHAIRPERSON HILL: All right. Mr. Young, is there

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1 anyone here trying to speak in support or opposition?

2 MR. YOUNG: I have no one.

3 CHAIRPERSON HILL: All right. Mr. Lewis, do you
4 have anything you'd like to add at the end?

5 MR. LEWIS: No. We're happy to rest on the
6 record, and thanks for the consideration.

7 CHAIRPERSON HILL: Thank you, Mr. Lewis.

8 All right, Mr. Moy, will you put this on for
9 decision for next week?

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

11 CHAIRPERSON HILL: Great. Mr. Lewis, are you the
12 next case also?

13 MR. LEWIS: We are.

14 CHAIRPERSON HILL: Are they all the same people?

15 MR. LEWIS: Same folks.

16 CHAIRPERSON HILL: Okay. All right. So then --

17 MR. LEWIS: Same relief.

18 CHAIRPERSON HILL: -- I'm closing the hearing on
19 this one.

20 And then, Mr. Moy, if you'd announce the next one,
21 please.

22 MR. MOY: Okay. That would be Case Application
23 No. 20236, Bryant Phase 1-B, LLC. Caption, advertised for
24 a special exception under Subtitle C, Section 909.4, the
25 loading requirements of Subtitle C, Section 908.1, and 908.3

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1 to construct a two-story movie theater building in the MU-7
2 Zone, at 620 through 640 Rhode Island Avenue, Northeast,
3 Square 3629, Lot 816.

4 CHAIRPERSON HILL: All right, thank you, Mr. Moy.

5 Mr. Lewis could you please introduce yourself for
6 the record?

7 MR. LEWIS: Sure. David Lewis on behalf of the
8 applicant, Bryant 1-B -- Phase 1-B, LLC. Address is 1999 K
9 Street.

10 CHAIRPERSON HILL: Mr. Connors, could you
11 introduce yourself for the record?

12 (Audio interference.)

13 CHAIRPERSON HILL: Mr. Connors, I hear -- your
14 audio is all messed up. Yes.

15 Mr. Bailey, could you introduce yourself for the
16 record?

17 MR. BAILEY: Sure. Matt Bailey of MRP, on behalf
18 of the applicant, the address of 3050 K Street, Suite 125,
19 Northwest.

20 CHAIRPERSON HILL: Okay. Thank you, Mr. Bailey.
21 If you can mute your line also now, Mr. Bailey. Mr. Lewis,
22 Mr. Connors again would be speaking to what again?

23 MR. LEWIS: Any design questions you all might
24 have about the building. He's the architect.

25 CHAIRPERSON HILL: Okay. Mr. Connors, if we get

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1 to you with design questions, I'll try to figure out a way
2 to hear from you. So just hang in there, if you wouldn't
3 mind.

4 Mr. Lewis, if you'd go ahead and walk us through
5 your application -- oh, hold on, I got you the same. So, the
6 notice went out to the 200-footers in Exhibit 36. The Notice
7 of Parties went out in Exhibit 39. Again, you're requesting
8 a waiver for the notarization requirements of Exhibit 38.
9 Everything was posted correctly, correct, Mr. Lewis?

10 MR. LEWIS: Yes, sir.

11 CHAIRPERSON HILL: Okay. And could you explain
12 again as you did in the last hearing, the --

13 MR. LEWIS: Sure.

14 CHAIRPERSON HILL: -- request for the waiver?

15 MR. LEWIS: Sure. So, we posted the property in
16 accordance with the zoning regulations, and maintained the
17 postings in accordance with the zoning regulations. But the
18 attestation of lot maintenance is not notarized. Having a
19 hard time getting notarizations in a virtual world right now.
20 So we're asking for a waiver from the requirement that the
21 attestation of maintenance be notarized.

22 CHAIRPERSON HILL: Okay. I don't have -- give the
23 current situation of the epidemic, I don't have an issue
24 granting the waiver. Does any of the board members have any
25 issues?

1 All right. So we're going to go ahead and waive
2 that. Mr. Lewis, again, your audio is a little choppy.
3 Perhaps if you speak a little slowly, it might be easier to
4 hear you. And actually, if I speak slowly, it makes me feel
5 more relaxed. So, Mr. Lewis, begin whenever you like.

6 MR. LEWIS: So, happy to speak slower. We're here
7 seeking special exception relief from the loading
8 requirements. We're happy to rest on the record (audio
9 interference) today's presentation. Mr. Bailey's here to
10 answer questions about the larger development, and about
11 community process. Mr. Connors is here to answer questions
12 about design. And if you all have questions about how we
13 satisfy the (audio interference) standards, I'm happy to
14 answer question. Our (audio interference).

15 CHAIRPERSON HILL: Okay. Mr. Lewis, for future
16 presentations, I think maybe you might want to take a look
17 at your audio. But I'm going to just kind of get us through
18 this.

19 You know, we've reviewed the entire record
20 already. Is there any specific questions that the Board has
21 that they'd like to ask the applicant?

22 ZC CHAIR HOOD: Mr. Chairman, sir.

23 CHAIRPERSON HILL: Yes, Mr. Hood.

24 ZC CHAIR HOOD: I do have a question, and it might
25 not be necessary. I mean, I could have asked either this one

1 or the previous case. But I don't know if it's Mr. Connors,
2 and I guess, since you're having some audio problems, if you
3 just shake your head, I just want to know how -- I think I
4 heard Mr. Lewis talk about the community process. I think
5 that's what -- it sounded a little muffled, but I think
6 that's what you said.

7 I'm just curious, how are you working with Greater
8 Mount Calvary Holy Church, which is one of our outstanding
9 churches here in the city. And I'm just curious. How is
10 that relationship going as you all are building a
11 development?

12 CHAIRPERSON HILL: Mr. --

13 ZC CHAIR HOOD: Shake your head yes, or no if you
14 won't do it, or ain't going to do it, or --

15 MR. BAILEY: Yes. I can -- can you hear me?

16 ZC CHAIR HOOD: Yes, I can hear you, Mr. Bailey.

17 MR. BAILEY: Yes. Greater Mount Calvary Church,
18 they are, as you mentioned, one of our neighbors there. The
19 relationship, for the most part, is great. We open -- or we
20 have maintained pretty open dialogue throughout the entire
21 process, working out construction issues with them. As you
22 know, they're a direct neighbor of ours, and we share a
23 retaining wall there.

24 So yes, a lot of the conversations have been
25 great. We're working with them to work through parking that

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1 they need on our site, and things like that. So it's been
2 great. And yes, we understand that they're a staple in the
3 community, and we totally appreciate that.

4 ZC CHAIR HOOD: Well I appreciate you, Mr. Bailey,
5 and Mr. Lewis, in this cause, and for the record, because we
6 do not want to lose Great Mount Cavalry on Rhode Island
7 Avenue, so I appreciate your working together, and that shows
8 that both ends have a good neighbor policy, so thank you.

9 MR. BAILEY: Absolutely. Thank you.

10 CHAIRPERSON HILL: Anyone else?

11 All right. Ms. Thomas?

12 MS. THOMAS: Yes. Good afternoon again, Mr.
13 Chairman, members of the Board, Karen Thomas for the Office
14 of Planning. The Office of Planning will stand on the record
15 of our report in support of this application and I'll be
16 happy to take any questions. Thank you.

17 CHAIRPERSON HILL: Does anybody have any questions
18 for the Office of Planning?

19 Ms. Thomas, I don't know if you wished me a happy
20 birthday yet. Did you wish me a happy birthday?

21 MS. THOMAS: Yes. I should say happy birthday.

22 CHAIRPERSON HILL: I mean, everybody else has, Ms.
23 Thomas, so you --

24 MS. THOMAS: I didn't know if I'd be out of place,
25 so yes.

1 CHAIRPERSON HILL: All right. Keep it going. All
2 right, let's see, does anybody -- I asked.

3 Does the applicant have any questions for the
4 Office of Planning?

5 MR. LEWIS: No.

6 CHAIRPERSON HILL: Okay. Mr. Young, is there
7 anybody here wishing to speak in support or opposition?

8 MR. YOUNG: I don't have anyone.

9 CHAIRPERSON HILL: Okay. All right. So, Mr.
10 Lewis, is there anything you'd like to add at the end?

11 MR. LEWIS: No. Thank you for your consideration.

12 CHAIRPERSON HILL: Okay. Mr. Moy, let's put this
13 on for decision for next week.

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

15 CHAIRPERSON HILL: Okay. All right, gentlemen,
16 thank you very much.

17 MR. LEWIS: Thank you.

18 CHAIRPERSON HILL: We're going to. Let's see.
19 Okay, so before we go on, let me just kind of poll the Board
20 here. Do we --

21 Mr. Moy, I'm just trying to look at our cases that
22 are left. Okay. Is the Board okay? Do we -- are you all
23 right? Because there -- this next one might take a little
24 bit of time. I don't think it'll take -- it might take a
25 little bit of time. Do we want to break now, or do we want

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1 to go through that, because I think the last one's going to
2 take a little bit of time?

3 Does anybody need a break, is what I'm trying to
4 ask.

5 VICE CHAIRPERSON HART: You have three, right?

6 CHAIRPERSON HILL: We have three.

7 VICE CHAIRPERSON HART: Okay.

8 CHAIRPERSON HILL: The next one, I think, is going
9 to take a little bit of time.

10 MEMBER JOHN: I'm fine with a break.

11 CHAIRPERSON HILL: Okay. All right. Then let's
12 take a break. All right. So we're going to take a quick
13 five-minute break or so, and then we'll come back.

14 (Whereupon, the above-entitled matter went off the
15 record at 5:09 p.m. and resumed at 5:20 p.m.)

16 CHAIRPERSON HILL: All right, Mr. Moy, you want
17 to call our next case? You're on mute, Mr. Moy.

18 MR. MOY: Sorry about that. Okay, so this would
19 be Case Application Number 20205 of Christopher Cahill.
20 Captioned and advertised for special exceptions under
21 Subtitle D Section 5201, from the side yard requirements;
22 Subtitle D Section 206.7; pervious surface requirement
23 Subtitle D Section 308.1 and under Subtitle U Section 253.10
24 from the accessory apartment requirements of Subtitle U
25 Section 253.7(c).

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1 This would construct a two-story rear addition and
2 to permit an accessory apartment with an entrance on a street
3 facing facade in an existing detached principal dwelling in
4 R-1-B Zone at premises 3401 Lowell, L-O-W-E-L-L, Street at
5 NW, Square 2089, Lot 828.

6 As you know, Mr. Chairman, this -- there is a
7 preliminary matter with a request for party status.
8 Actually, technically, it asked for advanced party status,
9 but that was filed June 10th with the response prior to --
10 the Board, to address this, would have been today.

11 CHAIRPERSON HILL: Okay, no problem. Paul, can
12 you let in the Applicant and the person who's requesting
13 party status?

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

15 CHAIRPERSON HILL: I don't see them, if they are.
16 Oh, here we go. I see Mr. Cahill. Could you unmute your
17 microphone and just introduce yourself?

18 MR. CAHILL: Yes. My name's Christopher Cahill.
19 I'm the owner of 3401 Lowell Street. I bought this house in
20 2/18, and I've been working through the process of ANC and
21 HPRB up to this point here.

22 CHAIRPERSON HILL: Okay, Mr. Cahill -- Mr. Cahill,
23 just give me a second. I'm sorry, I'm just trying to work
24 through this. So you introduced yourself. You gave me your
25 address. Do you -- are you choosing not to use your video?

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1 I just want to know.

2 MR. CAHILL: No, I am. What do I have to do?

3 CHAIRPERSON HILL: You have to put --

4 MR. CAHILL: Oh, I see it. Now I see it. Hold
5 on. Yes. Are you good?

6 CHAIRPERSON HILL: Yes.

7 MR. CAHILL: Very good. I'm sorry about it.

8 CHAIRPERSON HILL: You're quite all right. Mr.
9 Ballard, could you introduce yourself? Your microphone's not
10 on, Mr. Ballard.

11 MR. BALLARD: Hi. I'm Seth Ballard, principal at
12 Ballard + Mensua Architecture, the architects on the project.

13 CHAIRPERSON HILL: Okay, could you, Mr. Cahill,
14 could you mute your microphone and, Mr. Ballard, could you
15 mute your microphone? Mr. Saenger? Is that the name?

16 VICE CHAIRPERSON HART: Saenger?

17 CHAIRPERSON HILL: Saenger?

18 MR. BALLARD: He can't call in. He will not be
19 speaking.

20 CHAIRPERSON HILL: I see. Okay, so he's --

21 MR. BALLARD: He's with my office.

22 CHAIRPERSON HILL: He --

23 MR. BALLARD: Yes.

24 CHAIRPERSON HILL: He's with your office? Okay.

25 MR. BALLARD: He was here, yes.

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1 CHAIRPERSON HILL: All right. Is it Mr. Hulme?
2 Or could you pronounce your name, sir? James Hulme?

3 MR. HULME: Good afternoon, Mr. Chairman. It's
4 James Hulme. It's -- it's a silent L.

5 CHAIRPERSON HILL: Okay, great.

6 MR. HULME: And I would be remiss not to wish you
7 a Happy Birthday.

8 CHAIRPERSON HILL: You just continue to give, Mr.
9 Hulme. I swear, from the very first -- very first thing, I'm
10 going to find you next -- when's your birthday, Mr. Hulme?

11 MR. HULME: Oh.

12 CHAIRPERSON HILL: All right, okay. I'll find
13 out. You don't have to worry. I'll find out. It's not had.
14 Okay, all right. All right, Mr. Hulme. Okay, so, Mr. Hulme,
15 you have requested party status, I can see.

16 MR. HULME: Yes.

17 CHAIRPERSON HILL: And could you please -- are you
18 directly next door to the property?

19 MR. HULME: I am. I'm on 34th Street. I'm the
20 only house that has an address on 34th Street. And my side
21 yard is the backyard of the subject property.

22 CHAIRPERSON HILL: Your side yard is the backyard
23 of the -- so, do you -- right, so you share the property
24 line?

25 MR. HULME: Exactly, the full property line, even

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1 that --

2 CHAIRPERSON HILL: Okay.

3 MR. HULME: -- the part --

4 CHAIRPERSON HILL: All right, so --

5 MR. HULME: -- the subject property.

6 CHAIRPERSON HILL: Usually, that's enough for me,
7 Mr. Hulme. So does the Board have any issues with granting
8 Mr. Hulme party status? Okay.

9 So, Mr. Hulme, I'm going to go ahead and, rather
10 than you have to -- I mean, I believe you meet the criteria.
11 So we're going to go ahead and grant you party status.

12 What that means is you'll have an opportunity to
13 present in the same amount of time as the Applicant. And
14 you'll have an opportunity to ask questions of the Applicant
15 as well as the Office of Planning. And then there will be
16 an opportunity for cross-examination as well as rebuttal.

17 MR. HULME: Very good.

18 CHAIRPERSON HILL: So we're going to kind of go
19 through this. Now, Mr. Cahill, are you going to be
20 presenting or is Mr. Ballard going to be presenting? Your
21 microphone is not on, Mr. Cahill.

22 MR. CAHILL: I will be -- exactly.

23 CHAIRPERSON HILL: Okay. Mr. Hulme, if you could
24 -- thank you so much. Mr. Cahill, if you want to go ahead
25 and walk us through your application, why you believe you're

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1 meeting the criteria for us to grant the requested relief.
2 And you can begin whenever you'd like.

3 MR. CAHILL: Yes. I will give you a little quick
4 update as this process has been going on a very long time.
5 I bought the house October 2018. And I've been working with
6 HPRB. And I've been working with the ANC over numerous
7 meetings.

8 My first meeting with both Nancy MacWood and Steve
9 Callcott was over 18 months ago. And we met initially to
10 just go over what the expectations were and such. We came
11 up with a plan. We've had four ANC meetings and a few HPRB
12 meetings to actually come up with this plan.

13 We've made 32 changes, and it met every objection
14 to date. The present objections came up only recently. They
15 were never attending any of the meetings previous to this.

16 We are asking for three points of relief here.
17 Two of them are -- one of them has two points to it, and that
18 would be the side setbacks. We're going to start with that
19 one. The side setbacks, because we were working with HPRB,
20 they were making some serious things to the house.

21 They were asking us to manipulate the footprint,
22 and in doing that, along the Reno roadside we have zero
23 setback. But it is set back from the porch. Little story
24 on this is, at some point in time, they widened Reno Road and
25 a portion of my side porch actually sits in the public space.

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1 So we also worked sensibly with the DDOT to go
2 through all those issues. And that's also why the lot only
3 has a 40-foot front pitch instead of a 50-foot front pitch.
4 And so -- but on the far side, a little bit of it we happened
5 -- because we are looking for a one-foot relief off of the
6 five-foot relief on the left side, the west side property
7 line.

8 But it, in technicality, it's actually only nine
9 inches off from the five-foot setback, but -- so you use
10 round numbers that got rounded to a foot. And that had to
11 do with working off an old plat then working off of a new
12 plat from where we were.

13 We've worked extensively with staff at zoning as
14 we worked our way through all these multiple changes. That
15 plat, that right there, that relief, is the most serious of
16 the three.

17 The one that has the side entrance with the
18 auxiliary apartment underneath, that actually -- that door
19 faces the -- Reno Road. That Reno Road entrance is hidden
20 in an area way, so you can't actually see the door from the
21 road.

22 And they thought that they -- that that -- when
23 we really -- they said bring it up for relief because, at
24 least it will always be on record.

25 We're actually not using this as an apartment.

1 We're using -- we added a catering kitchen to the basement
2 which then made the space, because it met all the other
3 requirements be eligible as an apartment. And they wanted
4 me to go through those steps, but we're not planning on
5 renting it as an apartment.

6 And then the last relief is for the lot coverage,
7 and we are off by 319 square feet on the lot coverage. But
8 we have significantly, in our plan, reduced the square
9 footage of lot coverage from what it is, existing today, and
10 that was by moving the driveway and putting it under the
11 house and by picking up a lot of space that was in the
12 backyard already.

13 We do have a pool and we can come very close to
14 removing the -- getting this to even out. I think it would
15 be 18 feet off if we just changed the decking to a pervious
16 paver. And that's the explanation of those.

17 We've worked tirelessly with ANC. We have their
18 approval. We have HRP's glowing approval. They're very
19 happy with the end result. And we've worked tirelessly over
20 this period of time to get to this point. With that --

21 CHAIRPERSON HILL: Okay.

22 MR. CAHILL: --- that sums it up.

23 CHAIRPERSON HILL: Okay. Okay, I'm looking
24 through some of the things in the record here. All right,
25 does the Board have any questions at this point for the

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1 Applicant?

2 MR. CAHILL: Actually, I'd like to add something,
3 if I could?

4 CHAIRPERSON HILL: Sure, Mr. Cahill.

5 MR. CAHILL: So both the neighbors who are in
6 dissent, on both sides of me now, saw earlier versions of the
7 plan. And the first versions of the plan were significantly
8 larger and significantly bigger in scale.

9 We've done nothing but each time and each round
10 to the renovations and the changes of the design but make it
11 smaller in stature from Reno Road, step it back. It was
12 originally running parallel to the existing house, a 30-foot
13 setback on that side.

14 HPRB wanted us to have it set back so that part,
15 actual corner, would show on the house. And so, I guess
16 there was something -- I'm not really sure about the rules.
17 But if we had stayed with the property lines straight with
18 the existing house, there is more lenience to that.

19 We stepped it back to meet the HPRB. But the
20 design was driven greatly by all of them, is what I'm saying.
21 And both these neighbors had approved the original plans.
22 I had not circled back to them with the revised plan, but the
23 revised plans are significantly smaller in scale and
24 proportions.

25 Their two major complaints are that I can -- that

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1 I cannot see into their backyard. In the exhibit, you'll see
2 a picture that my existing house actually looks into her
3 backyard. I have a full view of her backyard presently. I
4 think that is on AOA.4 -- AO.4.

5 You'll see that I can see -- the top two pictures
6 are pictures of the west side view. I can see that, you
7 know, her backyard, her trampoline unit --

8 CHAIRPERSON HILL: Okay, Mr. Cahill?

9 MR. CAHILL: Yes?

10 CHAIRPERSON HILL: Mr. Cahill, let me go ahead and
11 just you and see if the Board has any questions. Then we can
12 also hear the presentation. I don't think you have to go
13 over the concerns. At this point, we can go ahead and hear
14 from the party status.

15 MR. CAHILL: Okay, fair enough.

16 CHAIRPERSON HILL: So, Mr. Hart, Mr. -- Chairman
17 Hood, Mr. John -- let me start with you, Mr. Hart. Do you
18 have any questions of the Applicant?

19 VICE CHAIRPERSON HART: Just, I was trying to
20 understand the -- a couple of statements. One was that, Mr.
21 Cahill, you had had a -- that you had -- have been through
22 this process before, a year and a half or so, maybe a little
23 longer and that you have recently learned of some of the
24 dissent or opposition to your project after having gone
25 through the HPRB process and, I guess, part of this process.

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1 But those concerns -- because they're next-door
2 neighbors -- those concerns weren't raised in earlier in the
3 HBR -- well, HRPB process at all? Or, just trying to
4 understand that, if you could?

5 MR. CAHILL: Yes, no, there -- this meeting was
6 supposed to be scheduled for the Monday after the government
7 closed down for the COVID. And at that time, we were clear
8 sailing and had no objections.

9 Since the shutdown, we have the two neighbors
10 adjacent to me on each side have concerns and objections that
11 they are voicing and putting on record and everything else
12 in that sense. We tried to have a conversation and it went
13 nowhere. Matter of fact, it was a great personal attack on
14 me. But again, we were clear sailing at that point. COVID
15 hasn't been very kind to me, I guess, is what I'm saying.

16 VICE CHAIRPERSON HART: What I was trying to
17 understand was actually, were they -- did they opine on the
18 process previous to now or is this the first time you've
19 heard anything regarding that? And I'm just -- more of this
20 is just curiosity because HPRB is such a -- you know, that's
21 a process to go through

22 There are hearings. There -- there's all of that.
23 And I just am trying, just really understand --

24 MR. CAHILL: And --

25 VICE CHAIRPERSON HART: I'm just trying to

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1 understand it.

2 MR. CAHILL: Yeah, and this is actually a very
3 good point and it needs clarity. And you would think that,
4 after seeing the original plans, that then if there was
5 concerns, that they would have shown up at any of the eight
6 meetings, in total, that had relevance to this, between ANC
7 and HPRB.

8 They did not show up to any of those meetings.
9 They never voiced their concerns in the timeframe where we
10 were making all the adjustments to the site.

11 VICE CHAIRPERSON HART: What I was also trying to
12 understand was whether or not you had actually reached out
13 to your neighbors to actually get them -- I don't know, some
14 understanding of what -- since they are adjacent neighbors.
15 That's the part that I'm trying to understand.

16 I understand that they may not have been aware of
17 the HPRB process. Sometimes that gets a little bit, you
18 know, it's a little bit hard to follow. But I just -- it was
19 more of a curiosity on this, so.

20 MR. CAHILL: Okay. So, from the very beginning,
21 because I'm a designer and a landscape architect, we did 3D
22 models of the house in the very beginning. I presented those
23 3D models to both these neighbors, and they both signed off
24 with their approvals on that. We went to all the
25 neighbors, trying to get them, to inform what we were going

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1 to do early on. So they knew what we were doing, in general.
2 But because we made so many changes along the way, like four
3 major rounds of changes, I did not go back to them for
4 approval because the structure only got smaller and less
5 obtrusive and less.

6 It kept on getting less, so I never thought that
7 there would be an objection to something that was less
8 significant than it was originally.

9 VICE CHAIRPERSON HART: I understand that. I was
10 just trying to get some clarity around that. And, you know,
11 the reason -- one of the reasons I bring it up is that the
12 --having a party in opposition, it will be -- well, we have
13 to deal with the process that is in front of us and -- anyhow
14 it could be more of a longer process to kind of deal with
15 that.

16 MR. CAHILL: I totally understand that, and it's
17 --

18 VICE CHAIRPERSON HART: Okay.

19 MR. CAHILL: -- horrible it came up at this point
20 in time in the process.

21 VICE CHAIRPERSON HART: That's fine. Thank you.

22 CHAIRPERSON HILL: Okay, Mr. Cahill, in terms of
23 the ANC, they had some conditions, it looks like, regarding
24 the west side yard relief concerning at least a four-foot
25 side yard maintained and a landscaped buffer featuring tall,

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1 narrow trees will be planted and maintained by the Applicant
2 to break up the link of the addition and provide privacy.

3 Are you aware of these conditions, and do you
4 agree with them?

5 MR. CAHILL: I actually offered those up as
6 conditions.

7 CHAIRPERSON HILL: Okay, so you're in agreement?

8 MR. CAHILL: Yes, mm-hmm.

9 CHAIRPERSON HILL: Okay, all right. All right --

10 MR. CAHILL: And I also offered to plant -- where
11 we only have a three-foot setback on our property, where you
12 can't plant or the landscape architect couldn't find a plant
13 that could do that, the neighbor on the west side has lost
14 a lot of pine trees that were once there.

15 In the 18 months that I've owned -- or the over
16 18 months that I've owned the house, they've lost these
17 trees. So I had offered to plant screening on their property
18 as well to the block original portion of the house. And --
19 but they didn't feel that they could put that into the
20 offering, as they say, because it's not on my property.

21 CHAIRPERSON HILL: Okay, Chairman Hood, you have
22 a question?

23 ZC CHAIR HOOD: Yeah, I had a quick question for
24 Mr. Cahill. Mr. Cahill, you mentioned in your testimony, I
25 think, that you said you made -- through this whole process

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1 and working with the ANC and I guess a few of the neighbors,
2 I know there are some who may be in question -- you said you
3 had done 32 different changes, and all of them were taken
4 care of per the neighbors and those who you work with, right?
5 Was it 32 or 33?

6 MR. CAHILL: It's actually probably more than
7 that. I said over 30.

8 ZC CHAIR HOOD: Oh, over 30? Okay.

9 MR. CAHILL: And, yes, every time an objection was
10 brought to us, we never fought it. We came up with a
11 solution. And I wish that we had put into documentation --
12 we actually have the five major renditions of the house from
13 beginning to end.

14 Every time we would re-present, we did a whole 3D
15 -- we changed the model so everyone could see it, like it was
16 not sketched in elevation drawings and such. We wanted to
17 make sure that everybody had a full understanding of what we
18 were doing. So this is a fly-around model that showed, from
19 any direction anyone wanted to see.

20 But, yes, we made over 30 changes because the
21 original comments had a lot to do with Reno Road. We had
22 peak roof line there with an open gable and a porch. They
23 wanted us to bring it down to be more like a two-story
24 structure there.

25 We lowered the roof lines. We brought -- we

1 changed materials. We've done so many things.

2 ZC CHAIR HOOD: Sure, I think I get it, Mr.
3 Cahill. Let me just ask you, though, were any of those
4 changes any of your -- coming from you, as part of the 30?
5 Are all of them coming from inputs you had? That's the only
6 question I need to know.

7 MR. CAHILL: They were all from input we had.

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

10 CHAIRPERSON HILL: Okay, so Ms. John, do you have
11 anything?

12 MEMBER JOHN: Nothing at this time.

13 CHAIRPERSON HILL: Okay. So, Mr. Hulme, I'm going
14 to turn to you in a second to ask questions. Before I do,
15 I just want to make a point to Mr. Cahill and Mr. Hulme and
16 Mr. Ballard. I mean, these are cases that come before us,
17 and people have differences of opinions in terms of how the
18 regulations are being met. I just want to make sure we just
19 focus on the regulations and not speak to anything that might
20 have been more personal in nature or what might have been the
21 previous history to the discussion.

22 What we're here for now, again, it just, again,
23 the specifics to the zoning regulations and what is kind of
24 before us. So, Mr. Hulme, with that being said, do you have
25 any questions of Mr. Cahill concerning his presentation?

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1 MR. HULME: Thank you, Mr. Chairman. I have just
2 a few. Good to see you again, Mr. Cahill. Your lot is an
3 unusual shape. It's L-shaped. Correct?

4 MR. CAHILL: Yes, it is.

5 MR. HULME: And are you aware of the history, of
6 that occurred in -- after the house was built, in the 20s,
7 that you property deeded an ten-foot strip to 3403, the
8 property to the west, and in exchange, received a strip
9 behind 3403?

10 CHAIRPERSON HILL: Mr. Cahill, are you there?

11 MR. CAHILL: I was not aware of the swap there.
12 I was aware that the back 20 feet of the west side of the
13 property was purchased to put a pool in.

14 MR. HULME: Okay.

15 MR. CAHILL: Oh.

16 MR. HULME: Actually, it was originally a four-car
17 garage when the property, in -- my property in 1985. And in
18 fact, the reason why your lot is only 40 feet wide is because
19 you deeded, or you prior owner -- may prior owners, I'll
20 note, deeded the ten-foot strip to 3403. It's not because
21 it's aligning with 34th Street. Were you aware of that?

22 MR. CAHILL: I'm sorry, they deeded a ten-foot
23 strip to 43 -- to the west side neighbor?

24 MR. HULME: Yes.

25 MR. CAHILL: The 10 feet?

1 MR. HULME: Yes.

2 MR. CAHILL: No, I was not aware of that. I am
3 aware of the Reno Road side, the taking of the land on the
4 Reno Road side.

5 MR. HULME: And just a couple more questions. The
6 property 3401 Lowell, that actually sits on the top of a hill
7 on -- you call it Reno Road, but it's actually 34th Street.
8 Correct?

9 MR. CAHILL: Yes.

10 MR. HULME: And approaching your property on 34th,
11 it's uphill both ways on 34th Street. Correct? In other
12 words, Lowell Street is the peak of 34th Street. Correct?

13 MR. CAHILL: Yes.

14 MR. HULME: Okay. And in fact your first floor
15 of your property is actually substantially above the grade
16 level of 34th Street. Correct?

17 MR. CAHILL: It is about 4 feet off -- no, 5 feet
18 off of the top end, I think, and it's, I think, 12 feet at
19 the point where it meets your property?

20 MR. HULME: Right, right.

21 MR. CAHILL: A little bit.

22 MR. HULME: Okay, so there's a substantial drop
23 between the first floor and down to the grade of 34th Street.
24 Correct?

25 MR. CAHILL: They -- I do believe my first floor

1 and your first floor are very close in lining up with that.
2 And you said very high above 34th Street?

3 MR. HULME: And it's the porch on the 34th Street
4 side that encroaches on the 34th Street right-of-way.
5 Correct?

6 MR. CAHILL: Yes.

7 MR. HULME: But the actual house itself is four --
8 set back four or five feet from the 34th Street lot line.
9 Correct?

10 MR. CAHILL: Yes.

11 MR. HULME: That's all I had for Mr. Cahill right
12 now. Thank you, Mr. Chair.

13 CHAIRPERSON HILL: Okay. Thank you, Mr. Hulme.
14 All right, Mr. Hulme, you go ahead. You have an opportunity
15 to present your testimony. And you can begin whenever you
16 like.

17 MR. HULME: Thank you. Mr. Young, I have a
18 PowerPoint. If you could put that up on the screen, I'd
19 appreciate that.

20 CHAIRPERSON HILL: That's Exhibit 34?

21 MR. HULME: No, it's Exhibit 47.

22 CHAIRPERSON HILL: Okay.

23 MR. HULME: All right, thank you. As I mentioned,
24 my name's James Hulme, and I live at 3210 34th Street with
25 my wife Carol and our ten-year-old son, Peter. We're

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1 immediately north and adjacent to the subject property.

2 I would note that I met with Mr. Cahill. He came
3 by in February of 2019, stopped by and had his plans with
4 him. And he showed me the plans and they looked very nice.
5 In fact, I still think they look great.

6 It's a very appealing structure from just a design
7 point of view. And to leave it that, he did not. And it
8 wasn't until later that I realized that there were problems
9 with the size and scale of this. In fact, after Mr. Cahill
10 and I met, he actually put For Sale signs back up on the
11 property. They were Coming Soon. And they were on there for
12 many months. So the assumption was nothing had happened and
13 that he had, in fact, abandoned the plans.

14 And then, at some point, the signs came down,
15 really no idea whether the property had sold or if he was
16 still at it. So it wasn't until neighbors got talking about
17 the size of that that we realized there were issues here.
18 And, of course, they're zoning issues, so that's why we're
19 here before you and the BZA.

20 Mr. Young, if you could go to the next slide,
21 please?

22 So, just briefly, there are requests for three
23 special exceptions: the side yard setback, the building is
24 -- the current house is non-conforming, so there would still
25 be a minimum of five feet required on each side.

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1 (Audio interference.)

2 If you don't include the intruding porch, if you
3 look at the house structure itself, the pervious area
4 requirement and then, of course, this forward-facing the
5 street. Next slide, please.

6 The legal standards, there are three. That is,
7 the burden of proof for the Applicant. And I think, I'd say
8 the first one is particularly important there given that most
9 of the street frontage of this property is actually on 34th
10 Street and not on Lowell Street, and that is, that the
11 addition, together with the original building, as viewed from
12 the street, shall not substantially visually intrude upon the
13 character, scale and pattern of houses along the subject
14 street frontage.

15 And I'll get to the details of it, but I will say
16 that I'm not aware and haven't seen a single other house
17 along 34th Street that has been permitted to build an
18 addition on the 34th Street lot line. Just nothing like that
19 exists.

20 My house is not on -- mine -- our addition was put
21 on the back, like most of them are. And this one would be,
22 literally, on the lot line and that's unprecedented. And we
23 do not think that it fits with the character, scale or the
24 pattern of houses along 34th Street, apart from the light and
25 air and the privacy issues.

1 And I'll get to privacy issues later because
2 that's why I live in my house. Despite it being on 34th
3 Street, as Mr. Cahill indicated, it's high. And my house is
4 extremely private. We don't have houses on either side that
5 are close in. My backyard looks all the way through the
6 entire block to the house on 35th Street just through
7 backyards, and it's very green.

8 And we don't have any windows up close to us. Our
9 side yard is very private, where we put a pool in there in
10 the mid-90s and, literally, you cannot be seen when you're
11 in the pool. That's going to change if this is allowed to
12 be built. Next slide, please.

13 And this is just -- I want to look at the
14 neighborhood, if we may. So this picture is from 1918, about
15 three years, as I understand it, three years after the houses
16 were built by W.C. and A.N. Miller. The subject house is the
17 one on the left. My house is the one in the middle. And
18 then the house at 3400 Lowell Street is the one on the right-
19 hand side.

20 There's another version of this picture which is
21 pulled back, and you'll see that the church is not yet
22 constructed, so we know that it's taken at an early time.
23 You see, the porch is already there that encroaches. And
24 notice that this subject property is the only one of the
25 three where the orientation of the roof line is to Lowell

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1 Street. The other two are both on 34th Street. Next slide,
2 please.

3 And this is what it looks like today. Traffic
4 lights are new. In fact, when I moved in, in '85, those
5 traffic lights in Lowell had just been put in and were on
6 flashing status. They had not existed prior to that.

7 And you can see very few trees. In fact, there's
8 something about this block. There's been a real problem with
9 keeping these street trees alive. Eaton has lost all of
10 theirs. I've had three or four in front of my house, despite
11 watering, and there are none on the subject property and
12 never have been.

13 Mr. Cahill moved all the -- removed all the pine
14 trees that were on the site, the property side of the
15 sidewalk. Next slide, please.

16 As I mentioned, the property is prominent on a
17 hill and at a corner and at the peak of the hill. Next
18 slide. This shows the view from 34th Street of the subject
19 property. You can see how high and dominant it is over 34th
20 Street.

21 Directly across the street is John Eaton
22 Elementary, which is currently under renovation and will be
23 until summer of 2021. And those -- a real problem is that
24 if this is built, you're going to have this canyon effect,
25 I'd submit, between the two massive buildings there,

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1 literally facing each other. So it's a very unique property,
2 being on a corner, and we think context is important. Next
3 slide, please.

4 And this is a view of the house, just taken from
5 my driveway looking up. And so you can see how high it is.
6 The slope is up. The house is substantially above. You can
7 see the porch light in there. And that floor, that's the
8 first floor line. That's how high it is above 34th Street
9 already. And then you've got the three floors above it.
10 Next slide, please.

11 And this is a view of the house taken from the
12 sidewalk -- just taken from the sidewalk. So you can see how
13 high it would be. And the proposal is to put another 70
14 percent back behind that house, three stories high, right on
15 -- and actually literally move it closer because it's, I
16 mean, to the street lot line, five feet closer than the
17 existing house and being put right on the street line. Next
18 slide, please.

19 Turning around, you can see, there's Eaton
20 Elementary, looking from the same place, right across 34th
21 Street. Now, just to give you an idea of some of the other
22 houses in the neighborhood or, in fact, the street scape,
23 next slide, this is the house that is catty corner across
24 Lowell Street and 34th Street from the subject property,
25 facing the street.

1 And, you can see, it is -- it's quite modest and
2 set back. Next slide, please. And this is the church,
3 Lincoln Park Congregational Church, a very modest -- small
4 modest community church. In fact, the main floor is not much
5 above the street level there.

6 And there's a small balcony at the back of the
7 sanctuary, but other than that, it really doesn't even have
8 a second floor. Next slide, please.

9 And in terms of the street, because I just grabbed
10 a couple off Apple Maps here, so these are what they show.
11 This is looking from Lowell Street up -- down 34th Street,
12 basically toward the cathedral, toward the Naval Observatory,
13 that block. You see the church on the right-hand side there
14 and the houses on the left side. Next slide, please.

15 And this is 34th Street at the other end of the
16 block, at Macomb Street, looking toward Newburg Street and
17 all. And you can see, the street line, for the most part,
18 with no properties really visible as you're traveling along
19 the street.

20 That will be very different with the current
21 house, or the proposal. Next slide, please. Just wanted to
22 -- you may go to the next slide. Just wanted to talk about
23 the plan here. So in this diagram I've taken from the plans,
24 it's really just to give you an idea. The blue line is the
25 34th Street lot line right now.

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1 And you can see the existing porch there. The red
2 line is the existing house line of the main house. So you
3 have the living room at the bottom. And then, what is a
4 dining room with a bump out -- and that's shaded there in
5 green. And then the building, existing building line going
6 back there.

7 Before Mr. Cahill ripped it down there was your
8 standard two-floor sleeping porch in the back of the
9 property, which has since been removed when he did some
10 demolition within the last few months. Now the proposal is
11 to shift that entire structure and move it right to the blue
12 line. As part of this renovation, to actually move the house
13 closer to 34th Street. And that's one of the reasons why the
14 special exception would be needed.

15 To give you an idea of what this looks like this
16 -- the next slide -- this is looking from the sidewalk of
17 Lowell Street right through. So you can see the porch. You
18 can see that, what was that green area or the little dining
19 room bump out there. And you can see the actual present
20 location of the living room of the house, with the chimney
21 and the porch. Next slide, please.

22 So, this shows the proposed addition. The red
23 area there is the existing structure and where it's located.
24 And the proposal there, as I said, to bump it out, to move
25 the very addition, which is -- it goes back about 22 and a

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1 half feet, I believe, on the 34th street lot line. The next
2 slide, please.

3 So, this again, is another view of what that would
4 look like from the street. And you can just picture this 70
5 percent addition going up three floors. One of the problems
6 is the massing of the structure right along 34th Street. The
7 next slide, please.

8 This would be a view of what it looks like from
9 the renderings that they have proposed. This may not be the
10 current one. I believe it is. But it shows you what's
11 proposed there. And you can see, if the perspective were
12 lower down, how much you would lose and dominate 34th Street.
13 Next slide, please.

14 So, we believe this proposed addition could not
15 meet the special exception standards, that is does
16 substantially visually intrude upon the character, scale or
17 pattern of houses along 34 Street. As I mentioned, there's
18 nothing else like this along 34th Street. We're not aware
19 of any house that's been allowed to expand on the street lot
20 line along 34th Street. And I've come to calling it, if it
21 were to be built, it'd create this canyon effect, the Grand
22 Canyon of Cleveland Park.

23 So we think it does intrude upon the character,
24 scale and pattern houses along 34th Street, particularly the
25 scale and the pattern. Next slide, please. When the Eaton

1 renovation was first proposed, one of the very first
2 proposals was actually to build an addition because they did
3 need more space right along 34th Street. Next slide. And
4 this was one of the renderings. So what you're seeing there
5 is, this is the 34th Street view. Lowell Street would be to
6 the right. And there was a proposal to erect this two-story
7 --

8 CHAIRPERSON HILL: Mr. Hulme?

9 MR. HULME: Yes.

10 CHAIRPERSON HILL: I'm sorry to interrupt you.
11 I see your presentation here. And what's supposed to happen,
12 within the regulations, is that the Applicant and the party
13 status people have the same amount of time. So just -- I
14 just want to make sure we kind of keep to at least -- it is
15 -- thankfully, the proposal -- I mean, the presentation's
16 here so we can kind of flip through. But just if we can kind
17 of move at a good --

18 MR. HULME: Yeah.

19 CHAIRPERSON HILL: -- speed here.

20 MR. HULME: All right, I'm just keeping track on
21 my phone, which is keeping track went dark on me. But I'll
22 try to -- I only have a few more slides, actually, I think.

23 CHAIRPERSON HILL: Okay.

24 MR. HULME: So, this was quickly shot down --
25 next slide -- for the reasons that it -- you know, building

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1 along 34th Street like that was not appropriate. Next slide.
2 Now, I just want to talk about the privacy and use. This is
3 what I see from my pool area right now. Obviously, it's not
4 attractive. You can see where the sleeping porch used to be.
5 Next slide.

6 And this is the proposal. It's going back 22 and
7 a half feet from the existing house which is, as I say, about
8 70 percent more. Next slide please. And that's what will
9 be facing my pool area. It's all windows. As I say, it's
10 a nice design. I just think it's too big, too close, and
11 it's going to intrude on the privacy. Next slide.

12 This is literally taken right from the edge of my
13 pool. As you can see, right now, the only thing -- this is
14 literally the only window that can look into our pool right
15 now. One of the reasons we put it there was just, after ten
16 years of living in the house, it was literally so private.
17 None of the neighbors could see that. Now you're suddenly
18 going to be 22 and a half feet closer, looming over it and
19 it's not going to be just this little third floor window.
20 It'll be the second floor and will, I think, destroy the
21 privacy that we have in that part of our yard currently. And
22 that's why we like that we have this large side yard that was
23 extremely private. Next floor -- next slide.

24 And that's what, literally, will be looking over
25 the pool area, much closer. Next slide. We also think the

1 light and air available to neighboring properties, you know,
2 will be affected. Next slide.

3 This is a view of the back in the slide on 3403.
4 You can see that balcony will be actually being able to look
5 over my pool area as well as the neighbor's yard. And it's
6 very tight there. Next slide. The -- you can go to the next
7 slide.

8 And actually, the addition goes almost to the back
9 of 3403. Next slide. And as you can see, the orange is the
10 proposed addition and the black arrow is actually the back
11 lot line because of this property swap that happened in the
12 1920s where the back of 3403 was given.

13 And that's where -- it was originally a four-car
14 garage. It was changed by -- into a swimming pool in the
15 early 2000s by the owner then. And literally, that's going
16 to go almost all the back to 3403. But I'll let that
17 neighbor -- because I know she's speaking today. Next slide.

18 So I think this is a prominent corner lot, and I
19 submit that it requires nuance and a smaller scale. Most of
20 its frontage is on 34th Street. It's at the top of a hill.
21 It's above the grade. The house, effectively, serves four
22 stories about the street at grade because it's already so
23 high that the basement's basically at street level.

24 It faces John Eaton Elementary. And as I say, the
25 proposal extends along the lot line. No other house -- next

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1 slide, please. We think the Applicant cannot meet these
2 three legal standards that I put together at the front. And
3 finally -- next slide -- this is our request of the BZA, to
4 require that there not be an addition that includes a third
5 floor -- when I added to my house, we didn't extend the third
6 floor -- require that the addition maintain the present
7 setback of the house on 34th Street, which is that four or
8 five feet, maintain at least a 5-foot setback on the other
9 side, that the addition be pushed back less than 50 percent
10 of the depth.

11 You know, under the code, in order to grant
12 special exception, you specifically have the right to require
13 -- impose requirements relating to design, appearance, size,
14 or other requirements to make it consistent with the zoning
15 regulations. And we think that these requirements would do
16 that. So that's all I have, and thank you for your time.
17 Sorry I ran a little over.

18 CHAIRPERSON HILL: That's all right Mr. Hulme.
19 Thank you. All right, let's see. Does the board members
20 have any questions for Mr. Hulme?

21 VICE CHAIRPERSON HART: So, Mr. Hulme, I
22 appreciate the presentation and your kind of going through
23 it. You're saying that there are very few buildings, very
24 few houses that front on 34th, and this is kind of one of
25 them in this kind of immediate area?

1 MR. HULME: Well, on our block, as you saw in that
2 picture, there's just three houses on 34th Street.

3 VICE CHAIRPERSON HART: Yes, I mean, 34th and Reno
4 is a pretty level road, so that's what I find, that --

5 MR. HULME: Right. No, there are a number of
6 houses on 34th Street. I'm unaware of any that have been
7 able to build up to the street lot line. They're all set
8 back. And, typically, the houses, obviously, are facing the
9 street. Additions go on the back. But even on the corner
10 properties, I'm not aware of any corner property where an
11 addition has been built along the 34th Street lot line.
12 There has been a setback.

13 VICE CHAIRPERSON HART: Okay. I mean, you know,
14 we have to look at this as a, you know, each case on an
15 individual basis.

16 MR. HULME: Yes.

17 VICE CHAIRPERSON HART: So, we're trying to do
18 that in this case. Regarding the scale of the building,
19 you're saying that this building would really be out of scale
20 with the block? Is that what you're talking about?

21 MR. HULME: No, out of scale with the houses along
22 34th Street.

23 VICE CHAIRPERSON HART: From what place like to
24 what place?

25 MR. HULME: From just, say, one block over, at

1 Woodley to what I'll say the end of Cleveland Park at Porter
2 Street.

3 VICE CHAIRPERSON HART: Okay. I mean, it looks
4 like -- I'm kind of looking at Google Earth as we're kind of
5 talking to kind of get --

6 MR. HULME: Yes.

7 VICE CHAIRPERSON HART: -- a better understanding
8 of it. I mean, it looks like there are a number of different
9 housing types along the -- that stretch. Some are larger,
10 some are smaller. It doesn't seem as though there are as
11 much uniformity in the architectural styles as you are --
12 that you've seem to believe that there are.

13 And I was trying to understand that a little bit
14 further. But I think I understand your point. And I wasn't
15 sure about the Eaton Elementary school. I mean, I understand
16 what your point was, which was you thought that -- well, that
17 the addition on the 34th or, if you want to call it Reno Road
18 side was not seen as a positive location for it.

19 I don't know if they've actually, you know, ended
20 up doing that addition or not, but it seems like it's just
21 somewhat grossly out of scale with the development that
22 you're talking about that's before us right now. That seems
23 -- that's a much larger institutional kind of scale that
24 you're talking about.

25 MR. HULME: Right. No, just to clarify, the Eaton

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1 renovation's going on right now. You may actually hear it
2 in the background.

3 VICE CHAIRPERSON HART: Okay.

4 MR. HULME: It was immediately decided that the
5 addition should be internal to the lot. So if you look at
6 Eaton, there are the two really historic old structures. One
7 actually predates my house.

8 VICE CHAIRPERSON HART: Okay.

9 MR. HULME: One's from the 20s. So they ripped
10 down the 60's addition that was in the middle and also the
11 30's gym, and they're building there. So it's internal to
12 the lot. I was commenting on the --

13 VICE CHAIRPERSON HART: Yes, and --

14 MR. HULME: -- style of the house. It's the
15 massing. It's -- and what's unique about this property, I
16 think, is that the house is so high above 34th Street. And
17 you don't find that -- and so close to 34th Street. That's
18 what makes it so unique along there. And to allow an
19 addition, I think, does not meet the standard of visually
20 intruding upon the scale of the landscape along 34th Street.

21 VICE CHAIRPERSON HART: I appreciate that. I was
22 trying to understand the context in which you were describing
23 that. And you've provided that information for me.

24 And the very end of your slide presentation, which
25 I had up but I don't actually have up anymore was what you

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1 thought were the -- what you would have like to have seen or
2 what would you propose as being acceptable, in your
3 estimation. Had you presented that to the owner before this
4 meeting, this hearing?

5 MR. HULME: We did have a conversation a couple
6 of weeks ago. And I don't remember if the specifics came up
7 with that. There was a general discussion that, one of the
8 people in that conversation thought it was too big. I will
9 say that I did file it and serve it on him two weeks ago when
10 I filed the form to appeal as a party. And that's part of
11 my statement --

12 VICE CHAIRPERSON HART: Okay.

13 MR. HULME: -- there. And it's -- specifically,
14 that's at the end of the statement, so it's been there for
15 a couple of weeks.

16 VICE CHAIRPERSON HART: And so the -- I appreciate
17 that, thank you. And the last question I have is, I
18 understand the first three points, but I don't quite
19 understand the last point -- pull the addition back to less
20 than 50 percent of the depth of the present house. What does
21 that mean exactly?

22 MR. HULME: Oh. The addition is, I think, 22 and
23 a half feet. I believe the present house is about 31 or 32
24 feet deep from Lowell Street. So the proposal is that the
25 addition would only go back 17 or 18 feet, so it wouldn't be

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1 as large. It wouldn't run along 34th Street as far as it's
2 proposed to run.

3 VICE CHAIRPERSON HART: So you're saying it would
4 go about half of what they're proposing now.

5 MR. HULME: No, no, more than half of what they're
6 proposing -- half of the existing house. In other words, the
7 existing house, I think it's 31 or 32 feet. They're
8 proposing 22 and a half feet for the addition.

9 I'm saying, pull the addition back to only 17 or
10 18 feet.

11 VICE CHAIRPERSON HART: Ah, okay.

12 MR. HULME: So they lose five feet, maybe.

13 VICE CHAIRPERSON HART: That's the part that I
14 wasn't quite understanding. It's --

15 MR. HULME: Sorry, yeah.

16 VICE CHAIRPERSON HART: -- that it was a fairly
17 significant ask that you were including in that. And I'm
18 sorry, I think -- actually, this is the last question. They
19 -- you're also thinking that -- there is a side yard and rear
20 yard. You know, there's setbacks that are already in place
21 or that are established, I guess, for, you know, various
22 properties. Your --

23 MR. HULME: Right.

24 VICE CHAIRPERSON HART: Do you think that that
25 actually should be greater than it is?

1 MR. HULME: Well, you know, I guess the standard
2 setback would be eight feet.

3 VICE CHAIRPERSON HART: Yeah.

4 MR. HULME: But you can go to five feet without
5 a special exception if you have an existing structure there.

6 VICE CHAIRPERSON HART: Yeah.

7 MR. HULME: And, you know, I think that if you
8 maintain five feet on each side with a 40-foot wide lot, you
9 still have an addition that's 30 feet wide. That's a pretty
10 good size addition, and I think that would be appropriate.

11 VICE CHAIRPERSON HART: Okay, thank you. No more
12 questions.

13 CHAIRPERSON HILL: Ms. John?

14 MEMBER JOHN: So let me see if I understand. So
15 the Applicant could meet the side yard criteria and could go
16 back the full extent of the current proposal, right?

17 MR. HULME: I'm sorry, I don't quite follow that
18 --

19 MEMBER JOHN: If the Applicant met the criteria
20 for the side yard --

21 MR. HULME: Right.

22 MEMBER JOHN: -- right? The Applicant could
23 extend the house as he currently is proposing.

24 MR. HULME: Well, they -- no, they would still
25 need the two other special exceptions for the door facing the

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1 street and also the pervious area, although that calculation
2 may change.

3 And my point being is if you're having to grant
4 one special exception, you can then impose requirements
5 relating to design, appearance, and size, and that would be
6 one of them.

7 MEMBER JOHN: And that is so even if the massing
8 would be consistent with the regulations? Because if you
9 look at the OP report, Applicant meets all other development
10 standards. So in terms of massing, it meets the
11 requirements.

12 The only issue is that side yard setback. So did
13 you have any thoughts on that?

14 MR. HULME: Well, as I said --

15 (Simultaneous speaking.)

16 MEMBER JOHN: The pervious area is sort of, you
17 know, not quite significant. So those are just some
18 thoughts. If you want to respond, that's fine.

19 MR. HULME: My thought on that is this is a very
20 unique property because of its position on 34th Street and
21 how exposed it is and how high it is. And I think that an
22 addition here needs to be scaled down in order to be
23 appropriate and not dominate the street and be out of place
24 with those houses that are situated along 34th Street.

25 MEMBER JOHN: Okay. Thanks for the clarification.

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1 MR. HULME: Okay.

2 CHAIRPERSON HILL: Chairman Hood?

3 ZC CHAIR HOOD: I have one just -- not necessarily
4 a question, but just a follow-up comment. I'm just curious.
5 On the -- and I don't have it up -- the Vice Chair mentioned
6 in the last part, we asked BZA to -- and what Mr. Cahill
7 mentioned earlier about the 30-plus different changes, Mr.
8 Hill, that he's made.

9 I would be inclined or interested or I may have
10 missed it, to see what he says about those four points that
11 you said you gave him three weeks ago.

12 But if he went through 30-plus changes and he just
13 got this, I don't know when he stopped doing those 30-plus
14 changes, but according to him, he has already accommodated
15 every one of those 30-plus changes.

16 Not saying that he would accommodate you on all
17 four of these, but I'm just wondering if he had the
18 opportunity or some time to continue, wherever that be. So
19 I'll probably wait, Mr. Chairman, until we get back to him.
20 I just wanted to make that comment because I heard that he
21 made a lot of changes.

22 Mr. Hulme, it seems like three weeks ago and I
23 don't know how long this has been going on with him -- I
24 guess he said a year and a half or so. Still, I think that
25 afford him that opportunity for you all to have discussions

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1 -- and I'm not really sure. I'm uncertain right there, so
2 I'm going to leave it at that.

3 (Simultaneous speaking.)

4 MR. HULME: If I could just respond to one point
5 there, and that is, as I mentioned, when I met with him, I
6 asked him to leave the plans with me, and he did not. And
7 then the sale sign went up, so that's one of the points that
8 we just thought it just went away for a while.

9 And it wasn't until neighbors got talking that it
10 -- people focused in on the actual size here. And that's why
11 we are here now.

12 ZC CHAIR HOOD: But once he filed this
13 application, you were able to go online and see his plans.
14 Correct?

15 MR. HULME: Once I became aware that it was
16 reactive or that it was active, yes. And it had -- see, once
17 the sale sign went up and then it disappeared, we didn't --
18 I frankly didn't know what had happened to the property,
19 whether it had sold or what. There was no further contact
20 directly.

21 ZC CHAIR HOOD: Okay. All right. Thank you, Mr.
22 Chair.

23 CHAIRPERSON HILL: Okay. Mr. Hulme, the only
24 other question I have, so in terms of the ANC meeting -- Mr.
25 Ballard, I saw your hand. Just give me a second.

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1 In terms of the ANC meeting and in terms of like
2 HPRB meetings, you did or did not attend any of those?

3 MR. HULME: I did not attend any of those.

4 CHAIRPERSON HILL: Okay, did you just not know
5 about them?

6 MR. HULME: Not consciously, let's put it that
7 way. I was not conscious whether, you know, some notice came
8 to the house or whatever, it's possible, but I was not
9 consciously aware.

10 CHAIRPERSON HILL: Okay. All right, okay. All
11 right, so, Mr. Cahill, do you have any questions for Mr.
12 Hulme concerning his testimony?

13 Again, I'd like to point -- again I am sorry to
14 do this, but just before you start at the beginning again --

15 (Simultaneous speaking.)

16 MR. CAHILL: I get your point.

17 CHAIRPERSON HILL: Thank you.

18 MR. CAHILL: I'm a professional. No, I don't have
19 so much questions as a few corrective comments that I'd like
20 to just address right to some of the points that he's making.

21 For instance, the house only originally extended
22 the 18 feet back before HRT got involved, and they asked us
23 to add the height and push that portion of the house back.

24 CHAIRPERSON HILL: Okay, Mr. Cahill, the only
25 reason why I'm going to interrupt you, you have an

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1 opportunity for rebuttal. So this sounds more like along the
2 lines of rebuttal. Do you have any questions for Mr. Hulme?

3 MR. CAHILL: I do.

4 CHAIRPERSON HILL: Okay.

5 MR. CAHILL: So, Mr. Hulme, were you given a
6 notice of the previous meeting, the previous -- did you get
7 a notice saying that we're applying for the zoning relief?
8 And you -- that was -- you got a notice way back when, before
9 COVID closed us down. I think you get it four or five weeks
10 in advance of the meeting. Did you not receive that?

11 MR. HULME: I frankly don't remember.

12 MR. CAHILL: Because that was your notification
13 that there was zoning issues. And now that is close to five
14 months ago, and that would have been the opportunity to come
15 forward and have a conversation with me. And at that point,
16 would have given us a lot more time, but because of the
17 COVID, we are -- we're getting bumped along here.

18 My second question is we've kind of left off that,
19 in an original conversation that we had, I let Mr. Hulme know
20 that I was going as far as I could, left to right, which
21 means east to west, so I could protect as much as I could the
22 buffer between his house and my house.

23 Right now I am significantly off that rear 25-foot
24 setback from his home. And I did that intentionally because
25 I do enjoy the buffer. It's the only buffer zone that I have

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1 to any property owner.

2 I also, in my landscape plan -- and we -- I put
3 this in as requirement, but I told him I would plant a full
4 hedge of trees planted six foot on center at 12 to 16-foot
5 initially installed to give him additional privacy because
6 his pool's built right --

7 CHAIRPERSON HILL: Mr. Cahill? Mr. Cahill, I'm
8 sorry. I'm just trying to find your question.

9 MR. CAHILL: I -- well I -- I wanted to -- the
10 question is why was that left off from his presentation?
11 That there's a hedge between our two homes, a significant
12 hedge.

13 CHAIRPERSON HILL: Okay, so the question, Mr.
14 Hulme, is did -- why did you leave that off your
15 presentation?

16 MR. HULME: I don't think it's a factor because I
17 understand those trees are deciduous and would only provide
18 screening part of the year.

19 CHAIRPERSON HILL: Okay, so that's your answer,
20 Mr. Cahill. What's your next question, Mr. Cahill?

21 MR. CAHILL: That's it.

22 CHAIRPERSON HILL: Okay. Mr. Ballard, I don't
23 even know if you get to ask a question because you're not
24 really the applicant, but I guess you have a question?

25 If you guys would -- what I'm trying to say is if

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1 you guys were sitting --

2 MR. BALLARD: I don't have --

3 CHAIRPERSON HILL: I want to just be clear on one
4 thing. If you guys were sitting at a table next to each
5 other, we would be asking you to ask Mr. Cahill to ask the
6 question. But you're not here, so please go ahead and ask
7 your question.

8 MR. BALLARD: I would actually just -- maybe the
9 proper time is rebuttal. I just have several points in
10 rebuttal that I would like to be able to speak as well as Mr.
11 Cahill. I had signed up to speak. So I would just like to
12 be able complement Mr. Cahill's presentation

13 (Simultaneous speaking.)

14 CHAIRPERSON HILL: Okay, hold on, Mr. Hood has a
15 comment --

16 (Simultaneous speaking.)

17 MR. BALLARD: I'd like an opportunity for
18 rebuttal. That's all. I can wait until you request that.

19 CHAIRPERSON HILL: Okay. Mr. Hood?

20 ZC CHAIR HOOD: I want to go back to Mr. Hulme.
21 And I think, Mr. Chairman, you went down those lines. Mr.
22 Hulme, so you did not go to the ANC. You were not involved
23 with the ANC meeting?

24 MR. HULME: Oh, I did go to the ANC meeting that
25 was held, what, two or three weeks ago.

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1 ZC CHAIR HOOD: Okay, but back when they voted,
2 I won't quote it, I don't know the date, but when Chairperson
3 MacWood and them voted. You know, I don't take very lightly,
4 and I don't mean this in a derogatory comment. I mean this
5 very positively. Ms. MacWood has been around just as long
6 as I have, but probably longer when it comes to zoning. And
7 she's very well respected, from my standpoint.

8 And for Mr. Cahill to get approval, I know that's
9 no small feat. So I'm just curious where you -- how -- where
10 you are in that whole dynamic. Where were you in that whole
11 dynamic?

12 MR. HULME: Well, as I say, I attended the ANC
13 meeting that was held, I think it was shortly before I filed
14 the application to intervene as a party. And there was,
15 frankly, very little discussion. We gave a presentation with
16 our issues.

17 Actually, it may have been right after I applied
18 to be a party. It was in that timeframe, so it was just two
19 weeks ago, I think. And Ms. MacWood presented the resolution
20 and read it. I think there was one commissioner who was --
21 expressed some issues about the 34th Street exposure.

22 And then there was a vote. There was no
23 discussion. There was a vote, and the vote was seven -- or
24 it was one abstention, and the rest voting in favor. But no
25 substantive discussion by the ANC.

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

3 CHAIRPERSON HILL: Thank you. All right, does
4 anyone have any more question before I turn to the Office of
5 Planning? All right, I'm going to turn it to the Office of
6 Planning.

7 MR. KIRSCHENBAUM: Good evening, Chair Hill and
8 members of the Board of Zoning Adjustment. Happy Birthday,
9 Chair Hill. It's an honor to share it with you.

10 I'm Jonathan Kirschenbaum with the Office of
11 Planning, and we recommend special exception relief to
12 enlarge the existing single household dwelling, and we rest
13 on the record. Please let me know if you have any further
14 questions. Thank you.

15 CHAIRPERSON HILL: Okay, does the Office -- I
16 mean, sorry. Does the Board have any questions of the Office
17 of Planning? Mr. Hart?

18 VICE CHAIRPERSON HART: Yes. Good evening, Mr.
19 Kirschenbaum. Just one question with regard to the 34th
20 Street/Reno Road frontage. Mr. Hulme had discussed that it
21 was somewhat irregular to have the addition kind of really
22 moved towards the, I guess it's the setback along 34th
23 Street.

24 Could you kind of talk about that a little bit?
25 And where you're -- where the Office of Planning kind of sees

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1 that?

2 MR. KIRSCHENBAUM: You know there's nothing in the
3 zoning regulations to say that you can't build along a side
4 of your property. So that was not a factor in our analysis.

5 VICE CHAIRPERSON HART: Thank you. And with
6 regard to the context that this building is being proposed
7 and the other housing and institutional uses that are around
8 there, could you talk about that for a few minutes, what your
9 perception of that is?

10 MR. KIRSCHENBAUM: Could you just maybe elaborate
11 slightly more about what you would like me to focus on?

12 VICE CHAIRPERSON HART: Really it's -- there are
13 -- there is residential use along there. There's some
14 institutional uses. There's a school. There's a church.
15 And the types of housing or at least the scale and massing
16 of housing that's along 34th Street, you know, a couple of
17 blocks north and a couple of blocks south, if you're able to
18 opine on that.

19 MR. KIRSCHENBAUM: Sure, I -- the built
20 environment is very varied. There's many different sizes of
21 houses. There's a prominent public institution across the
22 street which is Eaton Elementary School.

23 I will also add that the addition to the existing
24 house is approximately one foot less wide than the existing
25 house, so it's not any larger in terms of the width of the

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1 existing house.

2 The addition complies with the height requirements
3 of the zone. The existing house is 28 feet, which is below
4 the 40-foot maximum. And the addition is actually slightly
5 lower than the existing house.

6 The house complies with the maximum rear yard
7 requirements and lot occupancy requirements. And the house
8 is also located on a corner lot which, from an urbanist's
9 perspective can handle buildings that are slightly larger
10 than mid-block.

11 And the proposed addition is designed to have a
12 residential appearance that would match the residential house
13 character of the neighborhood.

14 VICE CHAIRPERSON HART: Thank you very much for
15 that discussion and description. My final question has to
16 do with the light and air aspect. And Mr. Hulme had
17 described how it would be unduly impacted -- in his
18 estimation, it would be unduly impacted.

19 In the light and air, sometimes the Board of
20 Zoning Adjustment has -- we look at things like sun studies
21 to understand, you know, shading and that sort of thing.
22 Could you kind of talk a little bit about the light and air
23 impacts on this instance?

24 MR. KIRSCHENBAUM: Sure. So in this instance, for
25 Mr. Hulme's property which is located to the north, the

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1 subject property's located to the south. So because it's
2 located to the south, there should be less of a shadow
3 impact.

4 The existing house, in addition -- with the
5 addition considered, provides a 25-foot rear yard setback,
6 so that means that it would be set back -- which is the --
7 which meets the minimum rear yard requirement for the R-1-B
8 zone. And that means that it would be set back 25 feet from
9 Mr. Hulme's property line as well.

10 So it's zoning compliance. And, you know, as a
11 result of that, we don't think there would be any undue
12 impacts to light and air.

13 CHAIRPERSON HILL: You're on mute, Mr. Hart.

14 VICE CHAIRPERSON HART: I just realized. So I
15 appreciate that explanation. I said that was my last
16 question, but I actually have a follow-up to what I -- what
17 you just described.

18 So if this project were in that 25-foot buffer
19 setback, so if it was only 20 feet away from the lot line,
20 then there may be an issue about -- sorry, then there --
21 because this is -- this project is compliant with that
22 setback issue, it is -- the light and air aspect of it
23 becomes -- I don't want to say that it's less, but it is --
24 the project is fitting within the -- what is allowed under
25 zoning, at least this portion of it.

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1 And so the -- something like a sun study would not
2 -- or a shade study would not be required or necessary in
3 this instance. Is that accurate? Or -- this is for Mr.
4 Kirschenbaum.

5 MR. KIRSCHENBAUM: I guess what I would say is if
6 they were not providing a full rear yard setback, we
7 certainly would have analyzed that in more detail. But this
8 is providing a full rear yard setback.

9 VICE CHAIRPERSON HART: Understood. Thank you
10 very much. No more questions, Mr. Chairman.

11 CHAIRPERSON HILL: All right, thank you, Mr. Hart.
12 Ms. John, do you have any questions for the Office of
13 Planning?

14 MEMBER JOHN: No questions.

15 CHAIRPERSON HILL: All right. Mr. Kirschenbaum,
16 I do have one. The -- and this often does come to where I
17 get somewhat -- would like some clarification on.

18 In terms of in the regulation where it says, you
19 know, in Title X DCMR Subtitle X, shall not substantially
20 visually intrude upon the character, scale, and pattern of
21 houses along the subject street frontage.

22 It always -- I mean, and then there's other words
23 like light and air to neighboring properties shall not be
24 unduly affected. The Applicant, you know, private -- privacy
25 of use and enjoyment of neighboring property shall not be

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1 unduly compromised.

2 In the first thing that I read out, substantially
3 visually intrude upon the character, scale, and pattern of
4 houses, again, the Office of Planning's opinion is it's not
5 substantially visually intruding upon the character and scale
6 and patter of houses. Correct?

7 MR. KIRSCHENBAUM: Yes. Underline on
8 substantially.

9 CHAIRPERSON HILL: Right, and so how does one
10 judge substantially?

11 MR. KIRSCHENBAUM: It's really case-by-case
12 specific. And I think, you know, how I first answered Vice
13 Chair Hart's question, again, the addition is the same width
14 of the existing house. It is slightly lower in height than
15 the existing house.

16 It is designed to look like -- the addition is
17 designed to look like a house. And so, again, it has a
18 residential appearance. And that would match the overall
19 residential house character of the neighborhood.

20 CHAIRPERSON HILL: Okay. All right, let's see,
21 I will start with you, Mr. Cahill. Do you have any questions
22 for the Office of Planning?

23 MR. CAHILL: No, I do not.

24 CHAIRPERSON HILL: All right. Mr. Hulme, do you
25 have any questions of the Office of Planning?

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1 MR. HULME: Just a couple.

2 CHAIRPERSON HILL: Sure.

3 MR. HULME: Thank you. Good afternoon, Mr.
4 Kirschenbaum, or actually I could say good evening, I guess.
5 You refer to the existing house. The actual house itself is
6 set back four or five feet from 34th Street. Correct?

7 MR. KIRSCHENBAUM: That is -- I do not believe
8 that's correct. It is built along its side property line,
9 along 34th Street.

10 MR. HULME: Well --

11 MR. KIRSCHENBAUM: There like you may be talking
12 about public space, but that is not part of the property.

13 MR. HULME: So your view is that the house is
14 currently -- the house itself, not the porch, but the house
15 itself is built on the property line?

16 MR. KIRSCHENBAUM: That's correct. The house
17 itself is built on the property line.

18 MR. HULME: Okay. And if it turned out that the
19 house itself was not built on the property line and was set
20 back, you would have to change your views. Correct?

21 MR. KIRSCHENBAUM: You know, I would have to
22 evaluate based on any changes I see to the plans.

23 MR. HULME: Okay, thank you. That's all I have.

24 CHAIRPERSON HILL: All right, thank you, Mr.
25 Hulme. Let's see. Okay, so, Mr. Cahill, you have an

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1 opportunity for rebuttal. And so just what I'd like to point
2 out is rebuttal basically is, again, things that have been
3 said during testimony. And then -- well, actually, before
4 I even get to rebuttal -- so, are there people here --

5 MR. CAHILL: I understand where you're going.

6 CHAIRPERSON HILL: No, no. That wasn't it. I
7 appreciate it. Well actually, I'll finish -- I still need
8 to hear from the public, so that's why I haven't gotten to
9 rebuttal yet.

10 But to clarify what rebuttal is, is rebuttal is
11 things that you'd like to clarify that came up during
12 testimony. And then if there is anything new that you bring
13 up during rebuttal, the opposition would be able to ask
14 questions of anything new that you're bringing up in terms
15 of like if you bring up new testimony. I'm just kind of
16 throwing out the structure here.

17 Mr. Young, are there people here wishing to speak?
18 Mr. Young?

19 MR. YOUNG: Yeah, sorry. Can you repeat what you
20 said?

21 CHAIRPERSON HILL: Yeah, are there people here
22 wishing to speak in support or opposition?

23 MR. YOUNG: Yeah, I have one, Constance Pendleton.

24 CHAIRPERSON HILL: Okay. See if we can bring that
25 person in. Ms. Pendleton, can you hear me?

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1 MS. PENDLETON: Can you hear me?

2 CHAIRPERSON HILL: Yes, I can.

3 MS. PENDLETON: Hi.

4 CHAIRPERSON HILL: Could you please introduce
5 yourself for the record?

6 MS. PENDLETON: Yeah, can you see me on video?

7 CHAIRPERSON HILL: I can't yet. Let's see maybe
8 what happens.

9 MS. PENDLETON: I'd like to show -- be visible on
10 video --

11 CHAIRPERSON HILL: Sure.

12 MS. PENDLETON: -- because I'm standing outside
13 my house. I'm Connie Pendleton. I am an abutting neighbor
14 at 3403 Lowell Street. And Mr. Cahill's property abuts mine
15 on two sides. So I just wanted to see if the video would
16 work.

17 CHAIRPERSON HILL: Try to put your cursor over the
18 picture. Then -- and then the camera stuff pops up below and
19 you can turn it on or off.

20 VICE CHAIRPERSON HART: Mr. Chairman? Mr.
21 Chairman?

22 (Simultaneous speaking.)

23 CHAIRPERSON HILL: Yes?

24 VICE CHAIRPERSON HART: Before she starts,
25 regarding the video feed, I think we need to have a

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1 discussion on whether or not what is being shown on the video
2 is something that we really need to see. I'm just trying to
3 understand our kind of process when we have video that is
4 being shown to us at the first time that we will really not
5 have in the record or, you know, or anything else.

6 And I think that we have to have a discussion
7 about what is being shown and whether or not there's
8 something that we actually need to be shown at the moment,
9 before saying yes, that we can see the video.

10 (Simultaneous speaking.)

11 CHAIRPERSON HILL: Hold on, hold on. Give me a
12 second. Wait, someone's -- I saw Ms. Pendleton trying to
13 talk. Before -- okay, I saw Mr. Cahill raise his hand.
14 Okay, give me a second.

15 So we've started to have this discussion already.
16 And then I'll let everybody that raised their hand talk,
17 okay. I'm just letting you know, we started to have this
18 discussion, Mr. Hart, the last time. And OAG, the Office of
19 the Attorney General, is with us. And that would be Mr.
20 Ritting.

21 And so what I thought happened the last time this
22 started to happen was that it was just like testimony that
23 we were taking during the hearing, meaning it's being
24 recorded. I mean, I think we could start to specify this a
25 little bit more as this starts to move forward, like -- and

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1 now, Ms. Pendleton, just bear with me for a minute.

2 Like if somebody has a camera and they're zooming
3 in and zooming out on stuff; it's a professional kind of
4 thing, I don't know if that crosses another line. I don't
5 know, right?

6 But what Mr. Ritting said last time was that like
7 this is people giving testimony, and then we're able to
8 determine whatever it is. Ms. Pendleton's already
9 positioning herself for where we need to -- so, but Mr.
10 Ritting, what is it that you recall we were going to start
11 to do?

12 MR. RITTING: Good afternoon, everybody. The
13 guidance we came up with is, number one, if a person, like
14 Ms. Pendleton -- hello, Ms. Pendleton -- indicates they're
15 going to use live video testimony, the Board should determine
16 if the video should be excluded as unduly repetitious,
17 immaterial, or irrelevant by asking them to explain the scope
18 of what they're going to be showing and the purpose of the
19 visual testimony. So maybe you should do that now, and then
20 we'll go to Step 2.

21 CHAIRPERSON HILL: Okay. So, Ms. Pendleton, so
22 what is it that you'd like to show us on video -- before you
23 do it, if you could just tell us.

24 MS. PENDLETON: I would just like to show you the
25 proximity of the current house from our property and the

1 effect on light and air that his addition will have which
2 goes to the very back of our property line.

3 CHAIRPERSON HILL: Okay, so before you do that --
4 so I got to say, like I don't necessarily know -- I don't
5 know how we -- let me put it this way. I think that whatever
6 Ms. Pendleton shows us, at least at this particular point,
7 I don't think is going to have a whole lot of undue influence
8 onto our -- my discussion.

9 Like I think a lot of the stuff that is there is
10 already there in the record, and we'll be able to see. But
11 I do think that this is a little bit of a slippery slope that
12 I don't know how to deal with, okay.

13 And so my vote right now is I'm going to go ahead
14 and let Ms. Pendleton show us what she wants to show us. And
15 then I guess the problem is, is that if the Applicant, Mr.
16 Cahill, or -- and I'm kind of talking this through, Mr.
17 Ritting.

18 And by the way, thank you very much for the lawyer
19 answer which didn't help at all.

20 MR. RITTING: Oh, I've got more.

21 CHAIRPERSON HILL: Yeah -- that's okay. So if,
22 Ms. Pendleton, like, you know, if Mr. Cahill now went into
23 refute or rebut whatever you're showing us, you have to then
24 show it again, right, the way that he wants --

25 (Simultaneous speaking.)

1 CHAIRPERSON HILL: No, no, I know. I'm just
2 trying to tell you how it becomes a slippery slope for me,
3 right? And so, Mr. Hart, Ms. John, Mr. Hood, my vote is
4 fine, you just go ahead and take the testimony the way it is.
5 And then figure this out for sure the next time.

6 And so what do you all say? Mr. Cahill, I'll get
7 to you in a second. Mr. Hart, Ms. John seems to be talking.
8 Ms. John?

9 MEMBER JOHN: I was muted. You know, it's fine
10 to show the video, but the issue is is it useful to the
11 Board? And I find that because I'm not able to understand
12 the perspective and, you know, it's really not very useful
13 for me.

14 And unless it is trying to explain something in
15 the record, so, you know, it depends on how much weight the
16 Board wants to give the video and if it's helpful. So I
17 don't have any objection to, you know, having the video. I
18 think I can evaluate it as to whether it will help me to make
19 a more informed decision.

20 CHAIRPERSON HILL: So you're voting yes --
21 (Simultaneous speaking.)

22 MEMBER JOHN: I know that's --

23 CHAIRPERSON HILL: I'm sorry, Ms. John. You kind
24 of -- oh, my God, you became a lawyer on me again. Okay, so
25 -- Mr. Hart?

1 VICE CHAIRPERSON HART: Yeah, I actually -- I
2 think that it is -- I think that there can be problems with
3 showing video. So I'm not inclined to see it, but I am --
4 and I understand what the, you know, that -- where Ms.
5 Pendleton is actually located with regard to where the actual
6 building is.

7 So I don't have that particular concern. I'm more
8 just thinking of how it's really going to help, and I'm not
9 sure if it really will. So I would not be inclined to doing
10 that.

11 And if we were actually in the meeting, we would
12 just be either getting something that's a picture. We can
13 kind of see it later or whatever. And so I just think I'd
14 rather just hear her testimony and have that, so that's where
15 I am.

16 MR. RITTING: The next question is whether --

17 ZC CHAIR HOOD: Hold on a second.

18 CHAIRPERSON HILL: Mr. Ritting, hold on.

19 ZC CHAIR HOOD: Because once we finalize some of
20 this, this is very important. I think, Mr. Chairman, I'm
21 kind of in line with where you are. This is a newer process.
22 This is something that is being recorded.

23 And as you stated, if there's cross-examination,
24 Ms. Pendleton is going to have to do the exact same thing so
25 we can marginalize and ask our questions. I think this is

1 what they call like that new architecture that I've learned
2 in the last five years.

3 To me, I think this is fine to go ahead and do it
4 as long as we have it recorded and we have it for the record.
5 I don't see a problem with it.

6 CHAIRPERSON HILL: Okay, Mr. Ritting, you were
7 starting to say something?

8 MR. RITTING: Yeah, I was going to suggest to ask
9 Ms. Pendleton have you submitted still images that show
10 essentially the same thing? And the follow-up question I was
11 going to ask is, if not, or could you submit still images
12 that show the same thing? Because the still images avoid a
13 lot of the problems with the video.

14 MS. PENDLETON: I would be happy to submit still
15 images. I have not done that. I have submitted a letter in
16 opposition.

17 CHAIRPERSON HILL: Okay. All right. So this is
18 where I am and saw, Mr. Cahill -- I mean, Mr. Cahill, I don't
19 know exactly what you're going to add just yet to the
20 discussion because this is really something that is really
21 something we're struggling with beyond this case.

22 This has already happened now a bunch of times.
23 And so -- I'll let you talk. Just give me a second. You're
24 microphone's still muted, but give me a second.

25 So, Mr. Ritting and Mr. Moy, I mean, when we get

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1 to this the next -- actually, the next time we have a
2 meeting, you know, to go over the cases next Monday or
3 whatever, let's talk about this because I'd like to kind of
4 talk it through a little bit.

5 I'm of the inclination to just not allow it now
6 that we've kind of talked it through a little bit. Today I
7 will. Today, I will go ahead and do what we have done, which
8 is allowed it or let people to see because what I think it
9 does is it -- it's more confusing, meaning that we're not
10 there.

11 And so the person's going to go ahead and show us
12 something. And I'm not even talking about you, Ms.
13 Pendleton. I'm saying we've already seen people present
14 testimony this way. And so it's very difficult to see it one
15 way and then ask your questions again and see it the same
16 way.

17 Right, so that's why I'm confused on it. But my
18 vote is to go ahead and do it today because we've done it in
19 the past this way, and I think we're all adults, to be able
20 to figure out what we're seeing because there's plenty of
21 stuff in the record.

22 But is that okay with the Board for today? I just
23 need a nod yes or no. I'm not getting one from Chairman
24 Hood. You're a no?

25 ZC CHAIR HOOD: I'm sorry, what was the question?

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1 CHAIRPERSON HILL: The question is, today, we're
2 going to do what we've been doing, which is Ms. Pendleton can
3 show us some video because we've been able to see the video.
4 I mean, it's public testimony, and public testimony is only
5 three minutes, so it's not like it's a real long time, right.

6 And so, you know, we see the video. We can then
7 determine what we think. But I do want to have this
8 discussion because I think my vote would be to get rid of
9 this and not do this this way, right.

10 ZC CHAIR HOOD: So as we move forward in this
11 virtual discussion, when we do our virtual hearings, this is
12 going to be a key component. That's why I'm very interested
13 in this whole discussion.

14 I think this will help us as we legislate, but I
15 will tell you that a famous lawyer told me one time before,
16 it's always better to have more than less. And so that's
17 kind of where I am.

18 And I think Mr. Ritting might know who that famous
19 lawyer was. But I can tell you, we can discard what we don't
20 need. That's up to the Board or the Commission. Even if Ms.
21 Pendleton gives us some testimony that we find that's not
22 necessarily germane to our proceedings or something that we
23 need, we have the ability to just basically toss that out.

24 We don't need -- we don't have to use it.

25 CHAIRPERSON HILL: Okay, so you're -- so we can --

1 ZC CHAIR HOOD: Today, yes, I'm with you. Yeah.

2 CHAIRPERSON HILL: Today, you're yes, you're with
3 me. And you've made some points for the discussion.

4 ZC CHAIR HOOD: But I'm also thinking down the
5 road.

6 CHAIRPERSON HILL: Yes. Mr. Hart, --

7 VICE CHAIRPERSON HART: Yeah, but -- well, I am,
8 but I guess it is the problem of we had one case that had six
9 people earlier today that gave testimony, right.

10 Those six people, each one of them could have
11 given their own video testimony as part of that. And that's
12 the problem that I think is -- that I'm running into, is that
13 --

14 (Simultaneous speaking.)

15 CHAIRPERSON HILL: All right, so now we're back
16 to having a discussion.

17 VICE CHAIRPERSON HART: I know. I'm just saying
18 that that's the --

19 CHAIRPERSON HILL: Today we're going to do what
20 we've done before. Correct?

21 VICE CHAIRPERSON HART: That's fine.

22 CHAIRPERSON HILL: Yes. Mr. Cahill?

23 MR. CAHILL: So from what I understand, there are
24 rules and guidelines to putting up and presenting evidence
25 that needs to be posted 24 hours in advance of the meeting

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1 and so everyone has a chance to review it.

2 And this negates that rule by allowing people to
3 bring evidence after the 24-hour cutoff period. I think --
4 I just see it as an egregious assumption against that rule.
5 I wanted to clarify and update some things this morning. I
6 was told by my architect they all needed to be loaded and
7 presented 24 hours in advance.

8 CHAIRPERSON HILL: Okay. Give me a second. Hold
9 on. Not everybody talk at one time. I know. I'll get to
10 everybody. So, Mr. Cahill, you had -- so, Chairman Hood, you
11 were starting to say something?

12 ZC CHAIR HOOD: So the reason I am jumping at
13 that, because, as somebody who helped with the rulemaking in
14 that, I have a problem with that because that is not actually
15 correct, Mr. Cahill.

16 If -- what Ms. Pendleton's doing, if she comes in
17 today, if she brings it, then she has to be able to explain
18 exactly what the chairman and the vice chairman are saying.
19 So she can do that, so you were not disenfranchised by today
20 or you were not put in an awkward position because she has
21 the right to do that.

22 And so I want to ask you and your colleagues to
23 continue to read -- keep reading that, because it's there.
24 And now we haven't finalized everything. We're still doing
25 the -- what is it, Jake? We're still doing the temporary.

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1 But there's some things that's going to be finalized, but
2 it's there. She can do exactly what we're doing, if the
3 Board permits.

4 MR. CAHILL: Okay, well --

5 (Simultaneous speaking.)

6 CHAIRPERSON HILL: So anyways, so -- hold on, hold
7 on. So again, just to clarify for the discussion at a later
8 time, is that this is actual testimony that's being given
9 now, right.

10 So, again, Mr. Cahill, you have an opportunity to
11 ask questions of the testimony that's being given now, right.
12 And so if Ms. Pendleton had been before us in the hearing
13 chamber, she would be giving whatever testimony she's giving
14 us, and you would have an opportunity to ask her questions
15 of that testimony.

16 What's currently happening is this weirdo pandemic
17 world where suddenly I'm in the backyard of somebody's house,
18 okay. And so that's where I'm trying to figure that out,
19 right. So, okay, all that has definitely made it so I'm not
20 making my birthday dinner.

21 So, Ms. Pendleton, if you want to go ahead, and
22 you get three minutes to present -- oh, okay, Jake.

23 MR. RITTING: So it appears that where we are is
24 you've allowed Mr. Cahill an opportunity to object, and
25 you're denying his objection. And you're going to allow Ms.

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1 Pendleton to proceed.

2 Then the next step is Mr. Moy should note the time
3 for the record and also note the time when the live video
4 evidence concludes. That way there's a record of what the
5 evidence is.

6 CHAIRPERSON HILL: Okay, great. All right, Ms.
7 Pendleton, you got three minutes. And please start whenever
8 you like.

9 MS. PENDLETON: Thank you. As I mentioned, I live
10 in the property abutting on two sides.

11 AMR. RITTING: I'm sorry, Ms. Pendleton -- I
12 wanted to interrupt you. Mr. Moy, could you note the time
13 for the record, please?

14 MR. MOY: Yeah, I've got it right here. She's
15 speaking, so I might as well start there, which is 6:51.

16 MR. RITTING: I'm sorry to interrupt. I
17 apologize.

18 CHAIRPERSON HILL: Okay, thank you. Go ahead, Ms.
19 Pendleton.

20 MS. PENDLETON: I've lived in this house with my
21 husband and two children for 11 years. I also grew up on
22 Lowell Street. And my family moved here in 1982 or '83.

23 And we vehemently object to the Applicant's plans
24 that substantially adversely affect our use and enjoyment of
25 our property. As you may have seen from the record, almost

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1 30 -- actually about 30 neighboring families and families
2 from John Eaton Elementary School have filed letters of
3 objection in the last three weeks.

4 Mr. Cahill says that he -- we never appeared at
5 any hearings. Well, he showed us his initial plans. He did
6 not leave copies with us. They have changed substantially,
7 including after his meetings with HPRB, when much of the
8 massing was moved to our side, the western side, including
9 two enormous dormers, one of which is a porch.

10 He never informed us of this, but Nancy MacWood,
11 our ANC rep, told us, I think, the day before an ANC meeting
12 or HPRB meeting that one would be occurring.

13 She emailed Mr. Hulme and me. We were not able
14 to attend on one day's notice, so we were not able to be
15 there. But we did email our objections to Mr. Callcott at
16 HPRB. And we've repeatedly told Ms. Wood that we object.
17 So this is not the first time that we have expressed those
18 objections.

19 Mr. Cahill cannot sustain his burden, as he must.
20 The impact on our privacy, it is unduly compromised by the
21 two large dormers and the porch and the four large windows
22 that look directly into our windows and into our backyard.

23 He seems to expect that any screening that would
24 be planted would be the burden of the neighbors. He has
25 offered to plant three thin trees on his side. That is --

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1 it is not the neighbor's burden to plant the screening on
2 their property and take up limited space that my children
3 have to play in their backyard.

4 He has cut down all the trees on his property and,
5 as he noted, the mature trees on our side came down in the
6 last year. The air to our backyard would be unduly affected.
7 We're in a pandemic where 6-foot distancing is mandated by
8 the mayor and the CDC.

9 One-foot difference in the side yard special
10 exceptions is material to us when his proposed addition goes
11 to the back of our property line and is 33 feet high at the
12 roof line on the western side, three stories high.

13 The back of our property is abutted by a cement
14 wall that encases Mr. Cahill's pool. It's seven feet high
15 and, as you can imagine, no air passes through that cement
16 wall. The light is likewise affected.

17 And you can see (audio interference) and that's
18 the views that would be obstructed (audio interference) back
19 of the property line. Even if the HPRB made design changes,
20 zoning laws are there for a reason. And it is within the
21 BZA's purview to make changes to the design to reduce the
22 bulk.

23 I agree with the remedies that Mr. Hulme is
24 seeking. And I ask that those changes be made. In Cleveland
25 Park, corner houses actually are often smaller than other

1 houses. If you take 35th and Macomb -- sorry, 35th and
2 Newark Streets as an example, those houses on the corner were
3 intentionally made smaller so that they wouldn't intrude on
4 the light and space and air of surrounding homes.

5 CHAIRPERSON HILL: Ms. Pendleton, you're kind of
6 running out of time, just to let you know.

7 MS. PENDLETON: That's -- that is about all I need
8 to say. Thank you very much for your patience and time.

9 CHAIRPERSON HILL: No, thank you, Ms. Pendleton.
10 All right, Ms. Pendleton?

11 MS. PENDLETON: Yes?

12 CHAIRPERSON HILL: Just hold on there with me.
13 Just -- you know, so, okay. All right so does the Board have
14 any questions for the witness?

15 MEMBER JOHN: Question, Ms. Pendleton.

16 MS. PENDLETON: Yeah.

17 MEMBER JOHN: Your house, I'm trying to find out
18 where your house is. What's the address again?

19 MS. PENDLETON: We're 3403 Lowell Street, NW.

20 MEMBER JOHN: So --

21 MS. PENDLETON: Sorry, I can go inside. I'll go
22 inside.

23 CHAIRPERSON HILL: No, that's all right, Ms.
24 Pendleton. I'm just -- you're just --

25 (Simultaneous speaking.)

1 CHAIRPERSON HILL: I swear, all you're doing is
2 trying to -- I'm just having a better conversation for later
3 because I'm trying to figure it out, right?

4 MEMBER JOHN: Okay, I can find it out.

5 MS. PENDLETON: I can submit photos.

6 CHAIRPERSON HILL: Right. I think we got enough
7 from --

8 (Simultaneous speaking.)

9 CHAIRPERSON HILL: That's all right. I mean, I
10 don't -- I think, Ms. John -- if you face the front door of
11 the house, Ms. Pendleton, where are you?

12 MS. PENDLETON: Where am I?

13 CHAIRPERSON HILL: Yeah.

14 MS. PENDLETON: My house faces Lowell Street. And
15 it is immediately next door to Mr. Cahill's house. But also
16 because his house has sort of a panhandle on the property
17 behind my house, his swimming pool is 20 feet from my house
18 in the back. His swimming pool on his property runs the
19 entire back of our lot line on the north side.

20 MEMBER JOHN: Okay. I see it now. Thank you.

21 CHAIRPERSON HILL: Ms. John, you figure it out?
22 Okay, great.

23 MEMBER JOHN: Yes, yes. Thank you.

24 CHAIRPERSON HILL: Mr. Hulme, do you have any
25 questions for the witness?

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1 MR. HULME: No, I don't. Thank you.

2 CHAIRPERSON HILL: Mr. Cahill, do you have any
3 questions for the witness?

4 MR. CAHILL: Yes, I do. Do I presently have a
5 full view of your backyard from my back window of the
6 existing house?

7 MS. PENDLETON: No, you do not because your house
8 -- once you extend it to the end of our property line, you
9 will have a view of everything.

10 MR. CAHILL: I would like to actually point out
11 in the evidence the picture taken from the rear window of my
12 house that shows I have a full extended view of her backyard.
13 I can see all of the way to the steps of her rear addition
14 on the far left side of her property. So that statement is
15 erroneous.

16 Ms. Pendleton, when you had a row of pine trees,
17 45 feet tall, did they block the light to your yard from my
18 -- from the perspective of the east?

19 MS. PENDLETON: No, not very much because they
20 were quite mature. I think they were 40 years old. So
21 actually, they were not an effective partition between us and
22 34th Street or your property because they were so tall that
23 really all that stood there for the first story, maybe into
24 the second story, were the trunks. They were quite thin and
25 they blew down and died with -- because of drought and old

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1 age.

2 CHAIRPERSON HILL: I'm sorry, I'm just trying to
3 -- what was the question again, Mr. Cahill?

4 MR. CAHILL: Yes, the question was not whether it
5 was providing her privacy. The question was was it blocking
6 light into her yard. She had a full hedge of --

7 CHAIRPERSON HILL: Okay, so hold on. That's good.
8 I'm just trying to get the answer, so, Ms. Pendleton?

9 MEMBER PENDLETON: The answer is they did not
10 block the light because they were very thin. I think it was
11 four, maybe four thin pine trees.

12 CHAIRPERSON HILL: Okay. Okay, Mr. Cahill, that's
13 your answer. What's your next question?

14 MR. CAHILL: That's it. Thank you.

15 CHAIRPERSON HILL: Okay. All right. Okay, Ms.
16 Pendleton, well thank you so much for your testimony. It has
17 been enlightening in a variety of ways. All right?

18 MS. PENDLETON: There is one other neighbor who
19 tried to sign up to testify named Jennifer Isham Maguire, and
20 she has tried to call Zoning in order to be able to testify
21 today. She tried to register last night.

22 CHAIRPERSON HILL: Okay. Well, Ms. Pendleton, you
23 go ahead and ask whoever that is to reach out to the Office
24 of Zoning, and that's what --

25 MS. PENDLETON: She has -- she --

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1 CHAIRPERSON HILL: -- the whole -- pardon?

2 MS. PENDLETON: I'm sorry. Excuse me for
3 interrupting. She said she tried, and every time she called,
4 as the hearing was beginning, it hung up after two rings.

5 CHAIRPERSON HILL: Was that that 202 number that
6 I gave at the beginning?

7 MS. PENDLETON: It was a number that, I think,
8 Robert gave me. It is 202-727-5471.

9 CHAIRPERSON HILL: Okay, Mr. Moy, did you hear all
10 that?

11 MR. MOY: Yeah, I've heard that. That's different
12 from the two numbers I have. But I would not contradict
13 Robert Reed.

14 CHAIRPERSON HILL: Okay. Ms. Pendleton, if you
15 can go ahead and ask whoever it was to reach out to the
16 Office of Zoning, and we'll figure out what we do with that,
17 okay?

18 MS. PENDLETON: Okay.

19 CHAIRPERSON HILL: Thank you.

20 MS. PENDLETON: She's on the Webex. She just
21 can't -- she's on the Webex.

22 CHAIRPERSON HILL: Did she sign up to testify
23 prior?

24 MS. PENDLETON: She tried to -- she did. She
25 thought she had last night.

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1 CHAIRPERSON HILL: Okay, so, Mr. Moy, that's again
2 one of these 24 hours before the hearing issues, I guess.
3 And so again, if you can try to -- I mean, have -- Ms.
4 Pendleton, you know, have the person reach out to the Office
5 of Zoning, as I said, and Mr. Moy in particular, and we can
6 try to figure it out.

7 (Simultaneous speaking.)

8 MR. MOY: Yes, they'll be able to submit their
9 testimony.

10 CHAIRPERSON HILL: Okay, we'll figure it out. All
11 right, okay, Ms. Pendleton.

12 MS. PENDLETON: Thank you very much.

13 CHAIRPERSON HILL: Thank you so much. All right,
14 now, let's see. So, Paul, are you there?

15 MR. YOUNG: Yeah.

16 CHAIRPERSON HILL: If you could excuse Ms.
17 Pendleton for us and put -- move her into the witness -- I
18 mean, into the attendees or whatever the other prison is
19 called.

20 Okay, let's see, so, Mr. Cahill, so now, if you'd
21 like to go ahead and present -- if you'd like to have an
22 opportunity to give any rebuttal to any of the testimony that
23 is given, and as I said, Mr. Hulme, you will be able to ask
24 any questions of anything new that is offered.

25 If it's just being rebuttal, there's no questions

1 to rebuttal, okay. So, all right, Mr. Cahill, we're all
2 going to be listening. Oh, hold on a second.

3 Mr. Ballard, what are you trying to say, Mr.
4 Ballard?

5 MR. BALLARD: What I'm just trying to -- I was
6 originally going to be like present after Mr. Cahill, but I
7 would just like to have a chance to add to his rebuttal, if
8 I could, after he speaks.

9 CHAIRPERSON HILL: Okay. So you're with Mr.
10 Ballard, right?

11 MR. BALLARD: I am with Mr. Cahill.

12 CHAIRPERSON HILL: I'm sorry, Mr. Cahill.

13 MR. BALLARD: Right.

14 CHAIRPERSON HILL: So you're -- I mean, you're the
15 architect. Correct?

16 MR. BALLARD: I'm the architect, and I had signed
17 up to speak, but I wasn't given a chance to speak, which is
18 fine. I didn't want to lengthen this any more on your
19 birthday. I'm sorry. I just -- I'll be very quick. I just
20 have a couple of points that I don't -- I can't get to Mr.
21 Cahill to present, where I'd normally just pass -- so just
22 two minutes.

23 (Simultaneous speaking.)

24 CHAIRPERSON HILL: All I'm just trying to clarify,
25 Mr. Ballard, just so you know --

1 MR. BALLARD: Okay.

2 CHAIRPERSON HILL: You're not signing up to
3 present. You're here with Mr. Cahill, right. You're --

4 MR. BALLARD: I am here --

5 CHAIRPERSON HILL: -- you're employed by Mr.
6 Cahill.

7 MR. BALLARD: Yes, that's correct.

8 CHAIRPERSON HILL: Yes, okay. I'm just trying to
9 clarify. You are part of Mr. Cahill's team, so Mr. Cahill --

10 MR. BALLARD: Yes.

11 CHAIRPERSON HILL: -- could have turned to you
12 during any point during the testimony -- I'm going to give
13 you time to speak. I'm just trying to clarify for the
14 record, right.

15 Mr. Cahill, if he had thought that you needed to
16 give -- you needed to testify, he would have used his time
17 for you to testify, okay?

18 So, and I know we're not next to each other right
19 now so you can't nudge the person and say what they're trying
20 to do. So we're trying to do our best to make sure everybody
21 gets the information.

22 Again, what's going to happen is that if you give
23 new information, then Mr. Hulme gets to ask questions of that
24 new information, okay. So just understand what you're doing
25 to the time here, okay?

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1 All right, so sorry if I got a bit -- there. I'm
2 just trying to say --

3 MR. BALLARD: I'm sorry, I'll be quick. I
4 promise.

5 CHAIRPERSON HILL: It's okay, but any -- if it's
6 quick and new information, I still have to go back through
7 the process, okay?

8 So first I'm going to do rebuttal, which is
9 rebuttal with Mr. Cahill. Mr. Cahill, do you have any
10 rebuttal? Your microphone's not on, Mr. Cahill.

11 MR. CAHILL: Yes, I do.

12 CHAIRPERSON HILL: Okay.

13 MR. CAHILL: And if we could go to the page in our
14 presentation, I think it's Page 10 out of 27. It's got a
15 bunch of pictures on it.

16 CHAIRPERSON HILL: Which Exhibit, Mr. Cahill?

17 MR. CAHILL: I'm marking this, so let me see if
18 I can scoot it around. It is A.4 or AO.4.

19 CHAIRPERSON HILL: No, I'm sorry. I think -- is
20 that it in front of you there? I mean, I just need to know
21 which exhibit you're speaking against.

22 MR. CAHILL: That exhibit you're in. Now go down.
23 Go down. Go down. When you get to pictures. There. Now
24 go one more, please. One more. One more. That one right
25 there, thank you.

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1 So these are the views out of my window of my
2 house. So the existing view to the west side of the second
3 floor, the top row, right picture, was when it was taken
4 without the screen.

5 This is what I can see. You can see the corner
6 of the window from my existing -- this is the view. I can
7 see her entire backyard, but a little addition of the back
8 of her house and the stairs, I can see very clear. I can see
9 all the way to the next house.

10 So it's not as if she has privacy at the moment
11 that is going to be lost. There is, significantly, no
12 privacy at the moment. And that's an urban environment home.
13 And so I just want to clarify that.

14 And then out of my -- and the next picture down
15 out of my third-story window. No, you can stay right there.
16 Back up. Below the right-hand corner picture is toward Mr.
17 Hulme's home, who has stated that no one can have a view of
18 his pool and he has complete privacy.

19 That is, once again, not true. As you can see,
20 all the blue water in that picture I can presently see. He
21 will have less privacy, yes, but he doesn't presently have
22 full privacy from his pool, as stated.

23 So those are my rebuttals. Again, I think that's
24 the point. Maybe this is where Seth can take in further
25 rebuttals.

1 CHAIRPERSON HILL: Okay. Okay, I understand, so

2 --

3 MR. CAHILL: That's my invitation to Seth.

4 CHAIRPERSON HILL: Pardon?

5 MR. CAHILL: That's my invitation to Seth to --

6 CHAIRPERSON HILL: Okay.

7 MR. CAHILL: -- for his rebuttals.

8 CHAIRPERSON HILL: Mr. Ballard?

9 MR. BALLARD: Okay, thank you. I'll try to be
10 quick, and happy birthday. Two, just a couple of factual
11 points. Number one is that actually the property line, after
12 it had been moved, there's a history, it is actually set --
13 it actually is set back, so the OP information was incorrect.
14 And I just wanted to correct that for the matter.

15 So we are actually -- it's set back from the
16 porch, so just for clarification there.

17 CHAIRPERSON HILL: Say that again. What are you
18 trying to clarify from the OP report?

19 MR. BALLARD: The one -- the OP, when it was asked
20 the question by Mr. Hulme about where the property line is,
21 it's actually within the documents, but the property line
22 right now is, you know, it's back from the porch, and we're
23 actually looking to move up to it.

24 So it -- and that's actually forward of the
25 existing house, so I just wanted to clarify that point, that

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1 there's a little bit of confusion when that discussion was
2 happening.

3 Right now, the existing front porch is passed the
4 property line and into, not even the setback, but in the
5 public space. The house is behind the property line right
6 now and we're looking to actually build behind the porch
7 line, but forward of the house line after a hyphen.

8 So that's -- it's the facts. It's part of the
9 paperwork that we've documented always, but there was just
10 one statement made during OP's answer to Mr. Hulme's question
11 that needed to be corrected as a matter of record.

12 CHAIRPERSON HILL: Okay. All right hold on. So,
13 Mr. Kirschenbaum, do you understand what Mr. Ballard is
14 trying to say?

15 MR. KIRSCHENBAUM: So, two things. I might have
16 slightly misspoke. I was thinking about the proposed house
17 when I answered that question. But what I will say is that
18 the existing house's porch is in the -- not only is it along
19 the property line, it goes off the property line which means
20 that it obstructs the side yard, which means that there's no
21 side yard on that house -- on that side of the house.

22 So regardless of the existing house or the
23 proposed house, there's no compliant side yard along 34th
24 Street.

25 CHAIRPERSON HILL: Mr. Ballard, are you guys on

1 the same page?

2 MR. BALLARD: Absolutely the same page. I was
3 just making sure that that was clear so there's no
4 misrepresentation of information.

5 The second point I want to make is a very
6 important point, is two things. The grade within public
7 space and the depth of the public space along 34th Street is
8 actually -- it's actually 30 feet to the property line from
9 the curb, right, just looking at how you actually perceive
10 depth there.

11 It's 26 feet from the curb to actually our -- to
12 our actual proposed structure. So additionally, while the
13 building is high up, there's a slope before it becomes flat.
14 So just to be clear, we don't have any zoning relief we're
15 asking for in terms of building height.

16 It is a perception, you know, in terms of Mr.
17 Hulme's point. I just wanted to make sure that the Board
18 understands those facts.

19 And then additionally, there was a comment about
20 too many stories, but our grade, from the time we do average
21 grade, it does make our lower level a cellar. So I wanted
22 to make sure that that fact is known.

23 And then additionally, and a much further point,
24 up until, actually, we applied for the special exceptions,
25 working with the Office of BZA, even when I had called the

1 Zoning Office, I had actually been told that the setback line
2 along 34th Street was the established building line.

3 And so it's actually an incorrect statement that
4 houses cannot be built up to that property line because, if
5 it's a front yard facing 34th Street, there is no setback
6 requirement in R-1-B. You can build right up to the property
7 line.

8 It's only the fact that once it's determined that
9 our actual address was along Lowell Street, that then a side
10 setback was introduced and, you know, kind of caught me by
11 surprise. And then we added it to our relief request.

12 But it's a -- if you go along 34th Street, houses
13 can build without -- just by right, you know, any house
14 that's not a corner lot where their address would determine,
15 can build right up to that line.

16 And in fact, the established building line is
17 exactly where we set the building. So when you go in each
18 direction following the Surveyor's Office and Zoning Office's
19 setback requirements, that's how we set that location.

20 It's not just the property line, but it happens
21 to be the same thing, but that's an established building line
22 requirement, and I just wanted to make sure I make that
23 point. It's an important point to the case. And that's it.

24 CHAIRPERSON HILL: Okay. All right, Mr.
25 Kirschenbaum, you don't have anything additional to add, do

1 you?

2 MR. KIRSCHENBAUM: I don't have anything
3 additional to add other than, in this case, they are -- the
4 front of the house is considered on Lowell Street, and that's
5 how they are measuring their height.

6 So in this case, because it's an R-1-B Zone, this
7 is a zone that only allows detached houses. That's why they
8 need two side yards. Now, if a house is built someplace else
9 along 34th Street and it was mid-block, you could go to the
10 front of the property.

11 CHAIRPERSON HILL: Okay. All right. Okay, Mr.
12 Hulme, do you have any questions about -- do you have any
13 questions for Mr. Cahill or Mr. Ballard?

14 MR. HULME: No, I don't, Mr. Chairman. Thank you.

15 CHAIRPERSON HILL: Okay, thank you. All right,
16 then, Mr. Hulme, I'm going to let you give a little summary,
17 just a couple of minutes, and then, Mr. Cahill, I'm going to
18 let you have a couple minutes for summary, and then we're
19 going to see if the Board has any final questions.

20 Mr. Hulme, you want to go ahead?

21 MR. HULME: Thank you, I'm going to be very brief.
22 I just -- I think we've gone over these points. This is a
23 unique property. As it's just indicated, the house is
24 actually very high off 34th Street, and I think that presents
25 special challenges here.

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1 You did hear, in my cross-examination of Mr.
2 Kirschenbaum, that he said that house was built on the street
3 line. That's not correct. It actually is back. Only the
4 porch intrudes.

5 And I realize that, technically, that may mean
6 that they -- the Zoning Office considers the house to be on
7 the property line, but, as a practical matter, that's not
8 really what's going on there.

9 And in the proposal, the bill does require the
10 special exception because there is the 5-yard minimum setback
11 required. We think that this will really stick out like a
12 sore thumb if it's built the way it is.

13 It's a beautifully designed structure, but it will
14 just be too big, and it's not in keeping with the character
15 of the houses along 34th Street, and therefore we ask for the
16 relief that I've been into a request.

17 And if necessary, I just, formally would move my
18 4140 and my Exhibit 47 into evidence if that's required.
19 Thank you.

20 CHAIRPERSON HILL: Okay, Mr. Cahill, do you have
21 anything to add in summation?

22 MR. CAHILL: Yes. What I would like to add in
23 summation is that, for the last 18 months, we have worked
24 diligently with ANC, Nancy MacWood, Steve Callcott of the
25 HPRB in making so many nuanced changes to this design to meet

1 all of the needs.

2 We have reached out to all of the departments,
3 including Zoning, along the way and checked all of our boxes
4 with them, looking at that, if the relief that we were
5 looking for was egregious in any way.

6 We were told that it was not, that these were
7 normally standard things that would be approved. We are one
8 foot off the setback on the west side piece of property.
9 Everybody wants to dismiss this porch as not being part of
10 the structure of the house.

11 I think it's kind of ironic that it's because it's
12 partly in public space, everyone wants to automatically like
13 take it off and act like it's not there. So the answer to
14 the question is, that is part of the structure of the house.
15 It has a basement under it and it is -- the house is built
16 onto that property.

17 The main body of the house has now been defined
18 as the house? That seems so wrong and doesn't meet the true
19 definition. So, Mr. Hulme saying that, playing the nuances,
20 they're just nuances because the real structure of the house
21 includes the porch, okay?

22 And so the precedent is that we are on the
23 property and will sustain the property line. The size and
24 scale has come down significantly because we added the
25 hyphen. And the hyphen was added by HPRB to bring the scale

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1 down. The whole roof line dropped. Everything has been done,
2 in every direction of this house to bring it down in scale.

3 The third floor dormer that's in the front,
4 instead of us adding two dormers, was always in the plan from
5 day one. Removing the balcony from the Reno Road side, they
6 offered up for me to build a balcony on the other side, which
7 is the same proportion and scale as the existing dormers on
8 the house.

9 It's not extremely large or egregious, but it does
10 give a view of the cathedral. It's in a third-floor guest
11 bedroom. It's not something that's going to be used all the
12 time. But it is nice to have that view of the cathedrals.
13 That's one of the mainstays of why people want homes that
14 position to see the cathedrals in Cleveland Park.

15 So again, I don't feel like we're being greedy or
16 being aggressive in our approach. And these, you know,
17 zoning reliefs are not aggressive in any way, shape or form
18 and have been given to us through guidance through no less
19 than 200 people involved in the process.

20 So I would hope that one can see that and one can
21 see the effort. It's really a negatable point, but it costs
22 me about \$15,000 a month in lost income for every month that
23 this project is not moving forward.

24 And so it has become a very big financial stressor
25 on the project and our ability to do the project later on,

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1 when we want to. And that's my closing.

2 CHAIRPERSON HILL: Okay. Thank you, Mr. Cahill.
3 All right, well you all have finished the last little step.
4 So, Mr. Hood, Mr. Hart, Ms. John, do you have anything else
5 for the Applicant or anybody? Okay. All right, Mr. Moy, and
6 if we can go ahead and set this for decision for next week?

7 MR. RITTING: Mr. Hill?

8 CHAIRPERSON HILL: Yes?

9 MR. RITTING: This is Mr. Ritting. Did we hear
10 from the ANC? And are they here to testify?

11 CHAIRPERSON HILL: I didn't think there was
12 anybody from the ANC. They just -- and I didn't even see
13 that there was some -- what I -- and I guess, Mr. Ritting,
14 since you are speaking up, I don't know, the ANC, there was
15 -- I didn't think that those were -- I was unclear as to
16 whether -- I mean, I know that those are conditions that we
17 have made in the past for different things to try to help
18 deal with light and air.

19 I didn't know, if the Applicant has agreed to the
20 conditions, did you know whether those -- I haven't -- I
21 can't see the ANC report right in front of me.

22 Do you know if those conditions were things that
23 were in the Board's purview and also if the ANC -- I think
24 they did want those conditions in order to get the relief
25 requested. And I do then believe that they are in our

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1 purview. So I guess I'm answering my own question, which is
2 that those conditions --

3 MR. RITTING: Yeah, I think --

4 (Simultaneous speaking.)

5 CHAIRPERSON HILL: -- that we can go with.

6 MR. RITTING: I think that -- I'm sorry. I think
7 that they are -- they are going to mitigate potential adverse
8 effects and so, therefore, they're appropriate. And I
9 believe Mr. Cahill agreed to them affirmatively, so I think
10 they're appropriate to include in any order if one is needed.

11 CHAIRPERSON HILL: Okay. All right. All right,
12 so we're going to go ahead and put this on for a decision
13 next week, Mr. Moy?

14 MR. MOY: Yes, sir, it's scheduled.

15 CHAIRPERSON HILL: Okay, July 1st?

16 MR. MOY: Yes, sir.

17 CHAIRPERSON HILL: Okay, so do we -- we have two
18 more left, right, and I'm trying to see if -- and I know the
19 last one's somewhat extensive.

20 So anyway, you all, thank you so much. You're
21 being kicked out apparently, so bye-bye. I say let's go
22 ahead and do the next one and then take a break. And then
23 we'll see the last one. What do you say?

24 Ms. John? Okay. All right. Mr. Moy, go ahead
25 and call the next case, please.

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1 MR. MOY: Okay, that would be Application Number
2 20237 of Timothy Holtz, as amended for a special exception
3 under Subtitle E Section 5201 for the lot occupancy
4 requirements, Subtitle E Section 304.1.

5 This would construct a one-story rear addition and
6 a deck to an existing attached principal dwelling unit, RF-1
7 Zone at 2002 C Street, NE, Square 4558, Lot 31.

8 MR. HOLTZ: Hello?

9 CHAIRPERSON HILL: Oh, Mr. Holtz? Is Mr. Holtz
10 there?

11 MR. HOLTZ: Yeah. Can you all hear me?

12 CHAIRPERSON HILL: Yeah. We can't see you. I
13 don't know if you meant to do that or not.

14 MR. HOLTZ: No, well, I'll have to start my video,
15 sorry. Okay, am I visible now?

16 CHAIRPERSON HILL: Yes.

17 MR. HOLTZ: Oh, okay.

18 CHAIRPERSON HILL: Mr. Holtz, are you the only one
19 presenting today?

20 MR. HOLTZ: No, Mr. Udoka should be here with me.

21 CHAIRPERSON HILL: Mr. Udoka? Okay, Mr. Holtz,
22 could you please introduce yourself for the record?

23 MR. HOLTZ: Yeah, yeah. No, I'm Timothy Holtz.
24 Yeah, I live at 2002 C Street, NE. Yeah, and so, yeah.

25 CHAIRPERSON HILL: Okay, and are you the

1 Applicant?

2 MR. HOLTZ: Yeah, Yeah, I'm the Applicant.

3 CHAIRPERSON HILL: And, Mr. Udoka?

4 MR. HOLTZ: Udoka, yeah.

5 MR. UDOKA: Yes.

6 CHAIRPERSON HILL: Could you introduce yourself?

7 MR.UDOKA: Yes, my name is Anthony Udoka, and I
8 am the architect for the project.

9 CHAIRPERSON HILL: Okay, Mr. Udoka, I don't know
10 if you wanted your camera on or not. It is not on, just to
11 let you know, currently.

12 MR.UDOKA: Oh, no. It's fine.

13 CHAIRPERSON HILL: Okay. Mr. Moy, did you read
14 the correct caption?

15 MR. MOY: I believe so, sir.

16 CHAIRPERSON HILL: And it was an adjusted caption,
17 right?

18 MR. MOY: Yes, it was amended.

19 CHAIRPERSON HILL: Okay. All right, Mr. Holtz,
20 I'm going to cut to the chase here real quick. I'd like to
21 kind of -- I kind of have seen the application and gone
22 through the record.

23 And I don't have a lot of specific questions other
24 than I don't see any reports from ANC 7B or 6A. What
25 happened in terms of your public outreach to the ANCs?

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1 MR. HOLTZ: Oh, well, Tamara should be online.
2 Is she here?

3 CHAIRPERSON HILL: Who's that? I'm sorry, I
4 didn't catch --

5 MR. HOLTZ: She's our -- Tamara, our -- my ANC
6 representative.

7 MR. YOUNG: Yes, I just unmuted her. She called
8 in, so you won't be able to see her.

9 MR. HOLTZ: Okay, yeah. Yeah. Yeah, she submitted
10 the letter. There's a letter on file for her.

11 CHAIRPERSON HILL: Commissioner, can you hear me?

12 MS. BLAIR: Yes, I'm here.

13 CHAIRPERSON HILL: Could you please introduce
14 yourself for the record?

15 MS. BLAIR: My name is Tamara Blair. I am the
16 commissioner for single district 7D01, Kingman Park, where
17 this project is located.

18 CHAIRPERSON HILL: All right, Commissioner, could
19 you please testify in terms of what happened with your ANC?

20 MS. BLAIR: Yes, I can. Earlier this year, Mr.
21 Holtz did come, and he was prepared to present his project,
22 which he did. And questions were taken and answered at that
23 time.

24 It was the opinion of the chair that we did not
25 necessarily need to take a vote, that as long as my support

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1 was behind the project, that that would suffice. There was
2 no official vote taken.

3 I did submit a letter of support. Mr. Holtz has
4 done, in my estimate, everything that would put me at ease
5 in terms of the project. I mean, I viewed the project. I
6 know where it's located. And he did come out and made
7 himself available to all the commissioners.

8 And it was just a decision that we should just
9 address it with me representing just as my single member
10 district.

11 CHAIRPERSON HILL: Okay. Commissioner Blair, I
12 mean, I really do thank you for bearing with us this whole
13 evening, and how late it is already.

14 Just so you guys know, we can't give great weight
15 to the ANC unless we get a full vote from the ANC. However,
16 I do appreciate your letter, and I think that that is
17 something that the Board will take into consideration. But
18 just, for future reference, we would need a vote from your
19 ANC, okay?

20 MS. BLAIR: Okay, thank you.

21 CHAIRPERSON HILL: All right, before you go
22 anywhere, if you wouldn't mind just sticking around for the
23 rest of the hearing. Mr. Hood, Mr. Hart, Ms. John, do you
24 have any questions for the Commissioner?

25 MEMBER JOHN: No, no questions.

1 ZC CHAIR HOOD: I do have a question, two
2 questions. Who is your chairperson?

3 MS. BLAIR: The Chairperson is SiraaJ Hasan.

4 ZC CHAIR HOOD: And is that person still acting?

5 MS. BLAIR: No, we held elections in February.
6 He took over officially as chair in February. He was the
7 vice chair prior to that.

8 ZC CHAIR HOOD: Okay. Okay. All right, thank
9 you. But I would follow up on the chairman's comments
10 because that's very important that you all make sure that
11 you're -- you get that great weight.

12 MS. BLAIR: Yes, sir.

13 CHAIRPERSON HILL: Okay, can I hear from the
14 Office of Planning?

15 MS. VITALE: Certainly. Good evening, Mr. Chair,
16 and I'll keep this brief. I don't want to keep you from your
17 celebratory birthday dinner. Elisa Vitale with the Office
18 of Planning for BZA Case 20237.

19 OP is recommending approval of the special
20 exception relief request for lot occupancy at the subject
21 property. We would note that after OP filed its report, the
22 Applicant submitted a new self-certification that slightly
23 increased the proposed lot occupancy to 68.6 percent.

24 The OP report referenced a lot occupancy of 66.5
25 percent. OP continues to recommend approval. The slight

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1 increase in lot occupancy doesn't trigger a change from
2 special exception to variance and we don't believe that that
3 slight increase would, in any way, change our analysis or
4 recommendation.

5 So we do continue to recommend approval of the
6 relief request, and I'm happy to answer questions. Thank
7 you.

8 CHAIRPERSON HILL: Okay, does the Board have any
9 questions for the Office of Planning?

10 MEMBER JOHN: No.

11 CHAIRPERSON HILL: Commissioner Blair, can you
12 hear me?

13 MS. BLAIR: Yes, I can.

14 CHAIRPERSON HILL: Do you have any questions for
15 the Office of Planning?

16 MS. BLAIR: No, sir, I have no questions.

17 CHAIRPERSON HILL: Mr. Holtz, do you have any
18 questions for the Office of Planning?

19 MR. HOLTZ: No.

20 CHAIRPERSON HILL: Okay. All right, let's see.
21 Mr. Young, is there anybody here wishing to speak in
22 opposition or support?

23 MR. YOUNG: No, I have no one.

24 CHAIRPERSON HILL: Okay, Mr. Holtz, do you have
25 anything you'd like to add at the end?

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1 MR. HOLTZ: Not really. I just want to briefly
2 explain a couple things. I did submit support letters from
3 both of my immediate next-door neighbors, basically the three
4 people who would be mostly impacted by it.

5 My two next-door neighbors, one of which is an end
6 unit, so and borders on 20th Street. So there's -- oh, and
7 immediately behind me is the church parking lot, so there's
8 nobody back there that would be impacted.

9 And then the only other person who would be -- the
10 next -- third person that would be -- could be impacted would
11 be on 20th Street, on the other side across from the parking
12 lot, immediately -- the first house next to the alley, and
13 I got a support letter from them also.

14 CHAIRPERSON HILL: Okay.

15 MR. HOLTZ: Those are the three people that -- and
16 then regarding the parking, it's -- the first, the ground
17 level is an open structure, so it's basically just supports
18 for the addition.

19 It's just a single-floor addition, a sun room and
20 a deck. And the ground level is open for parking beneath the
21 structure purposely, so.

22 CHAIRPERSON HILL: Okay. All right, Mr. Holtz,
23 thank you. I'm sorry. I'm just kind of running through your
24 proposal here and everything and some of the things in the
25 record. So, all right, the Board doesn't have any further

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1 questions. Mr. Holtz, thank you so much for your testimony
2 and I want to thank you for bearing with us this long.

3 Mr. Moy, if you could please go ahead and set this
4 for a decision next hearing, which is July 1st?

5 MR. MOY: Yes, July 1st. It's done.

6 CHAIRPERSON HILL: Okay, great. All right, you
7 all have a nice evening.

8 MR. HOLTZ: All right, and also Happy Birthday.

9 CHAIRPERSON HILL: Thank you. Oh, gosh, you're --
10 I'm going to get you so much. I can't wait. Thank you.
11 Thank you. Thank you. Bye-bye.

12 Oh, I can't wait to get you, Chairman Hood. All
13 right, so oh, you've just been great. Okay, so all right,
14 we're going to take a break, okay?

15 We'll come back for our last case, okay, say, like
16 five, eight minutes? Sorry, Mr. Ritting?

17 MR. RITTING: I'm going to drop off here. Mr.
18 Bassett's going to handle the last case. Have a great night,
19 and Happy Birthday.

20 CHAIRPERSON HILL: Oh, no, Mr. Ritting, you're
21 with us till the end, buddy. All right, see you later.

22 MR. RITTING: All right, bye.

23 MEMBER JOHN: Okay.

24 ZC CHAIR HOOD: Chairman Hill, enjoy your birthday
25 dinner. You going to do that in five, eight minutes?

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1 CHAIRPERSON HILL: No, no, no. All right, I'll
2 see you all in a little bit.

3 ZC CHAIR HOOD: All right.

4 CHAIRPERSON HILL: All right.

5 (Whereupon, the above-entitled matter went off the
6 record at 7:31 p.m. and resumed at 7:41 p.m.)

7 CHAIRPERSON HILL: All right, okay. All right,
8 Mr. Moy, let's get this last case started.

9 MR. MOY: All right, thank you, Mr. Chairman. All
10 right, this would be Case Application Number 20184 of Fort
11 Lincoln-Eastern Avenue LLC as amended for special exceptions
12 under the theoretical lot subdivision requirements of
13 Subtitle C Section 305.1, under the new residential
14 development requirements of Subtitle U Section 421 to allow
15 a new residential development project of 51 townhouses in the
16 RA-1 and RA-4 Zone.

17 This is at premises bounded between Eastern
18 Avenue, NE, Bladensburg Road, NE and Fort Lincoln Drive, NE,
19 Square 4325, Lots 802 and 44 and Parcels 0174/15.

20 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
21 Moy. Who do we have with us? Okay, Mr. Tummonds, are you
22 there?

23 MR. TUMMONDS: Yes.

24 CHAIRPERSON HILL: Okay. Let's see, let me see
25 if I can get everybody. Mr. Tummonds, could you first

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1 introduce yourself, if you wouldn't mind starting?

2 MR. TUMMONDS: Sure, absolutely. Paul Tummonds.
3 I'm the attorney for the applicant in this case. I'm with
4 Goulston and Storrs. My office address is 1999 K Street NW,
5 Washington, D.C.

6 CHAIRPERSON HILL: Okay, Mr. Tummonds, who's with
7 your team?

8 MR. TUMMONDS: Yes, so my team, Cellerino
9 Bernardino on behalf of the Applicant and Kyle Oliver, our
10 expert in civil engineering.

11 Other people on our team include Will Collins,
12 Brian Ruhl and Jenn Logan, but I don't expect them to
13 testify.

14 CHAIRPERSON HILL: Okay. Since they are here, let
15 me just get them to introduce themselves real quick. Ms.
16 Bernardino, could you please introduce yourself? Your
17 microphone is muted perhaps. Or maybe she is -- other --

18 MR. BERNARDINO: Is that it? Can you hear me now?

19 CHAIRPERSON HILL: Yes.

20 MR. TUMMONDS: Okay, thanks, Cell.

21 CHAIRPERSON HILL: Okay.

22 MR. BERNARDINO: Cell Bernardino, Vice President
23 of Development and Construction at Fort Lincoln New Town
24 Corporation which is a partner in Eastern Avenue, LLC.

25 CHAIRPERSON HILL: Okay, I'm sorry, I thought it

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1 was -- okay, so, Mr. Bernardino. Mr. Bernardino, do you have
2 your camera on or do you -- are you choosing not to, which
3 is fine?

4 MR. BERNARDINO: No, how do I do that?

5 CHAIRPERSON HILL: If you hover over the -- if you
6 take your cursor and hover over the screen and click it --
7 and left-click, it should bring up all the little icons at
8 the bottom. And then you can push the video one.

9 MR. BERNARDINO: There you go.

10 CHAIRPERSON HILL: Okay, great. Okay, perfect.
11 Mr. Oliver, could you please introduce yourself? I don't
12 know why, Mr. Oliver, we can't hear you. It doesn't -- maybe
13 your computer's muted. Mr. Oliver, I'll let you kind of try
14 to figure that out for a minute. Mr. Tummonds, he's going
15 to testify at some point for you. Is that correct?

16 MR. TUMMONDS: That is correct.

17 CHAIRPERSON HILL: Okay, so, Mr. Oliver --

18 MR. TUMMONDS: I think what I -- yeah, I think
19 it's been a really, really long day for you, gentlemen and
20 Ms. John and the staff.

21 I recognize that. I think we believe that we have
22 a pretty quick presentation here, but based on the recent
23 submissions from the party in opposition, I think this is
24 going to be a case that's going to last a couple hours, most
25 likely.

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1 We are willing to push this back, as Mr. Moy said,
2 next week the agenda is less for you guys. And so I first,
3 you know, there's only three hearings on -- three hearing for
4 schedule on your July 1st.

5 We'd be willing to postpone this till next week,
6 you know, as a birthday present, but more importantly as
7 opportunity to make sure that everyone is fresh and fully,
8 you know, able to focus and address the issues that we're
9 going to present.

10 CHAIRPERSON HILL: Okay, give me a second. I'm
11 going to work through that. And, God, Chairman Hood, I can't
12 believe it. Okay, Mr. Tummonds --

13 ZC CHAIR HOOD: You don't need a birthday present,
14 but anyway.

15 CHAIRPERSON HILL: Okay, all right, let's see, so
16 where did I get -- oh, Mr. Bernardino -- okay, the parties
17 in -- because I did it -- so who -- well, let me do one
18 thing. Who's -- is anyone here with FLCA?

19 MR. TUMMONDS: Mr. Pearson.

20 CHAIRPERSON HILL: Oh, Mr. Pearson. Okay, thank
21 you. Mr. Pearson, can you hear me?

22 MR. PEARSON: Yes, I can. Can you hear me?

23 CHAIRPERSON HILL: I can now. I can't see you,
24 though, and I don't know if you mean to do that or not.

25 MR. PEARSON: I don't know what to click on.

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1 CHAIRPERSON HILL: Sure. If you take your mouse
2 and you click -- and you hover over the pictures, and you
3 click the left cursor, it should pop up, some icons below,
4 that say start and stop video.

5 And then you left-click on the video.

6 MR. PEARSON: I just get something that says Lock
7 Video You. Which panels do you unlock the video on?

8 CHAIRPERSON HILL: Maybe Mr. Young has to do
9 something?

10 MR. YOUNG: So do you see -- if you actually go
11 to the top where you have like File, Edit, Share, View? Do
12 you see that?

13 MR. PEARSON: Yes.

14 MR. YOUNG: Okay, if you click Communicate and
15 then there's a tab that says Speaker, Microphone and Camera?

16 MR. PEARSON: Right.

17 MR. YOUNG: Then you should be able to select your
18 camera down there.

19 MR. PEARSON: I clicked on it. Maybe you want me
20 to click on something else?

21 MR. YOUNG: Do you see your picture in there?

22 MR. PEARSON: On the preview, yes.

23 MR. YOUNG: Okay, now you can exit out of there.
24 And if you hover your mouse, at the bottom of the screen,
25 you'll have some icons that will come up. There's one that

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1 looks like a microphone and one that looks like a video
2 camera.

3 MR. PEARSON: All right. Start My Video, click on
4 the video?

5 MR. YOUNG: Yep. There you go.

6 MEMBER JOHNS: There you go.

7 CHAIRPERSON HILL: Perfect. Thank you, Mr. Young.

8 All right, Mr. Pearson, could you please introduce
9 yourself for the record?

10 MR. PEARSON: I am Roy Pearson, counsel for the
11 Fort Lincoln Civic Association.

12 CHAIRPERSON HILL: Okay. Mr. Pearson, who is here
13 with you guys?

14 MR. PEARSON: I have three witnesses in addition
15 to myself, and they are Mr. Michael Burroughs, Ms. Emma James
16 and Mr. Sylvanus Bickersteth.

17 CHAIRPERSON HILL: Okay, I see Mr. Burroughs. I
18 don't see Mr. James.

19 MR. PEARSON: Ms. James.

20 CHAIRPERSON HILL: Oh, I'm sorry. I don't see Ms.
21 James.

22 MR. YOUNG: So I have Ms. James on the line. I
23 don't have an option to bring her in as a panelist, but I can
24 unmute her.

25 CHAIRPERSON HILL: Okay, when you're ready? Okay,

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1 Ms. -- okay --

2 MR. YOUNG: She should be able to speak now. You
3 want her through --

4 CHAIRPERSON HILL: Ms. James, can you hear me?

5 MR. YOUNG: She just muted herself.

6 MS. JAMES: Do you hear me?

7 MR. YOUNG: Yeah.

8 CHAIRPERSON HILL: Yes, I can hear you now.

9 MS. JAMES: Okay.

10 CHAIRPERSON HILL: Okay, give me one second, Ms.
11 James, I'm just trying to figure something out. So, Mr.
12 Pearson, you have your people here.

13 And I guess I'm trying to understand also what is
14 somewhat on the table here is that Mr. Tummonds has realized
15 that it's 8 o'clock and this will probably go -- it has the
16 potential to go late.

17 I don't know what your thoughts are on doing this
18 a week from today when we might not all be here at 8 o'clock.

19 MR. PEARSON: Would the staff -- and could --

20 CHAIRPERSON HILL: Pardon me?

21 MR. PEARSON: The staff joined us?

22 CHAIRPERSON HILL: Yes.

23 MR. PEARSON: Well, we've been waiting all day.
24 July 5th works -- July 1st works for me, but everybody else
25 works at job, so if we were to set, specially set a time

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1 certain, I'm sure we could make it work.

2 But you'd have to ask them individually since
3 they've all been waiting around all day for this hearing.

4 CHAIRPERSON HILL: Sure. I don't necessarily
5 going to do this, but I'm just trying to ask and see whether
6 we are or not.

7 So, Mr. Bickersteth? You have to unmute the line
8 there again.

9 MR. BICKERSTETH: Can you hear me?

10 CHAIRPERSON HILL: Yes.

11 MR. BICKERSTETH: Yes, I'm okay if you guys want
12 to postpone until the 1st.

13 CHAIRPERSON HILL: Okay, and would you need a
14 specific time for that, which I can do. If you did, would
15 like, you know, first thing in the morning work, which means
16 like 9:30?

17 MR. BICKERSTETH: If -- to be honest, if that's
18 what is acceptable to everyone else, I will. I would prefer
19 it be a little later in the day, but if that's what works and
20 I can move things along, I'm okay with that. I can work with
21 that.

22 CHAIRPERSON HILL: I'm just trying to find a
23 specific time because usually at 9:30, I at least know that
24 that's something that's happening. After that, it kind of
25 floats around and I'm not -- I can't specifically say a time.

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1 MR. BICKERSTETH: Well, like I said, that's
2 necessary. That's perfectly fine.

3 CHAIRPERSON HILL: Okay. Mr. Burroughs, does that
4 work for you?

5 MR. BURROUGHS: That works for me.

6 CHAIRPERSON HILL: Mr. Pearson, you said that
7 would work for you?

8 MR. PEARSON: That's correct.

9 CHAIRPERSON HILL: And who else that -- oh, Ms.
10 James, you're on the line. Correct?

11 MS. JAMES: Yes, and that will work for me too.

12 CHAIRPERSON HILL: Okay. And then, Commissioner,
13 would that work for you?

14 MR. MONTAGUE: You know I'm always willing to be
15 here and I'm --

16 MR. TUMMONDS: I think, Chairman Hill, I would note
17 too that Twee Nguyen, on behalf of the party in support and
18 the Association is also on this call. All right, I see her.
19 In the --

20 CHAIRPERSON HILL: I'm going to go through
21 everybody here, but I appreciate that. Ms. Nguyen, can you
22 hear me? Am I pronouncing that correctly?

23 MS. NGUYEN: Yes, you got it.

24 CHAIRPERSON HILL: Okay.

25 MS. NGUYEN: Happy Birthday.

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1 CHAIRPERSON HILL: Ugh, okay. Ms. Nguyen, are you
2 available on the 1st at 9:30?

3 MS. NGUYEN: That would be awesome. Anytime.

4 CHAIRPERSON HILL: Okay. Mr. Ruhl, is that who I'm
5 -- are you still there?

6 MR. TUMMONDS: Brian Ruhl is with our team.

7 CHAIRPERSON HILL: Okay, so I guess that's a yes
8 the?

9 MR. TUMMONDS: Yep, as is Jennifer Logan.

10 CHAIRPERSON HILL: As is Jennifer Logan? Okay.
11 Am I missing anybody that I need a vote with? If so, please
12 speak up in terms of moving this to 9:30 on the 1st.

13 MR. PEARSON: May I just note that the ANC did not
14 submit a report, and so we would object to their being heard.
15 However, if they submit their report so that we'd know what
16 to expect, we've been requesting this from them for about
17 eight months, and we would withdraw our objection.

18 But we have no idea since they have not responded
19 to us over an eight-month period of time what it is they want
20 to be saying. They didn't submit a report. The report that
21 was submitted for them by the developer would not meet the
22 requirements of the rule and so, as a consequence, we don't
23 want to be ambushed.

24 CHAIRPERSON HILL: Mr. Pearson, you're saying that
25 you don't have -- you didn't see anything from the ANC. Is

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1 that what you're saying?

2 MR. PEARSON: The ANC did not file anything. The
3 developer did, but they're station --

4 CHAIRPERSON HILL: Okay.

5 MR. PEARSON: -- wasn't filed and wouldn't comply
6 with any of your rules so that we know what it is they're
7 going to be saying.

8 CHAIRPERSON HILL: Okay, Commissioner, did your
9 ANC file?

10 MR. MONTAGUE: Chairman Hill, that's outside of
11 what I would normally do because it's handled by a different
12 SMP. But the full Commission did hear it and they did vote
13 in favor of it.

14 If it's necessary to Form, what is it, a 129?

15 CHAIRPERSON HILL: I can ask OAG. I'm just trying
16 to find your exhibit.

17 MR. TUMMONDS: 47C.

18 CHAIRPERSON HILL: Thank you.

19 MR. PEARSON: That was submitted by the developer.
20 It was not the full --

21 MR. TUMMONDS: Yeah, but it's ANC's letter on ANC
22 letterhead.

23 MR. PEARSON: Doesn't continue with -- the rules
24 require in terms of substance so that we know what it is that
25 they're going to be -- it doesn't say if they had a quorum.

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1 It doesn't say --

2 CHAIRPERSON HILL: Mr. Pearson, give me one
3 second. I'm just looking at the exhibit and I can ask OAG.
4 So, OAG, are you with me there, Dan?

5 MR. BASSETT: Yep.

6 CHAIRPERSON HILL: So, Exhibit 47C, is that what
7 we need to give grant weight?

8 MR. BASSETT: I don't see anything in there saying
9 that it was properly noticed. It does say there is a quorum
10 present. You know, I think that -- I think with -- I would
11 have to get back to you.

12 But, right off the top of my head -- I don't want
13 to give you a conclusive answer right now. But off the top
14 of my head, I don't see that they said that it was a properly
15 noticed meeting.

16 MR. TUMMONDS: But doesn't it -- I would say, I
17 mean, Dan --

18 (Simultaneous speaking.)

19 MR. BASSETT: In other words, if you --

20 MR. TUMMONDS: ANC 5C, regularly scheduled
21 meeting, Wednesday, November 20th, 2019.

22 MR. BASSETT: Oh, okay. So you're saying because
23 it's regularly scheduled it's -- I don't see any problem with
24 that.

25 MR. PEARSON: The thing is --

1 CHAIRPERSON HILL: Okay, that's good. We're going
2 to be -- so, Mr. Pearson, so it seems as though this Exhibit
3 47C is basically at least information that the ANC has
4 provided.

5 I can find out from OAG by our next hearing
6 whether or not this qualifies as great weight. And so -- but
7 I don't think you're going to get anything new from the ANC
8 other than this. And the Commissioner seems to be here, so
9 they will -- you will have an opportunity to ask questions
10 of the Commissioner.

11 MR. PEARSON: But we'll be ambushed. We don't
12 know what they're going to be saying because they said
13 nothing in this letter.

14 CHAIRPERSON HILL: In the letter it says that
15 they voted in favor.

16 MR. PEARSON: It doesn't even have a case number.
17 It doesn't have anything about the number of members who
18 constitute a quorum or the number of members who were
19 present. It doesn't have the issues and concerns of the ANC.

20 It doesn't have the outcome of the vote -- that
21 it was on a motion to adopt a report of report of the Board.
22 So he's going to come in here and come up with a complete --
23 I don't know what he's going to come up with. It certainly
24 isn't contained as required by court rules, so we have notice
25 and opportunity to prepare for what he's going to be saying.

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1 CHAIRPERSON HILL: Well, Mr. Pearson, I mean, he's
2 -- the Commissioner's here representing what the ANC did.
3 And so he's just going to be providing his testimony at the
4 time that you will then have an opportunity to respond to.

5 There's no difference between if he testifies now
6 and he testifies on July 1st. The only thing that I am
7 unclear on is to whether or not this, technically, is -- I
8 this, technically, is something we're supposed to give great
9 weight to.

10 And so you're going to get -- you're not getting
11 anything different today that you would have gotten on July
12 1st.

13 MR. PEARSON: Thanks.

14 CHAIRPERSON HILL: So --

15 MR. PEARSON: But we would request that ruling as
16 well.

17 CHAIRPERSON HILL: Pardon me?

18 MR. PEARSON: We would request that ruling as
19 well.

20 CHAIRPERSON HILL: Whether or not we're supposed
21 to give this great weight, that's what you're -- okay, right.
22 So we'll know that. We'll -- so, Dan, if you can clarify
23 that by the time we meet next?

24 MR. BASSETT: Yep, absolutely.

25 CHAIRPERSON HILL: Okay. All right, so other than

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1 that, are we good for 9:30 on --

2 MR. MONTAGUE: Chairman Hill, a quick question.

3 CHAIRPERSON HILL: Who's speaking?

4 MR. MONTAGUE: Commissioner Montague.

5 CHAIRPERSON HILL: Oh, sure, go ahead,
6 Commissioner.

7 MR. MONTAGUE: So are you saying that because
8 there was a thing filed in November and ignoring all the
9 static in the background, do we need to file a 129?

10 CHAIRPERSON HILL: I suppose, Dan, that would be
11 helpful?

12 MR. BASSETT: Let me do some research. I'll email
13 the Commissioner tomorrow along with the Board about what you
14 guys would need, great weight to this submission.

15 ZC CHAIR HOOD: Mr. Chairman, I want to let Mr.
16 Bassett come up with his findings, but I do know the
17 findings. I will tell you that I would suggest that they do
18 file that because there's some other things that go into the
19 great weight that I'm sure that -- that way we can all get
20 on the same page.

21 And also, while I have the mic, Mr. Chairman, I'm
22 going to stay on this case since it looks like I'm going to
23 be here for a couple of decisions next week as well, so I
24 just want to put that forth.

25 CHAIRPERSON HILL: Okay, great. Perfect. It'll

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1 a pleasure to have you back, Commissioner.

2 And so, let's see, the -- okay, right, what's the
3 number of the form again, Commissioner?

4 MR. MONTAGUE: I think it's a 129.

5 CHAIRPERSON HILL: Right. I think -- I always
6 forget the number of that form.

7 MR. MONTAGUE: That's all right.

8 CHAIRPERSON HILL: So go ahead and -- when do you
9 think you might be able to submit that form?

10 MR. MONTAGUE: Depending on what we're doing, it
11 could be no later than Friday.

12 CHAIRPERSON HILL: Okay. So, Mr. Pearson, you'll
13 be able to see that form, then, on Friday, okay?

14 MR. PEARSON: We're supposed to get it a week in
15 advance, but it's better than nothing.

16 CHAIRPERSON HILL: Okay. Let's see. Well, I guess
17 I don't know now, Mr. Bassett, so Dan, I'm talking to you for
18 a second, right.

19 MR. BASSETT: Yeah.

20 CHAIRPERSON HILL: So all I'm just trying to
21 figure out, Mr. Pearson, is this, right. We're either going
22 to have this -- you know, now at this point, I don't -- I'm
23 not trying to rush out the door because I've already canceled
24 my plan, right.

25 So, but it is late, right. So if we did this

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1 today, this is the testimony that you would get today, right.
2 And they're going to submit a form that I think is the
3 required documents, right.

4 Now I don't know, technically, and this is
5 something that Dan will be able to share with us, whether we
6 technically are able to give something great weight if there
7 needs to be this 7-day requirement.

8 And, Dan, I guess you can help clarify that
9 because I guess that is something that might be important,
10 meaning, if it turns out that we need 7 days to fulfill the
11 great weight obligation, then I would just go ahead and
12 suggest that we put this thing out to the first thing on
13 July, on the next one.

14 MR. PEARSON: That won't work for me.

15 CHAIRPERSON HILL: Who's that speaking?

16 MR. PEARSON: Roy Pearson, counsel to --

17 CHAIRPERSON HILL: Okay, Mr. Pearson? All right.

18 ZC CHAIR HOOD: Mr. Chairman?

19 CHAIRPERSON HILL: Yes?

20 ZC CHAIR HOOD: If you wait until the 15th, I
21 believe I'm back anyway, so, you know, either -- I'm just --
22 well, I'm -- that's right. Never mind. Disregard it because
23 I got to come next week. Disregard it.

24 CHAIRPERSON HILL: Okay.

25 MR. PEARSON: After you meeting on July 1st, I'm

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1 not available until after October 7th.

2 CHAIRPERSON HILL: Okay. I'll tell you, let's do
3 this, okay? So let's go ahead and keep it, unless anybody
4 had any objections, and I'm letting this -- opened this up
5 at this point, is that we'll try to do this at 9:30 in the
6 morning on the 1st of July, okay?

7 And the ANC is going to submit their form on
8 Friday. And then if the party in opposition has any
9 opposition to what's being submitted, we can talk about that
10 then. Okay?

11 MR. BASSETT: So this is Dan Bassett, OAG. Just
12 to clarify, I think you mentioned 7 days. The ANC can submit
13 oral testimony. That oral testimony can be given great
14 weight as long as, within 7 days, a written report to the
15 same effect as the ANC's testimony is submitted to the
16 record.

17 So I will definitely be looking into it and making
18 sure that the ANC written report meets the regulations, but
19 if next week this needs to be heard and they haven't
20 submitted a new written report, they could give oral
21 testimony and then submit a written report that approves of
22 that oral testimony, and that would be sufficient to give
23 great weight to the ANC's final.

24 CHAIRPERSON HILL: Okay.

25 MR. PEARSON: So Rule 406.3, it says the exact

1 opposite. It has 7 days in advance of the public hearing
2 and/or that named person was authorized by the ANC to
3 represent it at the hearing.

4 MR. BASSETT: So Rule Subtitle Z 505.2, the oral
5 testimony of the ANC representative, shall not be given great
6 weight unless accompanied within 7 days by written
7 documentation approved by the respective ANC which supports
8 that testimony.

9 CHAIRPERSON HILL: Okay, so, Mr. Pearson, even if
10 today Commissioner Montague had given testimony, it seems
11 that it's within the regulations. And again, this is just
12 one item. This is just great weight whether or not we give
13 great weight to the ANC's report.

14 I mean, we're going to hear hours of testimony.
15 But today, what would have happened is Commissioner Montague
16 would have given his testimony. And then within 7 days he
17 would have had to provide written testimony backing up his
18 oral testimony.

19 And I then assume, according to the regulations,
20 we're supposed to then give that great weight. So to just
21 kind of follow it up with what I understand.

22 MR. PEARSON: All right, just noting for the
23 record that that is not correct. And so we -- just for the
24 record so it reflects it.

25 CHAIRPERSON HILL: Okay. Well, Mr. Pearson, I just

1 want to, again, note for the record, that OAG is telling me
2 that it is correct. And through the Office of the Attorney
3 General, and they're the ones that I listen to on legal
4 matters.

5 MR. PEARSON: Of course.

6 CHAIRPERSON HILL: So if they're the ones that are
7 saying it's correct, I'm just saying

8 MR. PEARSON: I'm not --

9 CHAIRPERSON HILL: Pardon me?

10 MR. PEARSON: I'm not suggesting otherwise. I
11 just said I was noting it for the record. We can move on.

12 CHAIRPERSON HILL: Okay, well, you noted it for
13 the record that it's not correct, and now I'm telling you,
14 for the record, that it is correct, but that's okay.

15 So, all right. So, okay, so then we're going to
16 come back here at 9:30 on Wednesday morning, and we'll be
17 able to hear this, okay?

18 MR. PEARSON: Great.

19 CHAIRPERSON HILL: Okay, great. All right, well
20 thank you all very much. I appreciate it, I really do,
21 because it's just been a long day. And it's actually better
22 for all of us if we're actually fresh.

23 MR. TUMMONDS: Yes.

24 MEMBER JOHN: Mm-hmm.

25 MR. PEARSON: Thank you again.

1 CHAIRPERSON HILL: Thank you. Thank you all very
2 much.

3 (Simultaneous speaking.)

4 CHAIRPERSON HILL: Well, no, I still get to see
5 my board members from it. If you could excuse everyone, Mr.
6 Moy -- I mean, Paul, from the conversation, that'd be
7 wonderful. Thank you. Thank you all.

8 Okay, all right is there anything else -- by the
9 way, I want to thank you all so much for spending the day
10 with me. I really, really did enjoy it. I really do.

11 And, Chairman Hood, I thank you. Honestly, if you
12 hadn't done it first thing in the morning, it wouldn't have
13 made it anywhere near as entertaining because it has been
14 very entertaining. Thank you very much. I sincerely mean
15 that.

16 And I thank all of you for your well wishes and
17 friendship.

18 ZC CHAIR HOOD: Thank you.

19 MR. YOUNG: Thank you. Happy Birthday.

20 VICE CHAIRPERSON HART: Have a good remaining
21 birthday.

22 CHAIRPERSON HILL: Thank you. Mr. Moy, are we
23 done?

24 MR. MOY: Yes, sir.

25 CHAIRPERSON HILL: I will stand on the chair,

1 thank you. Bye-bye.

2 ZC CHAIR HOOD: Bye-bye.

3 MEMBER JOHN: Bye.

4 MR. YOUNG: Bye.

5 (Whereupon, the above-entitled matter went off the
6 record at 8:06 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Public Hearing

Before: DC BZA

Date: 06-24-20

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

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