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9:36 a.m.

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BZA CHAIR HILL: The meeting will please come to order. Good morning, ladies and gentlemen. We're convened and broadcasting this decision meeting by video conference. This is the July 1st, 2020, Public Meeting session 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 member, and representing the Zoning Commission will be Michael Turnbull, Peter Shapiro, and Anthony Hood, and Rob Miller also for various hearings.

Today's meeting agenda is available to you on the Office of Zoning website. Please be advised that this meeting is being recorded by a court reporter and is also webcast live via WebEx and YouTube Live.

The meeting will be available on the Office of Zoning website after today's hearing. Accordingly, everyone who is listening on WebEx or by telephone will be muted during the meeting. We do not take any public testimony at our decision meetings unless the Board asks for someone to come forward.

If you're experiencing difficulty using WebEx or with your telephone call-in, then please call the

1 hotline; I'm going to repeat the number twice, which is
2 202-727-5471. Once again that's 202-727-5471 to receive
3 WebEx login or call-in instructions. At the conclusion of
4 this meeting session, I, in consultation with the Office
5 of Zoning, will determine whether a fuller summary order
6 can be issued. A full order is required when the decision
7 it contains is adverse to a party including an affected
8 ANC. A full order may also be needed if the Board's
9 decision differs from the Office of Planning's
10 recommendation.

11 Although the Board favors the use of summary
12 orders whenever possible, an Applicant may not request the
13 Board to issue such an order. Preliminary matters are
14 whether those which relate to whether a case fully should
15 be heard today, such as a request for postponement,
16 continuations, whether proper and adequate notice of
17 meetings were given.

18 Mr. Secretary, do we have any preliminary
19 matters today? Mr. Moy, you're -- Mr. Turnbull, if you
20 wouldn't mind muting your microphone there.

21 MR. MOY: Sorry. To say again, good morning,
22 Mr. Chairman, members of the Board. I do not have any
23 preliminary matters other than there are some, but staff
24 would suggest that the Board address those when I call
25 those specific cases.

1 BZA CHAIR HILL: Okay, great. So just so the
2 public is aware, we're going to do a couple of our meeting
3 cases because we need to take care of some commissioners
4 that are with us this morning, and then we're going to go
5 into the hearing and have a case that we ended with last
6 Wednesday, but we're going to take first. And then we're
7 going to come back to the meeting cases, finish those up,
8 and then we'll go back to the hearing cases.

9 So with that, Mr. Moy, could you please call
10 our first meeting case?

11 MR. MOY: Thank you, Mr. Chairman. So the
12 first case for decision-making is Appeal No. 20226 of
13 Michael Yates. This is the appeal from the decision made
14 on November 6th, 2019, by the Zoning Administrator,
15 Department of Consumer and Regulatory Affairs to issue
16 Building Permit No. B1804458 to permit the alteration and
17 addition to an existing two-story principal dwelling unit
18 for conversion into an eight-unit apartment house, RA-1
19 Zone at 1214 Madison Street, Northwest, Square 2934, Lot
20 35.

21 Participating on this decision is Chairman
22 Hill, Vice Chair Hart, Ms. John, and Zoning Commissioner
23 Michael Turnbull.

24 BZA CHAIR HILL: Okay. We're all ready to talk
25 about this? I'm going to go ahead and just kind of start

1 us off a little bit. I'm going to start the discussion,
2 and if it's okay I'm just going to call out people's
3 names, and we can kind of go around the table.

4 I think that we heard this appeal, I can't
5 remember. I guess it was a couple weeks ago. And for me
6 what it kind of came down to was, under Subtitle U421, the
7 dimension of developments in the RA-1 and RA-6. So U421.1
8 in the RA-1 and RA-6 zones, all new residential
9 development except those comprising all one-family
10 detached and semi-detached dwellings shall be reviewed by
11 the BZA as special exception under Subtitle X in
12 accordance with the standards and requirements in that
13 section.

14 So again, what this came down to for me was,
15 what exactly was new development, and was this new
16 development? Was this a new development? There was the
17 guidance document that the Zoning Administrator had put
18 together to kind of help with what seems to be maybe a
19 little bit of a hole in terms of what is a new
20 development, and what you know, kind of constituted
21 something that would have had to come through the BZA.

22 I very much respect the Zoning Administrator
23 and all of the work he does. And also the fact that when
24 there is maybe some things that he is trying to figure out
25 that isn't as clear in the zoning regulations, I guess

1 these guidance documents are things to kind of put
2 forward.

3 In this particular case, I think that --- and
4 I'd be, you know, again, happy to hear from the rest of my
5 colleagues. In this particular case, it seemed like new
6 development to me. You know, like going from the single
7 family home to multiple units. I mean even though, you
8 know, the guidance document, it seemed as though it might
9 have fit within that guidance document.

10 To me, it just seems like something that should
11 have come before the Board of Zoning Adjustments for a
12 special exception. I mean we see these special exceptions
13 pretty regularly in terms of this type of development.
14 And so it gives again kind of the community an opportunity
15 to talk about it, kind of work through it. And I just
16 think that it's something that should have possibly come
17 before us.

18 If it's okay, I'll kind of go around the table,
19 and then we can kind of see where we are. Mr. Hart, would
20 you mind going next?

21 VICE CHAIRPERSON HART: Sure. Thank you for
22 your thoughts on it. And I actually would tend to agree
23 with you in terms of, I understand the Zoning
24 Administrator, he has to make a lot of decisions. And
25 sometimes the zoning regulations aren't as clear as, you

1 know, we would necessarily like. And you know, it's ---
2 the Zoning Administrator does have some discretion to be
3 able to kind of make some minor --- well make some
4 decisions, but in this case I think that I would agree
5 with you in terms of this --- in my mind, this would fall
6 within the new development, you know, definition. It is
7 going from one unit to 10 units, and that seems like it is
8 a fairly significant change in the amount of dwelling
9 units that's being changed here.

10 I do understand that this is an RA zone. This
11 is a residential apartment zone. So apartments are
12 contemplated in this zone; however, again, this goes from
13 a one-unit single family home to a much larger structure
14 that we're talking about. And that I think would kind of
15 push it into the realm of being sent to the BZA for us to
16 be able to deliberate on as we're kind of doing now for
17 this appeal. But us to deliberate on as a project, and I
18 think that's probably the best --- that's probably the
19 most appropriate route that it should be taking.

20 So I understand that U421, you know, it is ---
21 it should apply, and it should be new construction that is
22 the kind of deciding factor in that the BZA should be
23 determining that change from one unit to 10 units. And to
24 understand what the impacts may be for next door neighbors
25 and all that. But right now I think that I would be --- I

1 could not support the Zoning Administrator's
2 interpretation of this.

3 I appreciate that they have a lot of projects
4 that are before them that they have to try to understand
5 within the zoning context. I just don't think that this
6 is necessarily one of those things that the ZA should be
7 making that determination on. So I think that I would be
8 I guess in favor of the appeal because I think that the
9 Zoning Administrator erred in the issuance of this --- in
10 using this zoning determination or zoning guidance to give
11 the building permit earlier. So that's where I am.

12 BZA CHAIR HILL: And Mr. Hart, I think -- well
13 you said 10 units. I think it was eight units.

14 VICE CHAIRPERSON HART: That is true, it is
15 eight units. I apologize, but yes, is going from the one
16 to eight I think should go in front of the BZA.

17 BZA CHAIR HILL: Okay. Ms. John?

18 MEMBER JOHN: So I will just add a few thoughts
19 to what's already been said. So the Appellant's main
20 argument is that this is a conversion from an existing
21 single-family dwelling into an eight-unit apartment
22 building, and that it is not a matter-of-right project in
23 the RA-1 Zone, and the building permit does not comply
24 with conversion provisions of Subtitle U321.2.

25 DCRA argues that the building permit was

1 properly issued under Subtitle 421.1, which covers all new
2 residential developments in the RA-1 zone. Now on those
3 sections, 320.2 does carry over into the RA-1 zone under
4 Section 401.1. I agree with DCRA that U421.1 is
5 controlling because that section refers specifically to
6 new developments in the RA-1 zone. And if there is a
7 general provision and a specific provision that controlled
8 the same criteria, then the more specific provision should
9 prevail.

10 And in issuing the permit as a matter-of-right
11 project, the ZA relied on an earlier interpretation which
12 tried to clarify when an expansion of an existing building
13 re-triggers special exception relief under 421.

14 And the ZA identified two criteria: 100
15 percent or more increase in both number of dwelling units
16 and GFE, or an increase in the number of dwelling units by
17 more than 10 units. So the ZA reasoned that because this
18 is an existing building and the addition would be for less
19 than 10 dwelling units, no BZA approval is required.

20 So I agree with everyone that the ZA properly
21 tried to interpret a regulation that was not entirely
22 clear in how it would be applied. But in this case, the
23 ZA focused, I believe, improperly on the size of the
24 addition instead of whether the addition would create new
25 dwelling units.

1 And so in the RA-1 zone, the better approach
2 seems to be that special exception approval should be
3 required if there are dwelling units that did not exist
4 before, whether those new dwelling units were created by
5 an addition to an existing building or as entirely new
6 construction.

7 It is not clear how the ZA arrived at the
8 criteria applied in this case, especially with respect to
9 10 units as the cutoff point for requiring BZA approval.
10 And so I think that this is a situation that should be the
11 subject of a text amendment, and so I cannot support the
12 ZA's interpretation and how the regulation was applied in
13 this case. But I agree that Section 421 controls.

14 BZA CHAIR HILL: Okay. Thank you, Ms. John.
15 That was all well said. Thank you very much. Mr.
16 Turnbull?

17 ZC MEMBER TURNBULL: Thank you, Mr. Chair. I
18 don't want to belabor this and add more fuel to a fire
19 that's already there, but I would agree all the comments
20 of my colleagues. I think Ms. John, especially in the
21 last run-through, put it extremely well, and we will work
22 on a text amendment. I will present that to the Office of
23 Planning and try to correct this sort of loophole or this
24 misunderstanding in the zoning regs that allows -- I mean
25 I understand that the ZA writes these guidance documents

1 specifically for things like this, but I think we would
2 really try to avoid these kinds of issues and really make
3 it clear so that when something such as this, which is
4 clearly in my mind a BZA initiative to review, I think
5 that has to be clear.

6 So I think we need to strengthen the
7 regulations on that. But I would agree with all of my
8 colleagues. I think the ZA has erred. I think this is
9 all-new residential, and that going from a single-family
10 from one unit to eight units is a significant change that
11 should be reviewed by the BZA as a special exception. So
12 I would agree with all of my colleagues and vote to agree
13 with the appeal.

14 BZA CHAIR HILL: Okay. All right. Now I'll go
15 ahead, and I agree with what everyone has said, and thank
16 you all for your time. Ms. John, your microphone is still
17 on. If I could get a second from you? I'm going to go
18 ahead and make a motion to approve Appeal No. 20226 as
19 captioned and ready by the secretary and ask for a second.

20 MEMBER JOHN: Second.

21 BZA CHAIR HILL: Mr. Hart, you were about to say
22 something?

23 VICE CHAIRPERSON HART: Yes. Can I ask one
24 question? It was -- just I want to make sure we are -- I
25 guess it's not actually -- I was looking at the caption

1 just to make sure that it -- because it seems like we are
2 saying that we did not agree with the Subtitle U320 aspect
3 of the -- that that would be -- we were not in agreement
4 with the Subtitle U320 assertion by the Appellant that
5 that was applicable in this instance, but we are saying
6 that we think that the BZA erred in the Subtitle U421
7 aspect of this. And I didn't know if we needed to make
8 that -- I don't know -- clearer.

9 MEMBER JOHN: So my view is that we are
10 granting the appeal, but on a different criteria which is
11 that although the application is governed by 421, that 421
12 was improperly applied.

13 VICE CHAIRPERSON HART: Yes.

14 MEMBER JOHN: So we would still grant the
15 appeal. I don't know if OAG wants to chime in, but that's
16 how I interpret that.

17 VICE CHAIRPERSON HART: That would be helpful.

18 MS. NAGELHOUT: This is Mary Nagelhout with
19 OAG. Yes, I agree with Ms. John, and the order will
20 reflect that the Board granted the appeal based off 421
21 and not 320.

22 VICE CHAIRPERSON HART: Okay. I just didn't
23 know if we needed to make a differentiation, but you're
24 saying in the order itself, Ms. Nagelhout, that the U421
25 will be what we are agreeing that was not properly

1 administered or decided.

2 MS. NAGELHOUT: Yes.

3 VICE CHAIRPERSON HART: Okay, thank you. I'm
4 sorry, Mr. Chairman, I just wanted to make that clear.

5 BZA CHAIR HILL: No, that's fine. I appreciate
6 it.

7 VICE CHAIRPERSON HART: Appeals are a little
8 bit weird because we -- because they cannot --- well
9 because they can carry farther and affect other stuff, I
10 just didn't know if we needed to make a differentiation in
11 our motion in support, so --

12 BZA CHAIR HILL: I understand, and Ms.
13 Nagelhout, you're saying we don't have to, right? The
14 caption is fine.

15 MS. NAGELHOUT: I'm saying that the Board's
16 reasoning will be laid out in the order, and the caption
17 is -- the caption reflects what the Appellant asked for.
18 So that's fine for now, but the order will lay out the
19 Board's rationale.

20 BZA CHAIR HILL: Okay. All right. Then I'll
21 go ahead again and make a motion to approve the Appeal No.
22 20226 as captioned and read by the secretary and again ask
23 for a second. Ms. John?

24 MEMBER JOHN: Second.

25 BZA CHAIR HILL: Mr. Moy, the motion has been

1 made and seconded. Could you please take a roll call
2 vote?

3 MR. MOY: Yes. Thank you, Mr. Chairman. When
4 I call your names, if you would respond with a yes, no, or
5 abstain. This is on the motion by Chairman Hill to
6 approve or grant the appeal of Michael Yates. Seconding
7 the motion is Ms. John. So let's start with Zoning
8 Commissioner Michael Turnbull.

9 ZC MEMBER TURNBULL: Yes.

10 MR. MOY: Ms. John?

11 MEMBER JOHN: Yes.

12 MR. MOY: Vice Chair Hart?

13 VICE CHAIRPERSON HART: Yes.

14 MR. MOY: Chairman Hill?

15 BZA CHAIR HILL: Yes.

16 MR. MOY: Staff will record votes as four to
17 zero to one. Again, this is on a motion Chairman Hill to
18 approve or grant the appeal of Michael Yates. Seconding
19 the motion is Ms. John. Also support is Zoning
20 Commissioner Michael Turnbull and Vice Chair Hart, and of
21 course, Chairman Hill. The motion carries, sir.

22 BZA CHAIR HILL: Okay, thank you, Mr. Moy. Mr.
23 Turnbull, is that it for you?

24 ZC MEMBER TURNBULL: That's it for me. I thank
25 you for having this first so I can go have my thing.

1 BZA CHAIR HILL: Okay, Mr. Turnbull. That's
2 good enough, Mr. Turnbull.

3 ZC MEMBER TURNBULL: All right. Thank you.

4 BZA CHAIR HILL: Thanks, Commissioner. Bye-
5 bye. So we have another commissioner joining us. All
6 right, Commissioner Miller.

7 ZC MEMBER MILLER: Hi.

8 BZA CHAIR HILL: You look good there,
9 Commissioner. I know you've got like -- you've got the 202
10 t-shirt rocking and everything.

11 ZC MEMBER MILLER: Yes, I mean I miss Board
12 Member John's wine country background. Even though it's
13 early in the morning.

14 BZA CHAIR HILL: Oh, from our previous call.

15 ZC MEMBER MILLER: Yes.

16 MEMBER JOHN: So I took a flight back.

17 ZC MEMBER MILLER: Oh. Feel sorry for you.
18 Okay.

19 MEMBER JOHN: Yes.

20 BZA CHAIR HILL: All right, wonderful. Mr.
21 Moy, if you could please -- for the record, we have Mr.
22 Miller joining us. Mr. Moy, if you could read our next
23 case please.

24 MR. MOY: Yes. Thank you, Mr. Chairman. So
25 the next case application for decision-making is

1 Application No. 20230, 3232 13th Street, Northwest, L.L.C.
2 Caption advertised for special exceptions under Subtitle
3 E, Section 205.5, from the rear yard addition requirements
4 of Subtitle E, Section 205.4 and under Subtitle E, Section
5 303.3 of the height requirements of Subtitle E, Section
6 303.1. This would construct a new attached three-story
7 flat, RF-1 zone at 3230 13th Street, Northwest, Square
8 2843, Lot 84.

9 And again, participating on the decision is
10 Chairman Hill, Vice Chair Hart, Ms. John, and Zoning
11 Commissioner Robert Taylor -- Robert Miller.

12 BZA CHAIR HILL: Okay, great. Thank you. I
13 don't know who Robert Taylor is, but all right. Mr. Hart,
14 I'm going to start with you if that's okay.

15 VICE CHAIRPERSON HART: Sure, that's no
16 problem. So I believe I could support the application. I
17 appreciate the Applicant adding the rear stairs in their
18 shadow study which is Exhibit 48-A, and I requested this
19 at the last Board meeting that we heard this.

20 And I just have to say, while I don't
21 particularly like the stairs, I understand that these are
22 a matter-of-right, and we're not really kind of discussing
23 them. I just think that they're a little bit, I don't
24 know. They're a matter-of-right, so it is what it is.

25 So I did believe that the Applicant -- I do

1 understand that the Applicant, that their development will
2 impact the neighbors, but I do not believe that it will be
3 an undue impact on it. And looking at the shadow study
4 and understanding the difference between what was a
5 matter-of right development and what is the proposed
6 development, it's the shadowing that occurs from that I
7 didn't think was of significant or an undue impact on the
8 neighbors.

9 I understand that we have some folks provide
10 some comments on this. There was -- I think there was a
11 woman in the -- I can't remember her name right now, but
12 she lived behind this property, and she I guess showed --
13 she was just describing that this project would be visible
14 from the rear of her house.

15 I understand that it would be visible from
16 there, but any development would be visible from there,
17 and again, I just did not feel that this was -- while it
18 was -- visually you'd be able to see it, I just did not
19 think that that was, again, the undue impact to the
20 neighbor.

21 I understand that they're also looking for the
22 relief from the height requirements of Subtitle E, 303.1.
23 While they are higher than what is allowed, they are
24 within the overall height that's allowed under special
25 exception, so I would be in support of that as well.

1 I don't know. I didn't have much else other
2 than that, but I think I would appreciate the Applicant
3 providing their information they did following the hearing
4 that we had. So that's it.

5 BZA CHAIR HILL: Thank you. Ms. John?

6 MEMBER JOHN: So I agree with Mr. Hart that the
7 relief requested is really minor. The Applicants are --
8 and it's within what's allowed by special exception that
9 the Applicant is seeking only I believe two feet in height
10 and three feet beyond the 10-foot rear wall, which is
11 allowed as a matter-of-right. And that when the addition
12 is compared to matter-of-right option, there is no adverse
13 impact on the neighbor.

14 And I appreciate the neighbor's testimony
15 concerning light and air, but I am persuaded that because
16 the relief is so minor and because of the sun studies,
17 there is no adverse impact. I think any addition would
18 create some impact, but the impact has to be undue. So I
19 would be able to support the application.

20 I would also note that the ANC I believe
21 supports the application, and I will give great weight to
22 OP's analysis.

23 BZA CHAIR HILL: Thank you, Ms. John.
24 Commissioner Miller?

25 ZC MEMBER MILLER: Mr. Chairman, I concur with

1 my colleagues' analysis of this case. I agree that it's -
2 - the special exception relief being asked for both in the
3 rear addition length at three feet, three inches, is three
4 inches beyond a matter-of-right, is pretty minor, and the
5 height at two feet, one-and-a half inches about the
6 matter-of-right is also pretty minor.

7 And I would note that the height, in order to
8 preserve the character of the street space and be more
9 compatible with the neighboring structures, and the
10 Applicant also did that third floor of the roof design the
11 way that the ANC preferred, and the ANC supports the case
12 application, as does the OP. So I'm prepared to move
13 forward. Thank you.

14 BZA CHAIR HILL: Thank you, Commissioner. I
15 don't have anything really to add except that there was --
16 the ANC had wanted to keep the mansard -- they wanted a
17 design that was like the mansard roof, and so that was put
18 in the design, and that is the design that we're
19 approving. So I don't think it needs to be made a
20 condition because it is already now part of the design.

21 Again, it is always disappointing when people
22 in the surrounding area are not comfortable completely
23 with the design. I think that hopefully the construction
24 with the neighbors will all work out in terms of they'll
25 all kind of work together to make sure the construction

1 happens in a way that people are comfortable with.

2 However, I do agree that it's not -- you know,
3 anything that gets built there is going to be seen, and so
4 I don't think it's something that was undue. So I agree
5 with all of my colleagues.

6 If anyone wants to join for a second you can
7 because all your microphones are on right now. So I'll go
8 ahead and approve -- I'm going to make a motion to approve
9 Application No. 20230 as caption read by the Secretary and
10 ask for a second from Ms. John.

11 MEMBER JOHN: Second.

12 BZA CHAIR HILL: The motion has been made and
13 seconded, Mr. Moy. If you could please take a roll call?
14 Mr. Moy, your microphone is on if you're trying to talk.
15 Okay, there you go. It's still on.

16 MR. MOY: How's that?

17 BZA CHAIR HILL: Yes, it's good.

18 MR. MOY: Yes, this is -- well this is a
19 learning experience. Okay. So when I call each of your
20 names, if you would please respond with a yes, no, or
21 abstain to the motion made by Mr. Chairman Hill to approve
22 the application, seconded by Ms. John. Zoning
23 Commissioner Robert Miller?

24 ZC MEMBER MILLER: Yes.

25 MR. MOY: Ms. John?

1 MEMBER JOHN: Yes.

2 MR. MOY: Vice Chair Hart?

3 VICE CHAIRPERSON HART: Yes.

4 MR. MOY: Chairman Hill?

5 BZA CHAIR HILL: Yes.

6 MR. MOY: Staff will record the vote as four to
7 zero to one. And again, this is on the motion of Chairman
8 Hill to approve the application for the relief requested.
9 Seconding the motion is Ms. John. Also in support Vice
10 Chair Hart and the Zoning Commissioner Robert Miller.
11 Motion carried, sir.

12 BZA CHAIR HILL: All right, thank you, Mr. Moy.
13 And Mr. Moy, it's up to you, but if your camera is not on,
14 we can't see you trying to talk. So just to let you know
15 that's why --

16 MR. MOY: I'm sorry. Yes, I missed that one
17 too.

18 BZA CHAIR HILL: That's okay. It's nice to see
19 your pretty face. All right. Commissioner Miller, is
20 that it for you?

21 ZC MEMBER MILLER: That's it. Adios, amigos.

22 BZA CHAIR HILL: Commissioner, it's a pleasure.
23 I forget it's -- I wish I could remember -- the T-shirt
24 manufacturer is Valentine?

25 ZC MEMBER MILLER: Actually I didn't notice

1 that. I probably should see what I'm wearing next time,
2 but it's -- I'll send you an email.

3 BZA CHAIR HILL: T-shirt --

4 ZC MEMBER MILLER: It's a Father's Day present
5 from my daughter a few years ago.

6 BZA CHAIR HILL: No, those things are awesome.

7 ZC MEMBER MILLER: At an Adams Morgan store
8 somewhere.

9 BZA CHAIR HILL: It's Bailiwick, Bailiwick; B-
10 A-I-L-I-W-I-C-K. It's a D.C. company.

11 ZC MEMBER MILLER: Your virtual eyes are better
12 than my real ones.

13 BZA CHAIR HILL: Bailiwick. All right, I just
14 wanted to get a plug in there.

15 VICE CHAIRPERSON HART: Okay. Bye,
16 Commissioner.

17 ZC MEMBER MILLER: Take care.

18 BZA CHAIR HILL: All right. We've got one more
19 commissioner coming. Actually, that t-shirt company is
20 awesome, you guys. They've got all kinds of D.C. stuff.
21 Okay, we've got Chairman Hood. This is Chairman Hood.
22 Welcome, Chairman Hood.

23 ZC CHAIR HOOD: Good morning. How is everyone?

24 BZA CHAIR HILL: Good. Thank you.

25 MEMBER JOHN: Well. Thank you.

1 BZA CHAIR HILL: Mr. Moy, do you want to call
2 our next case please?

3 MR. MOY: Yes, sir. Thank you. This is the
4 Board pulling out of the hearing session this one case,
5 and --

6 BZA CHAIR HILL: Oh, wait, Mr. Moy. Do I need
7 a read-in for the hearing?

8 MR. MOY: That's up to you, sir. You can now,
9 or you can do it later.

10 BZA CHAIR HILL: No, but I'm saying now we're
11 going into a hearing, right?

12 MR. MOY: Yes, yes. Why don't you go ahead and
13 read it?

14 BZA CHAIR HILL: If I don't have to read it --
15 I don't need to read it.

16 MR. MOY: But if you read it now, you'll have
17 to read it later when we come back to the hearing session.

18 (Whereupon, the above-entitled matter went off
19 the record at 10:08 a.m. and resumed at 4:30 p.m.)

20 BZA CHAIR HILL: All right, Mr. Moy. So we're
21 going to go back into our meetings, and I don't -- what
22 was I going to say? I don't think I have -- you know, I
23 don't have to re-read into the meetings, correct?

24 MR. MOY: I'm sorry, I didn't understand the
25 question.

1 BZA CHAIR HILL: There was -- I don't have to
2 read --

3 MR. MOY: You're correct, you're correct.
4 You've already done that.

5 BZA CHAIR HILL: Okay. All right. So then the
6 first one I've got is 20054.

7 MR. MOY: Yes.

8 BZA CHAIR HILL: If you wouldn't mind reading
9 us in.

10 MR. MOY: With pleasure. So the Board is back
11 to its meeting session, and the first case application for
12 a decision is No. 20054 of Rupsha 2011 L.L.C. as amended
13 for special exception under the Use Provision of Subtitle
14 U, Section 421.1, to construct an eight-unit apartment
15 house in RA-1 zone at premises 616 50th Street, Northeast,
16 Square 5180, Lot 814.

17 Participating on the decision is Chairman Hill,
18 Vice Chair Hart, Ms. John, and Zoning Commissioner Michael
19 Turnbull.

20 BZA CHAIR HILL: Okay, great. So are we -- is
21 there -- there is an -- and Ms. Cain, I guess you can --
22 is there a request for a postponement? Is this the one?

23 MS. CAIN: He is requesting that it be
24 postponed.

25 BZA CHAIR HILL: Okay. I mean I don't mind

1 postponing I guess, but at the same time, I mean I respect
2 the ANC and their wanting to look at this. They were in
3 opposition. I don't think anything they're going to look
4 at is going to change their opposition. Anything that
5 came in due to the record had nothing to do with this
6 vote. But I'm comfortable -- I mean if they would have
7 put it off, they just want to put it off until they have a
8 chance to meet, which is I think next week, right?

9 MS. CAIN: I believe it's July 9th is their
10 next meeting.

11 BZA CHAIR HILL: July 9th. So if they meet
12 July 9th, that means -- that's Thursday. Then what, we
13 get this back before us on July 22nd maybe, Mr. Moy?

14 MR. MOY: Either July 15th or the 22nd, your
15 call.

16 BZA CHAIR HILL: I guess let's do the 15th
17 because that will give them still time to get -- I mean I
18 don't know whether -- is that -- if they meet on the 9th,
19 then they still have a few days to get us something by the
20 15th.

21 MR. MOY: Well you can do that, but although
22 this may not factor into your decision, but Mr. Turnbull
23 is coming back for the 22nd, but --

24 BZA CHAIR HILL: Oh, that's better. Let's go
25 with that.

1 MR. MOY: Okay. Okay, this is going to July
2 22.

3 BZA CHAIR HILL: Okay?

4 MR. MOY: Yes.

5 BZA CHAIR HILL: Okay, great. Give me one
6 second, Mr. Moy.

7 VICE CHAIRPERSON HART: I have a question for
8 Ms. Cain.

9 BZA CHAIR HILL: Please go ahead.

10 VICE CHAIRPERSON HART: So we received -- for
11 that last case, we received a request to postpone, but
12 then we also received a report from ANC 7C saying that
13 they continue to oppose it. I mean it was on like three
14 or four days later, so it just seemed weird. And I think
15 that they were just saying, Well we've opposed it in the
16 past, and we continue to oppose it.

17 But they a few days earlier had requested to
18 hear it at their next ANC meeting. I just thought that
19 was a little bit strange.

20 MS. CAIN: Give me one second to pull this up
21 here.

22 VICE CHAIRPERSON HART: It's Exhibit 103 that I
23 was talking about.

24 BZA CHAIR HILL: It looks like though that says
25 October 10th.

1 MS. CAIN: No, the letter in Exhibit 103 is
2 basically right through the whole history of the ANC's
3 review of this. I mean again, it's up to the Board, as
4 Chair mentioned. It seems sort of unlikely that the ANC
5 will change its position, but since they did request that
6 postponement prior to submitting that other letter, I
7 don't know if they were just trying to cover all their
8 bases here in case the Board did not decision to grant it.
9 But again, it's up to the Board as to whether you want to
10 proceed with it today --

11 VICE CHAIRPERSON HART: I don't have a problem,
12 and thank you very much. I just wanted to understand
13 that. It seemed like there were kind of two different
14 things that they were like, We're asking for it to have it
15 a little longer, but we're doing it now and we oppose it.
16 But they also said they hadn't had any conversations with
17 the Applicant since March. So I don't have a problem in
18 hearing it on the 15th.

19 BZA CHAIR HILL: Okay. Yes, I mean it still
20 seems like they are not rescinding their request. So
21 okay, let's keep that on the books for the 22nd, Mr. Moy.

22 MR. MOY: All right, sir.

23 BZA CHAIR HILL: Okay. Can you call the next
24 case, Mr. Moy?

25 MR. MOY: All right, thank you. So that would

1 be Application No. 20213 of Jake Greenhouse. This is
2 caption advertised for a special exception under the Use
3 Provision, Subtitle U, Section 601.1C from the alley lot
4 Use Requirements Subtitle U, Section 600.1E, Area B to
5 construct a new detached principal dwelling unit, RA-2
6 zone at premises rear of 3rd Street, Northwest between O
7 Street, Northwest and Key Street, Northwest, Square 553,
8 Lot 59. Participating in the decision is Chairman Hill,
9 Vice Chair Hart, Ms. John, and Zoning Commissioner Chair
10 Hood.

11 BZA CHAIR HILL: All right. Well I am going to
12 enable my prerogative as Chair, and let someone else
13 start. Mr. Hart, would you like to start?

14 VICE CHAIRPERSON HART: Sure. So after
15 reviewing the case in the full record, I believe that the
16 Applicant has provided sufficient information for me to be
17 able to support the case. And this will take a few
18 minutes.

19 So the Applicant, Mr. Greenhouse, sought
20 special exception from zoning regulations to construct a
21 new, detached, principal dwelling on an alley lot in the
22 RF-1 zone.

23 On the face, this wasn't that complicated.
24 There were several provisions that the Applicant was
25 looking for relief from. One that I think we discussed

1 quite a lot was Subtitle U, Section 1.1B mainly. It's the
2 alley lot must have access to an improved public street,
3 and it gives some provisions or criteria as to how they
4 should meet that.

5 I'll note that the project, however, was
6 within the regulations on height, overall massing, and the
7 setbacks. Unfortunately for the next-door neighbors,
8 these are the folks that are to the west. The back yards
9 that they had enjoyed for some time would be reduced some
10 time because this property was where their back yards or
11 the back yards that they were using were located.

12 The Board is charged with interpreting the
13 zoning regulations, and I believe that the zoning
14 regulations anticipated alley lots and provided us with
15 some criteria as of how to approve or deny an application
16 that was for a property that was on an alley lot.

17 In this instance, the Applicant also needed to
18 show how they met the general requirements under Subtitle
19 X-901, and under this subtitle the Applicant had to show
20 how they would be in harmony with the general purpose and
21 intent of the zoning regulations and zoning map, and also
22 will not tend to adversely -- excuse me -- affect
23 adversely use of neighboring property in accordance with
24 the zoning regs and the zoning maps.

25 And so this had really been the bulk of the

1 testimony in my estimation from the adjacent neighbors. I
2 do understand that they are very upset about this in that
3 the zoning regulations -- I'm also seeing that the zoning
4 regulations allow residential use on the alley. It does,
5 again, provide the massing height and the location.
6 That's kind of part and parcel with the zoning
7 regulations.

8 The ability for neighbors to access the alley;
9 I know that was quite a bit of discussion that we had, but
10 I think that this was really, in my estimation, the
11 ability for the Applicant to be able to access the alley.

12 The neighbors do have the ability to leave
13 their residence through the front door along the street,
14 and I understand that this is not -- where I'm going with
15 this is not going to be helpful to them. We have to look
16 at what the zoning regulations tell us, and right now it's
17 telling me that Mr. Greenhouse, the Applicant, has the
18 ability to do this.

19 So I believe the Applicant has met its burden
20 showing how it will not have an undue adverse effect on
21 the neighboring property. This is how I got to that
22 point: Mr. Greenhouse has moved the rooftop deck which is
23 shown in the exhibits, the most recent exhibit, and a
24 rooftop deck is allowed, but he's showing how that rooftop
25 deck has moved away from the neighbors to the west, which

1 are actually I think closer than the neighbor to the
2 north.

3 He also added what's a clear story window in
4 the images he had in the most recent exhibit, and I'm
5 sorry I don't have the exhibit number, but the windows on
6 the western wall, they were full windows, and he is now
7 showing that they are clear story windows. He's labeled
8 them as transom windows, but they are actually clear story
9 windows.

10 And I understand that the Applicant has met
11 with the neighbors, and they have agreed to this emergency
12 access. And I just think that's an agreement that's
13 between them, and I'm not sure that that should -- I don't
14 think that that should be as part of the approval that we
15 give for the property.

16 So I think that the Applicant has met the
17 criteria. They have made, I think, the issue about light
18 and air and also privacy is addressed through the moving
19 of the rooftop deck, the clear story windows, and the fact
20 that the building is actually within the setbacks that
21 they need to be.

22 So I would be in support of the application,
23 and I'd like to hear my other Board members' thoughts on
24 this.

25 BZA CHAIR HILL: Ms. John?

1 MEMBER JOHN: Well Mr. Chairman, I'm going to
2 agree with everything that Vice Chair Hart said, plus it
3 was a very narrow description of the request and how the
4 application meets the requirements and the regulations be
5 granted relief.

6 I also don't think that the loss of the egress
7 is something that we can consider under the zoning
8 regulations and will not make that part of the order. I
9 think that's something that the residents on 3rd Street,
10 the neighbors to the west, can continue to work with the
11 Applicant on. And so I can support the application and I
12 think the Applicant's changes that Mr. Hart described that
13 affect privacy and light and air are demonstrated in
14 Exhibit 78. And I thought that the Applicant as
15 responsive to the neighbors' concerns. So as I said, I'll
16 support the application.

17 BZA CHAIR HILL: Thank you, Ms. John. Chairman
18 Hood?

19 ZC CHAIR HOOD: Yes, Mr. Chairman. I would
20 agree with everything Vice Chair Hart is saying for one
21 thing. Let me just --- I think that's more or less record
22 enough. A roof deck, I think he covered that pretty well.

23 The emergency egress is not necessarily part of
24 our decision-making. What we've done in the past and Mr.
25 Ritting can correct me, I think we at least need to point

1 to it. And I'll leave that legal term up them if we can
2 do that.

3 But I think it needs to be memorialized or
4 mentioned how it is not necessarily a factor of our
5 approval. I think that order should point to that, and
6 I'm using a word that I've learned from OAG in the past,
7 so I'll leave it with that.

8 Mr. Ritting, in don't know if you can opine on
9 that.

10 MR. RITTING: Thank you, Mr. Hood. What I
11 believe Mr. Hood is referring to is that he does not want
12 it to be included as a condition of the order, but that we
13 want the order to recognize that the Applicant did offer
14 to do the egress plan so that it's referred to in the
15 order, but it's not a requirement. Is that accurate, Mr.
16 Hood?

17 ZC CHAIR HOOD: That's exactly accurate, and I
18 hope my colleagues would amend their conclusions to at
19 least consider that. That's all I have.

20 MEMBER JOHN: As a colleague, I am fine with
21 that explanation. The issue I had in the last hearing was
22 that the parties could not describe what they meant by
23 emergency egress, and it had not been defined. So I had
24 trouble. Is it, say, for a fire, or I mean what is the
25 emergency that would allow access through the Applicant's

1 property?

2 Since the Applicant will be granting permission
3 to the neighbors to the west to access his property to get
4 to P Street. And so the conditions of that access were
5 not properly defined for one, and I agree that we can't
6 make it a part of the order.

7 ZC CHAIR HOOD: So let me just expound on that,
8 and I said this during the hearing as well. While we
9 can't necessarily sit here and condition or legislate
10 everything that neighbors should be able to work out, and
11 I said that at the hearing and not, I agree, we were
12 trying to figure out what was in the emergency rule. But
13 I believe strongly, that's why I said I'm a strong
14 believer in neighbors being able to work out issues; not
15 that they will be using it every day. I mean at the end
16 of the day they are neighbors. They have to learn how to
17 co-exist, and they have to be respectful of a person's
18 property. So that's just what I believe. I don't think
19 this is pointing to that, as Mr. Ritting has mentioned.

20 (Simultaneous speaking.)

21 BZA CHAIR HILL: Before -- and Mr. Hart, I'll
22 let you go. Actually I don't know -- well Mr. Ritting
23 again we're approving the plans the way they are, correct?
24 And on the plans, it has those egress doors on the fence.
25 So that would be in the plans, correct?

1 MR. RITTING: Yes, that's correct.

2 BZA CHAIR HILL: Okay. So then after that, the
3 discussion that we're having now is -- Chairman Hood,
4 you're saying again it's not necessarily a condition as to
5 how those doors were to be used.

6 And just to let you know, this did kind of
7 trouble me at the end whenever we heard this. I found the
8 fence thing kind of confusing. And again, and I'm being
9 very sincere when I say this. I just found it confusing
10 in that this is someone's private property, and now
11 there's doors onto this person's private property.

12 And they're going to be there, so I guess I'm
13 just trying to talk this through. So I agree with you,
14 Chairman Hood, and say it could be spoken to in the order,
15 but I guess I'm just continuing to discuss this in that --
16 and maybe, Ms. John, this is kind of what you were
17 bringing up -- I just kind of have a little difficulty
18 with the whole concept.

19 It was like, you know, I mean I thought that
20 the -- and I haven't done my deliberation yet, so I'm
21 giving you my opinion. You know, I did think that as far
22 -- and I'll give my opinion, and you all can make your
23 comments -- I thought as far as the standard goes, as far
24 as to how this was supposed to be approved, I thought that
25 the Applicant had met its burden of proof, meaning it

1 could get to that public street effectively and safely in
2 order for us to approve this development.

3 And I think that the -- probably what's really
4 going to happen is if there ever really was an emergency,
5 they'll probably use the alley that's right there that the
6 school owns, unless they close that out. I mean that's
7 the whole thing, right? The fire department will use
8 whatever the closest thing is.

9 So long story about this is that I was just
10 also confused about the doors, and I was a little
11 uncomfortable with the doors. But they're on the plans;
12 they're on the approved plans. They're the plans that
13 we're approving, so therefore the doors will be there.

14 And to Chairman Hood's point, as he mentioned
15 the good neighbor policy to kind of figure out what is an
16 emergency which in my opinion would be like it's a life or
17 death emergency to use that door.

18 And I don't know who wants to go, but those
19 were my thoughts on it.

20 VICE CHAIRPERSON HART: Just to follow up with
21 Chairman Hood and the statement that you made, I do not
22 have a problem with including the -- mentioning the
23 emergency access, whatever you want to call that. My
24 issue was really about making it a condition because I
25 did not think that it was something that we should have as

1 a condition.

2 But this conversation -- not this conversation,
3 but the hearings that we've had on this was, I mean, it's
4 going to come out regardless because we've had so many
5 discussions about and requests from the Applicant to
6 provide information during this hearing process for things
7 like, Can you get a plan? Can you get some more drawings
8 to show us, with the windows giving more privacy; with the
9 roof deck not having access to the western side of the
10 building of the roof.

11 And so because we've requested that, I think it
12 would show up in the order anyway. But I agree that it's
13 something that the Applicant said during the hearings;
14 that he would be amenable to. And I think they're going
15 to have to figure out what that actually means and
16 honestly, I don't know what it means either. But they're
17 going to have to figure that out in the future. But yes,
18 the plans do say it, Mr. Chairman -- Mr. Chairman Hill,
19 and the plans have it. So they're going to have to
20 interpret that. That's it.

21 BZA CHAIR HILL: Chairman Hood, are you
22 comfortable with everything?

23 ZC CHAIR HOOD: Yes. I mean, you know, I
24 wouldn't want to belabor it, and I just wanted to say
25 again, like I said, I could, say, point to, I think OAG

1 knows exactly --

2 BZA CHAIR HILL: Okay. All right, very good
3 then. Then I'll go ahead and make a motion to approve
4 Application No. 20213 as captioned and read by the
5 Secretary and ask for a second.

6 MEMBER JOHN: Second.

7 BZA CHAIR HILL: Mr. Moy, the motion has been
8 made and seconded. Could you please take a roll call
9 vote?

10 VICE CHAIRPERSON HART: We cannot hear you, Mr.
11 Moy.

12 MR. MOY: Oh, man. Took me all day. Have
13 someone remind me to do this. Okay. So when I call your
14 name if you would please respond with a yes, no, or
15 abstain to the motion to approve made by Chairman Hill,
16 seconded by Ms. John. Let's see, it's Zoning Commission
17 Chair Anthony Hood.

18 ZC CHAIR HOOD: Yes.

19 MR. MOY: Ms. John?

20 MEMBER JOHN: Yes.

21 MR. MOY: Vice Chair Hart?

22 VICE CHAIRPERSON HART: Yes.

23 MR. MOY: Chairman Hill?

24 BZA CHAIR HILL: Yes.

25 MR. MOY: And we have a board seat vacant. The

1 rezoning vote is four to zero to one. As I said before on
2 the motions Chairman Hill, second by Ms. John, also
3 support Zoning Commission Chair Anthony Hood, Vice Chair
4 Hart, Mr. Hart and, of course the Chairman. Motion
5 carries, sir.

6 BZA CHAIR HILL: Thank you, Mr. Moy. Okay, you
7 guys. It took us seven and a half hours to actually do
8 something. That's the first thing we've finished today.

9 MR. MOY: Well, it's -- no, it isn't.

10 BZA CHAIR HILL: No?

11 MR. MOY: No. We did Mike Turnbull and Mr.
12 Miller. We did several cases very early.

13 BZA CHAIR HILL: I'm sorry. That's the third
14 thing we did today.

15 MR. MOY: There you go.

16 BZA CHAIR HILL: I stand corrected.

17 MR. MOY: Yes, there you go.

18 BZA CHAIR HILL: Mr. Moy, please call our next
19 one.

20 MR. MOY: Yes, thank you. So the next case for
21 decision is Application No. 19984, Rupsha 2011, L.L.C.,
22 as amended for special exceptions under the new
23 residential development provisions of Subtitle U, Section
24 421.1 and under the inclusionary zoning requirements of
25 Subtitle C, Section 1001.2B3 to construct an eight-unit

1 apartment house in the RA-1 zone at -- 2908 N Street,
2 Southeast, Square 5507, Lot 2, and participating on the
3 decision is Chairman Hill, Vice Chair Hart, Ms. John, and
4 Zoning Commission Chair Anthony Hood.

5 BZA CHAIR HILL: Okay, thank you. Are we ready
6 to deliberate? I'm just going to start. So we heard
7 everybody -- we had a full hearing on this, and after
8 going through the entire record, I believe that I'll be
9 able to get behind this application.

10 I would agree with the recommendations by the
11 Office of Planning. The Office of Planning was prior to
12 their approval, they wanted some kind of confirmation from
13 DDOT that Urban 4th Street Division, there's no
14 significant trees on the site, and that was provided by
15 the Applicant or there was some discussion about that by
16 the Applicant.

17 There are also -- there is no special heritage
18 trees on the site. There was some issues with DDOT -- not
19 issues, but kind of pointing that some elements were in
20 public space, and we needed to satisfy a number of public
21 space requirements, namely screening, bay windows, porch
22 and steps without the curb and N Street sidewalk. The
23 Applicant was aware of this.

24 We have a letter of support from the ANC in
25 Exhibit 97, and I will be voting to approve because I

1 believe they've met the burden for us to grant this
2 application.

3 Is there anyone that -- is there anything that
4 anyone else would like to add? If so, please raise your
5 hand. All right. Then I'm going to go ahead and make a
6 motion to approve Application No. 19984 as captioned and
7 read by the Secretary and ask for a second. Ms. John,
8 because your microphone is on.

9 MEMBER JOHN: Second.

10 BZA CHAIR HILL: Mr. Moy, the motion has been
11 made and seconded. Could you please take a roll call
12 vote?

13 MR. MOY: When I call your name, please respond
14 with a yes, no, or abstain on the motion to approve by
15 Chairman Hill, seconded by Ms. John, the Zoning Commission
16 Chair Anthony Hood?

17 ZC CHAIR HOOD: Yes.

18 MR. MOY: Ms. John? Okay. I think the record
19 would show that Ms. John voted yes.

20 BZA CHAIR HILL: Yes, she's not in -- I think
21 she said yes. I think there's something with her
22 microphone.

23 MEMBER JOHN: Can you hear me? Can you hear me
24 now? Okay, thank you.

25 MR. MOY: Vice Chair Hart?

1 VICE CHAIRPERSON HART: Yes.

2 MR. MOY: Chairman Hill?

3 BZA CHAIR HILL: Yes.

4 MR. MOY: Staff would record votes four to zero
5 to one, and the one is a seat that's vacant. So on the
6 motion of Chairman Hill, seconded by Ms. John, also
7 support by Vice Chair Hart and Zoning Commission Chair
8 Hood.

9 BZA CHAIR HILL: You can call our next case,
10 Mr. Moy, when you get a chance.

11 MR. MOY: That would case Application No.
12 20227 of Rula, R-U-L-A, Malky, M-A-L-K-Y, as amended for
13 special exceptions under Subtitle F, Section 5201, and the
14 lot occupancy requirements of Subtitle F, Section 304.1
15 from the rear yard requirements Subtitle F, Section 305.1
16 to construct a rare debt addition to an existing attached
17 principal dwelling unit in the RA-1 zone at 3235 4th
18 Lincoln Drive, Northeast, Square 4325, Lot 1025.

19 Participating on the decision is Chairman Hill,
20 Vice Chair Hart, Ms. John, and Zoning Commission Chair
21 Hood.

22 BZA CHAIR HILL: Okay. Are you guys ready to
23 deliberate?

24 MEMBER JOHN: Chairman Hill, just a minute. I
25 believe that was 20225. You said 20227, so we should

1 correct the record.

2 BZA CHAIR HILL: Oh, was that the case number?

3 MR. MOY: 20225.

4 MEMBER JOHN: Yes.

5 BZA CHAIR HILL: Yes. But the rest of the
6 caption was correctly --

7 MEMBER JOHN: Yes, was correct.

8 BZA CHAIR HILL: Okay. All right. So after
9 going through the record and the hearing, I believe that
10 the Applicant has met the burden for us to grant the
11 application. I thought actually the Applicant had a very
12 sweet job. I don't know if sweet is the right word, but a
13 very nice job of getting the neighborhood together and
14 getting the neighbors together. I think Chairman Hood,
15 this was the one about the Fort Lincoln decks and
16 everything or one of them.

17 We have the analysis that I would agree with
18 from the Office of Planning and Exhibit 32 to approve.
19 Also, DDOT had no objection, and ANC 5C was also in
20 approval. Based upon the record again, I do believe they
21 met the burden for which to grant this application. I'm
22 going to be voting to approve. Is there anything anyone
23 would like to add, and if so, please raise your hand. Mr.
24 Hart?

25 VICE CHAIRPERSON HART: Yes. Only that I think

1 that we've received in the record, there was a letter in
2 opposition to the case in Exhibit 34. And after reading
3 through that letter they were in opposition. They believe
4 that they have tried to meet with various groups about not
5 allowing, really, the decks on the rear of these buildings
6 of the residences.

7 And I understand that. I think that the
8 Applicant has moved forward through their request and has
9 provided us information, sufficient information for me, to
10 be able to support the case. But wanted to make sure that
11 we did acknowledge that we did receive a letter of
12 opposition to this. I reviewed it, but felt that the
13 Applicant had provided the information that we needed to
14 be able to support it. That's it.

15 BZA CHAIR HILL: Okay. Anyone else? All
16 right. I'm going to make a motion to approve Application
17 No. 20225 as captioned and read by the Secretary and ask
18 for a second, Ms. John.

19 MEMBER JOHN: Second.

20 BZA CHAIR HILL: Motion made and seconded. Mr.
21 Moy, could you please take a roll call vote?

22 MR. MOY: All right. When I call your name if
23 you would please reply in response with a yes, no, or
24 abstain to the motion made by the Chairman to approve,
25 seconded by Ms. John. Zoning Commission Chair Anthony

1 Hood?

2 ZC CHAIR HOOD: Yes.

3 MR. MOY: Ms. John?

4 MEMBER JOHN: Yes.

5 MR. MOY: Vice Chair Hart?

6 VICE CHAIRPERSON HART: Yes.

7 MR. MOY: Chairman Hill?

8 BZA CHAIR HILL: Yes.

9 MR. MOY: All right. Staff would record the
10 vote as four to zero to one. It's on the motion by
11 Chairman Hill, seconded by Ms. John, also support Vice
12 Chair Hart and Zoning Commission Chair Anthony Hood. We
13 had a board seat vacant. Motion carries.

14 BZA CHAIR HILL: All right, Mr. Moy. Whenever
15 you can, you can call the next one.

16 MR. MOY: That would be case Application No.
17 20227 of Andrew Lewczyk, caption; Advertise for a special
18 exception under Subtitle D, Section 5201 for the rear yard
19 requirements of Subtitle D, Section 306.2; pursuant to 11
20 DCMR Subtitle X, Chapter 10, for area variance from the
21 lot occupancy requirements of Subtitle D, Section 304.1 to
22 construct a second-story rear deck from the existing
23 attached principal dwelling unit in the R-3 zone at
24 premises 227 Douglas Street, Northeast, Square 3553, Lot
25 97.

1 BZA CHAIR HILL: Okay, great. Thank you. Is
2 the Board ready to deliberate?

3 MEMBER JOHN: Yes.

4 BZA CHAIR HILL: Okay. After reviewing the
5 record and after the hearing, I believe that the Applicant
6 has met the criteria for which I would be behind this
7 application. I note that I would agree with the Office of
8 Planning's recommendation in Exhibit 32. I also note that
9 in Exhibit 27 DDOT had no objection. I still don't think
10 we have -- maybe I'm wrong, I'm getting a little confused
11 -- a report from the ANC.

12 But I do think that they met the burden in
13 which I could get behind this application. The one thing
14 that was corrected by the Applicant was that the Office of
15 Planning had mentioned stairs, and there actually are no
16 stairs to this application. But I would welcome any
17 contribution from my fellow board members. Does anyone
18 have anything they would like to add?

19 ZC CHAIR HOOD: Mr. Chairman, the only thing I
20 would add is, you may have mentioned this. It does have -
21 - regarding overwhelming support. I think we could have
22 two letters of support in the record.

23 BZA CHAIR HILL: Okay, great. Thank you,
24 Chairman Hood. All right. Then I'm going to make a
25 motion to approve Application No. 20227 as captioned and

1 read by the Secretary and ask for a second, Ms. John.

2 MEMBER JOHN: Second.

3 BZA CHAIR HILL: Motion made and seconded. Mr.
4 Moy, if you could please take a roll call vote?

5 MR. MOY: When I call your name, if you would
6 please respond with a yes, no, or abstain to the motion to
7 approve by Chairman Hill, seconded by Ms. John. Zoning
8 Customer Chair Anthony Hood?

9 ZC CHAIR HOOD: Yes.

10 MR. MOY: Vice Chair Hart?

11 VICE CHAIRPERSON HART: Yes.

12 MR. MOY: Ms. John?

13 MEMBER JOHN: Yes.

14 MR. MOY: Chairman Hill?

15 BZA CHAIR HILL: Yes.

16 MR. MOY: Staff would record vote as four to
17 zero to one. The motion of Chairman Hill, seconded by Ms.
18 John and also support by Vice Chair Hart and Zoning Chair
19 Hood, and we have a board seat vacant. Motion carries,
20 sir.

21 BZA CHAIR HILL: Thank you, Mr. Moy. Feel free
22 to call the next one when you can.

23 MR. MOY: That would be case Application No.
24 20235, Grant Phase 1-E, L.L.C., whose caption advertised
25 for a special exception under Subtitle C, Section 90944 of

1 the loading requirements of Subtitle C, Section 908.1 and
2 908.3 to construct a seven-story mixed-use building in the
3 MU-7 zone of premises 600, Rhode Island Avenue, Northeast,
4 Square 3629, Lot 819.

5 BZA CHAIR HILL: Okay. Board ready to
6 deliberate? I see everyone nodding yes. I thought that
7 this was relatively straightforward. After reviewing the
8 record again, and after hearing the presentation from the
9 Applicant, I believe that they are meeting the standard
10 for which we can grant the application.

11 I also note that the Office of Planning's
12 recommendation was in support in Exhibit 37, and I would
13 agree with their analysis. Also that DDOT report in
14 Exhibit 30 had no objection, and that in Exhibit 39, the
15 ANC 5-E was also in approval.

16 Again, I thought it was straightforward and
17 thought that the Applicant had met its burden. Is there
18 anything anyone else would like to add, and if so, please
19 raise your hand.

20 I'm going to go ahead and make a motion then
21 to approve Application No. 20235 as captioned and read by
22 the Secretary and ask for a second, Ms. John?

23 MEMBER JOHN: Second.

24 BZA CHAIR HILL: Motion made and seconded. Mr.
25 Moy, would you please take a roll call vote?

1 MR. MOY: Yes. Again, when I call your name,
2 if you would please respond with a yes, no, or abstain.
3 Zoning Commission Chair Anthony Hood?

4 ZC CHAIR HOOD: Yes.

5 MR. MOY: Vice Chair Hart? Vice Chair Hart?

6 VICE CHAIRPERSON HART: Yes. Sorry, I was --

7 MR. MOY: That's all right. Ms. John?

8 MEMBER JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 BZA CHAIR HILL: Yes.

11 MR. MOY: And we have a board seat vacant.

12 Staff would record the vote as four to zero to one. This
13 is on a motion by Chairman Hill to approve the
14 application, seconded by Ms. John. Also support is Vice
15 Chair Hart and Zoning Commission Chair Anthony Hood; four
16 to zero to one.

17 BZA CHAIR HILL: Thank you, Mr. Moy. You can
18 call our next one when you get a chance.

19 MR. MOY: That would be Case Application No.
20 20236 of Bryant Phase 1-B, L.L.C., caption advertised for
21 special exception under Subtitle C, Section 909.4 from the
22 loading requirements of Subtitle C, Section 908.1 and
23 908.3 to construct a three-story movie theater building in
24 the MU-7 zone at premises 620 through 640 Rhode Island
25 Avenue, Northeast, Square 3629, Lot 916.

1 BZA CHAIR HILL: Okay, great. Is the Board
2 ready to deliberate? All right. This is similar to the
3 last application in that it is the same client, and I do
4 believe that this one was also straightforward. I didn't
5 have an issue with the application. I do believe that
6 they have met the standard for which we can grant the
7 application.

8 I note that in Exhibit 33 the Office of
9 Planning, I would agree with their recommendation in terms
10 of approval. Also in Exhibit 27 the report from DDOT had
11 no objection. Also in Exhibit 35, ANC 5-E was also in
12 support, and I would agree with all of the comments in
13 those items in the record.

14 As I mentioned, I thought this was
15 straightforward and will be voting to approve. Is there
16 anything anyone would like to add, and if so, please raise
17 your hand. With that, I'll go ahead and make a motion to
18 approve Application No. 20236 as captioned and read by
19 the Secretary and ask for a second, Ms. John. Second
20 again, Ms. John? You're -- say second? No. Mute; you're
21 muted.

22 VICE CHAIRPERSON HART: I'll give a second.

23 BZA CHAIR HILL: Okay. Ms. John, just keep
24 yours on muted. Here we go; you're not providing any
25 feedback. I -- Mr. Moy, the motion has been made and

1 seconded. Please take a roll call vote.

2 MR. MOY: Yes. When I call your name if you
3 would please respond with a yes, no, or abstain to the
4 motion made by Chairman Hill, seconded by Ms. John. Yes.
5 Zoning Commission Chair Anthony Hood?

6 ZC CHAIR HOOD: Yes.

7 MR. MOY: Vice Chair Hart?

8 VICE CHAIRPERSON HART: Yes.

9 MR. MOY: Ms. John?

10 MEMBER JOHN: Yes.

11 MR. MOY: Chairman Hill?

12 BZA CHAIR HILL: Yes.

13 MR. MOY: We have a board seat vacant. Staff
14 would record the vote as four to zero to one on the motion
15 of Chairman Hill, seconded by Ms. John, also in support of
16 the motion Vice Chair Hart and Zoning Commission Chair
17 Hood, four to zero to one.

18 BZA CHAIR HILL: Great. Mr. Moy, if you would,
19 if you call 20237 next because the last one is going to
20 take a little more discussion, so might as well go ahead
21 and do that one.

22 MR. MOY: Yes, with pleasure. Okay, Case
23 Application No. 20237 of Timothy Holtz as amended for a
24 special exception under Subtitle E, Section 5201 from the
25 lot occupancy requirements as Subtitle E, Section 304.1 to

1 construct a one-story rare addition in a deck to an
2 existing attached principal dwelling unit, RF-1 zone at
3 2002 C Street, Northeast, Square 4558, Lot 31.

4 BZA CHAIR HILL: Okay. Mr. Hart, would you
5 begin the discussion because I'm just getting a little
6 organized over here.

7 VICE CHAIRPERSON HART: I didn't hear what you
8 said.

9 BZA CHAIR HILL: Oh.

10 VICE CHAIRPERSON HART: I'm kidding. So after
11 reviewing the record, I would be in support of the
12 application. I'll note that the Office of Planning was in
13 support of this application. I thought I'd written down
14 the exhibit; sorry I didn't.

15 The ANC was also in support of the application,
16 and I just felt this was a fairly straightforward case. I
17 didn't have a whole lot of comments on it, and I don't
18 know if my fellow Board members have any other comments
19 that they would like to make.

20 MEMBER JOHN: I thought that this was very
21 straightforward too. It's a request for a sun room and a
22 rear deck. The only change I would make to what you said
23 is, I don't believe the full ANC responded. I believe it
24 was the SNB, so we can't give it great weight. But just
25 to note that there was support in the ANC.

1 Other than that, I think the request is for lot
2 occupants relief and I believe that the Office of Planning
3 report clarifies how the application meets the
4 requirements for the regulation, and I can support --

5 BZA CHAIR HILL: Okay. Anyone else? All
6 right. I'll make a motion to approve Application No.
7 20237 as captioned and read by the Secretary and ask for a
8 second, Ms. John.

9 MEMBER JOHN: Second.

10 BZA CHAIR HILL: Motion made and seconded. Mr.
11 Moy, if you could please take a roll call vote? Mr. Moy,
12 we can't hear you.

13 MR. MOY: Oh, man. When I call your name, if
14 you would please respond with a yes, no, or abstain to the
15 motion made by Chairman Hill to approve. Second, Ms.
16 John. Commission Chair Anthony Hood?

17 ZC CHAIR HOOD: Yes.

18 MR. MOY: Vice Chair Hart?

19 VICE CHAIRPERSON HART: Yes.

20 MR. MOY: Ms. John?

21 MEMBER JOHN: Yes.

22 MR. MOY: Chairman Hill?

23 BZA CHAIR HILL: Yes.

24 MR. MOY: We have a board seat vacant. Staff
25 would record the vote as four to zero to one on, of

1 course, the motion made by Chairman Hill, seconded by Ms.
2 John. Also in support of the motion Zoning Commission
3 Chair Hood and Vice Chair Hart.

4 BZA CHAIR HILL: Okay, great.

5 MEMBER JOHN: So, Mr. Chair?

6 BZA CHAIR HILL: Yes.

7 MEMBER JOHN: Can we take a quick break?

8 BZA CHAIR HILL: Sure, of course. Of course.

9 MR. MOY: Ms. John, you need to mute.

10 (Whereupon, the above-entitled matter went off
11 the record at 5:15 p.m. and resumed at 5:22 p.m.)

12 BZA CHAIR HILL: Okay, we're all back. All
13 right, Mr. Moy. Call out last decision case or meeting
14 case.

15 MR. MOY: Thank you, Mr. Chairman. That would
16 be case Application No. 20205 of Christopher Cahill,
17 caption advertised for special exceptions under Subtitle
18 D, Section 5201 from the side yard requirements Subtitle
19 D, Section 206.7 in the pervious surface requirements of
20 Subtitle D, Section 308.1 and under Subtitle U, Section
21 253.10 from the accessory apartment requirements of
22 Subtitle U, Section 253.7C to construct a two-story rare
23 addition and to permit an accessory apartment with an
24 entrance on a street facing facade in an existing attached
25 principal dwelling in the R-1B zone at premises 3401

1 Lowell, L-O-W-E-L-L, Street, Northwest, Square 2089, Lot
2 828.

3 The preliminary matter here, Mr. Chairman, is
4 that there are two motions to reopen the record followed
5 by party status opposition James Hulme, H-U-L-M-E, in an
6 individual case testimony by the name of Constance
7 Pendleton. That's in the record.

8 BZA CHAIR HILL: Okay. I'm going to pull it up
9 real quick. All right, well, let's handle the preliminary
10 matters first. So let me just pull this up real quick.
11 I'm sorry, you guys; I'm in the wrong case. Got it, okay.
12 So I don't know about you guys. I mean, as far as the
13 motion to reopen the record, I thought we had a pretty
14 full hearing, and I thought that the party status person
15 was there.

16 I thought that they did -- we got a lot of
17 information from them, in terms of their concerns. I
18 would be interested -- I just don't need anything more to
19 kind of deliberate upon. So I would be in favor of
20 reopening the record.

21 If we reopen the record then we have to allow
22 time for the Applicant or anyone to then respond to
23 anything that we allow into the record. The other thing,
24 the other item -- so that was Mr. Hulme, I believe, who
25 had one request. So I would be in favor of denying that.

1 And I would also be in favor of denying the motion to
2 again, open the record from Ms. Pendleton again for
3 similar reasons, in that I thought particularly even in
4 Ms. Pendleton's case, where we're going to have to kind of
5 figure out what we're going to do with video testimony in
6 the future. But I thought that she did a great job of at
7 least giving us what her concerns were. So I wasn't
8 interested in opening the record for either condition.
9 And I'll go around the table and let Ms. John, your
10 microphone is on. If you wouldn't mind starting with any
11 thoughts that you had?

12 MEMBER JOHN: With respect to the motion to
13 reopen?

14 BZA CHAIR HILL: Just, yes, just the motion to
15 reopen the record.

16 MEMBER JOHN: I agree with you on both motions.
17 I don't think I really need anything else to deliberate on
18 the case. It was a very formal hearing, and so I'm fine
19 with not reopening the record.

20 BZA CHAIR HILL: Mr. Hart?

21 VICE CHAIRPERSON HART: I would agree. I think
22 that, again, it was definitely enough information that we
23 have already received from Mr. Hulme, from Ms. Pendleton.
24 I think there was a kind of either-or; either we heard the
25 testimony, and she submitted some documents, pictures, and

1 stuff, or we saw the video that she or the live stream
2 that she had on the phone. And we had that. We already
3 got that, so getting it again doesn't seem like it's
4 helpful today. So I would not --

5 BZA CHAIR HILL: You turned your -- there you
6 go.

7 ZC CHAIR HOOD: I would just agree with all of
8 my colleagues.

9 BZA CHAIR HILL: All right. So we're going to
10 go ahead then and deny both motions in Exhibit 57 and 58
11 to reopen the record. In terms of deliberation, are we
12 all ready? I can start. Okay, because I've got my
13 paperwork out here.

14 So again, it was a long hearing, and I think
15 that I can understand why it was a long hearing because we
16 had a party status in opposition who was the immediate
17 next-door neighbor. I mean, I went back over the special
18 exception criteria in Subtitle B 5201 where a lot of the -
19 - the ones that we tend of focus on and that have a lot of
20 merit are the light and air and privacy use and enjoyment
21 issues and whether or not they are unduly compromised.

22 So that's one thought, on issue that I had
23 going through. And then the other special exception
24 criteria under U 253.10, also had to be gone through as
25 well as a general exception criteria X901.2.

1 And for me I guess, it was -- well, first of
2 all, we had the analysis provided by the Office of
3 Planning. The Office of Planning's analysis was in
4 support, and I actually would agree with their analysis.
5 I mean, I think that they did a good job, meaning the
6 Office of Planning, as to why and how this project meets
7 the criteria for which we can grant the application.

8 I also -- and I'm kind of going through just
9 some things I wanted to say, but then we also had the
10 report from DDOT that had no objection, as well as -- and
11 this had a lot to do with what I thought in terms of
12 whether the criteria was met -- that the ANC 3-C did vote
13 to approve this with conditions of at least a four-foot
14 side yard maintain and a landscape buffer featuring trees
15 planted and maintained by the Applicant to break up the
16 length of the addition and provide privacy.

17 I would be in support of those conditions
18 because again, light and air and privacy issues that we be
19 putting forward. The ANC put those forward, and the
20 Applicant agreed to those conditions.

21 At the end of the day, I'm going to vote to
22 approve. I believe he, the Applicant, did meet the
23 standards for which I can get behind this application.
24 The thing that I wanted to note in terms of the light and
25 air and privacy discussion was that that home already, the

1 way it is, whether it's the third story window or not, you
2 were able to look into the person's back yard and see
3 their swimming pool.

4 So it is going to -- you know, there wasn't a -
5 - it already had -- the home already has the ability to
6 look into other people's homes, and again, it being a
7 neighborhood urban environment, a lot of the windows look
8 into other people's back yards.

9 I think it was Ms. Pendleton who -- her back
10 yard is also having -- you know, you can look into her
11 back yard from the existing windows of the property now.
12 I completely understand why one would want to try and
13 prevent this from happening if your immediate next-door
14 neighbors are thinking that your light and air were going
15 to be effected or your privacy is going to be unduly
16 impacted; again, I don't believe it's unduly impacted.
17 Will it be impacted? Yes. Is it going to be unduly
18 impacted? I think that the Office of Planning's report,
19 as well as the analysis that the ANC provided in terms of
20 giving us great weight, shows that it's not unduly
21 impacted. At least I would also agree with their analysis
22 as well as the Applicant putting forward the information
23 to us as to how it's not unduly impacting the light and
24 air and privacy of the adjoining properties.

25 I guess one of the other things that weighed

1 in my internal deliberations and sketches was that the
2 Applicant had made -- I mean, they said numerous -- I
3 think it was 30-plus some-odd changes to their proposal to
4 try to adjust to the differing needs of the community.
5 And in addition to all of that, there was a petition in
6 support; however, there are letters in opposition, those
7 being in Exhibit 38, 39, and 41. And I am again
8 disappointed that it couldn't be a unanimous discussion
9 from the neighborhood.

10 But I do think that the Applicant has gone
11 through the process. I do think the Applicant has met
12 their burden of proof. I think that again, the great
13 weight that I'm giving ANC 3-C does mean a lot, and so I'm
14 going to be voting to approve.

15 May I go around the horn and start with you,
16 Mr. Hart?

17 VICE CHAIRPERSON HART: Sure. I always have to
18 get to the unmute button before I start or I'm looking
19 like I'm just talking and nobody can hear me.

20 So I appreciate your kind of walk through your
21 analysis for this. You know, this case had a lot of
22 interest. As you noted, the neighbor to the north was in
23 with the party of opposition. The adjacent neighbor to
24 the west was not a party, but was basing some testimony on
25 how their property would be affected; the light and air

1 and privacy of their property would be affected.

2 The ANC and OP reports are recommending that
3 BZA, the Board, support this application, 8PRB had worked
4 with the Applicant, and I think, Mr. Chairman, you talked
5 about the number of changes and things that have occurred
6 to the design, and a lot of that had happened through the
7 HPRB process, it sounded like, to refine and reduce the
8 scale and massing design over a number of months, and that
9 was described by the Applicant.

10 The twist in the application is that the party
11 opposed to the project is, as I noted, an adjacent
12 homeowner, and they thought that the project should
13 further scaled back and have less impact on their
14 property.

15 I will note that the setback to the rear of the
16 building is actually not a request from -- there is no
17 request for relief from the Applicant for that rear
18 setback, so the setback is actually within the zoning
19 regulations. That's what is allowed under the zoning
20 regulations.

21 These setbacks, the setbacks that the Applicant
22 was seeking relief from the side setbacks, partially
23 because the existing building was not conforming for the
24 side yards on both sides. So that kind of played into a
25 part of this project as well.

1 After reviewing the record, including the
2 testimony from the various homeowners pointing opposition
3 as well as the adjacent neighbor to the west, and reading
4 the letters of opposition and support, I believe that the
5 application will provide some impacts. But I think that
6 the impacts are minor, or that they are not unduly
7 impacting their neighbors.

8 We talk about this unduly all the time, and
9 kind of what does that mean? Well, it's one of these
10 that, you know, we have to look at these cases and try to
11 understand what that would be. Yes, there will be impacts
12 on light and air and privacy, but these, as you noted, Mr.
13 Chair, the existing building is able to see into the back
14 yards of the two adjacent neighbors.

15 So if you're already able to do that, and the
16 building -- and I'll say for the most part is within the
17 setback or rear yard, and it's trying to do some setback
18 on the side yard setback. I think it's a four-foot
19 setback that they were proposing.

20 They're already making that building smaller,
21 or at least trying to meet the zoning regulations as they
22 are. So there was a conversation and some testimony that
23 the party in opposition made about the character of this
24 building, the architectural character of this building
25 with regard to the rest of the street and how this was

1 going to be -- use this massive building that's going to
2 be sitting on top of this hill.

3 And while I understood that it would be a --
4 that the house may be larger than the houses that are next
5 to it. If you are looking at the -- and I have to -- what
6 area was he talking about in terms of the architectural
7 character? If you look at all of those, and I was using
8 street view as I was kind of talking to him -- to the
9 next-door neighbor, the party in opposition -- to
10 understand what that character was, there was a school
11 across the street, and then there are a variety of housing
12 sizes. Some are larger than what's proposed here; some
13 are smaller, and some are about the same size. So it
14 seemed like there was a variety of architectural styles
15 already going on. Maybe not in this particular block, but
16 if you're looking at the block, I think he said one or two
17 blocks to the south and several blocks to the north. But
18 this kind of vicinity, it seemed like this was in keeping
19 with it. It wasn't really outside of that.

20 So while I understood the point that he was
21 trying to make, Mr. Hulme was trying to make, I just felt
22 that there was -- there were different types of
23 architectural styles that were being discussed or that
24 were already in the immediate vicinity.

25 I didn't have a whole lot more beyond that to

1 add. I would agree with you that the Office of Planning
2 report, I do agree with that report. The ANC, they
3 weighed in as well, and they weighed in I support of the
4 application as well. So I would also agree with that.

5 But I know that the Applicant will have to have
6 some conversations, continued conversations with the next-
7 door neighbors as they kind of move forward because to try
8 to see if there are some concerns that they have that they
9 can have some sort of agreement around.

10 It may be difficult just because of the hard
11 relationship that they have now somewhat of an adversarial
12 relationship. So I wish them well, but I would also be in
13 support of the application. That's it.

14 BZA CHAIR HILL: Ms. John?

15 MEMBER JOHN: So I would just add a few
16 thoughts. I agree with everything that's been said. I'll
17 just add a couple of thoughts of my own.

18 So this is a special exception request for an
19 addition, a new accessory apartment. And the Applicant
20 seeks side yard relief from the five-foot requirement in
21 order to provide a four-foot setback on the western side
22 and no setback on the eastern side, which is on 4th Street
23 side of the building.

24 The Applicant is also seeking relief from the
25 50 percent pervious surface requirement. Currently it's

1 40.2 percent, and the Applicant would increase that to
2 44.1 percent, resulting in a need for six percent relief.

3 The Applicant is also seeking a way to locate
4 the entrance to the accessory apartment and the wall
5 facing the street.

6 Because these are two requests for relief,
7 they're not as significant as the other issues, the side
8 yard relief. I will not address them because I believe
9 the Office of Planning report has discussed those two
10 issues thoroughly, and I don't really have much to add to
11 that.

12 As you all said, this was a very full record.
13 The Applicant testified that he worked extensively with
14 the ANC and HPRE to design an addition that would address
15 neighborhood concerns. The ANC supports the application
16 and the Applicant has agreed to meet the ANC conditions,
17 which is to maintain the four-foot side yard and to plant
18 trees along, I believe it's the side with Ms. Pendleton as
19 a buffer.

20 The testimony at the hearing by Mr. Hulme and
21 Ms. Pendleton focused primarily on the adverse impacts to
22 neighboring property; loss of light and air, and privacy.
23 Other neighbors had concerns regarding the height, the
24 size of the addition, and potential adverse impacts on the
25 safety of children at the John Eaton School across the

1 street. These issues are described in Exhibits 38, 39,
2 and 41.

3 Mr. Hulme suggests that conditions for the
4 Applicant to meet at Exhibit 47 and proposes that the
5 Applicant reduce the additions to 50 percent of proposed
6 depth, maintain the setback from the house on 34th Street,
7 not the porch.

8 And then remove the attic from the third floor.
9 On the first floor, maintain a five-foot setback instead
10 of four feet on the western side next to Ms. Pendleton.
11 And Ms. Pendleton's were similar to Mr. Hulmes.

12 And her concerns are reflected in Exhibit 49.
13 On Ms. Pendleton's side the side yard relief would be
14 limited to one foot, which she states is -- I can't
15 remember the exact word, but it was significant to her.
16 However, what the Board looks at is how that one foot
17 would affect her in terms of light and air or privacy.

18 And so considering that the existing condition
19 is that her property is already surrounded on two sides by
20 the Applicant's lot, I don't believe that that one foot
21 difference in the side yard would create a substantial
22 adverse impact.

23 Additionally, Ms. Pendleton also has large bare
24 yards facing the pool -- I'm sorry has a large rear yard
25 facing the pool, and also a large side yard on the lower

1 side next to the Applicant's house, and that side yard
2 also provides light and air to her property.

3 I'd also note that the pool is an existing
4 condition, and the Applicant is not try to increase the
5 size of the pool. So any impact, there's no new impact
6 caused by the pool.

7 Mr. Hulme's property is separated from the
8 Applicant's by a driveway and pool which provides light
9 and air to this property. So that separation creates
10 enough light and air for Mr. Hulme.

11 Under the applicable regulations, the Board
12 must ordinarily grant relief where the criteria for
13 special exception is met, and these permits are less
14 stringent compared to what is required for a waiver. In
15 this case, there is significant opposition to the height
16 and depth of the addition; however, the Applicant meets
17 all of the development standards except for the side yard
18 relief and the two other areas that I mentioned.

19 On one side the addition continues an existing,
20 non-conforming side yard on the lot line, and on the other
21 side the relief start is one foot. The height of the
22 structure is unchanged. The rear yard and lot occupancy
23 are all allowed by the regulations.

24 The Applicant provided slides of Exhibit 4682
25 to rebut both neighbor's pains and loss of privacy by

1 showing the existing views into their yards.

2 I'm also persuaded by the fact that HPRB
3 approved of the project, and it is not inconsistent for
4 the type of scale and pattern of houses in the
5 neighborhood. I agree with Mr. Hart that there is a
6 variety of styles and houses and also note that the house
7 on 34th Street to the south appear to have about the same
8 amount of setback from 34th Street, although Mr. Hulmes'
9 house appears to be set farther back.

10 DDOT does not object to the application, and it
11 notes that the Applicant must comply with public space
12 requirements. OP's analysis was very thorough and
13 describes how the Applicant meets the criteria for relief,
14 and I would give great weight to both these analyses, as
15 well as ANC's approval of the application or support of
16 the application. I note that that the Applicant agrees
17 with the ANC's condition.

18 And so, based on the record and the testimony
19 at the hearing, I can support this application.

20 BZA CHAIR HILL: Thank you, Ms. John. Chairman
21 Hood?

22 ZC CHAIR HOOD: Mr. Chairman, I'll be brief. I
23 also think you all have covered it very well. Board Member
24 John and Hart and yourself covered it very well. I will
25 say that when I looked at the case, I looked at the

1 opposition and worked my way back. I looked at the
2 tabulations on the -- the peek-a-boo; I looked at all of
3 that. And to me, when I looked at the tabulation sheet
4 which is very well done, and I'll explain it to you all,
5 and worked my way back.

6 The impacts will be -- and I think a couple of
7 those in opposition asked that they scale back. Even with
8 the scale back, there will be impacts, and what's being
9 presented and what's being posed to us today, I think even
10 as it is, there are impacts, but I think those impacts
11 have been mitigated, and it goes to what the Vice Chair
12 said, they can continue to discuss things so it can be
13 conducive and work for everyone.

14 I know the opposition is not going to be happy,
15 but I think, looking at the merits and looking at the
16 tabulation sheet, I think this record warrants our
17 approval, especially with things that (telephonic
18 interference) I just could not see a way of turning this
19 down, because again, I looked at the opposition, I worked
20 my way back. I look at the tabulations, and there's
21 really not a whole lot. Yes, there's going to be impacts,
22 I understand that. But they're going to be just a few
23 different impacts of what you're used to. And I think
24 this record warrants our approval.

25 And even more than that for me, knowing this

1 ANC and especially the Chair of the ANC, and I mentioned
2 this at the hearing. I don't fall short knowing how to
3 operate, especially when it comes to zoning issues. So
4 I'm going to be supportive of this. I think this record
5 is complete, and it warrants our approval. Thank you, Mr.
6 Chair.

7 BZA CHAIR HILL: Thank you, Chair Hood. Just
8 fine with that, I guess, you know, again, this is a
9 special exception. It's not a variance, and what we're
10 charged to do is, if they meet the criteria and we believe
11 they meet the criteria, then we're supposed to approve it
12 because it's within the zoning regulations as Vice Chair
13 Hart properly mentions.

14 Then I'll finally mention that I did think that
15 Mr. Hulme and Ms. Pendleton both did a good job of
16 presenting their information to us. I really do
17 appreciate their time and the amount of time it took to
18 get ready for the case. I do empathize with them and hope
19 that they can slowly move forward with their neighborhood
20 there.

21 So that being the case, I'll go ahead and make
22 a motion to approve Application No. 20205 as captioned and
23 read by the Secretary and ask for a second, Ms. John.

24 MEMBER JOHN: Second.

25 BZA CHAIR HILL: Motion made and seconded. Mr.

1 Moy, could you please take a roll call vote?

2 MR. MOY: Thank you, Mr. Chairman. When I call
3 your names, if you would please respond with a yes, no, or
4 abstain to the motion of Chairman Hill to approve the
5 Application for the relief being requested. Second the
6 motion is Ms. John and -- yes, so Zoning Commission Chair
7 Anthony Hood?

8 ZC CHAIR HOOD: Yes.

9 MR. MOY: Vice Chair Hart?

10 VICE CHAIRPERSON HART: Yes.

11 MR. MOY: Ms. John?

12 MEMBER JOHN: Yes.

13 MR. MOY: Chairman Hill?

14 BZA CHAIR HILL: Yes.

15 MR. MOY: We have a board seat vacant. Staff
16 would record the vote as four to zero to one on the motion
17 of Chairman Hill, second by Ms. John. Also in support
18 Vice Chair Hart and Zoning Commission Chair Hood. Also in
19 support of course, Ms. John and Chairman Hill. Motion
20 carries, sir.

21 BZA CHAIR HILL: Okay great. Thank you, Mr.
22 Moy. I believe Mr. Moy we still have one more thing to
23 do, when you get a chance, in terms of our closed
24 meetings?

25 MR. MOY: Yes. Thank you, Mr. Chairman. If I

1 can ask the patience of the Board for another 15 or 20
2 seconds. I'm required to publish in the D.C. Register the
3 list of dates for notice of closed meetings for BZA, and
4 I've prepared those dates starting with Monday, August 3rd
5 through Monday, December 21st. So those are the dates
6 that I need the Board vote.

7 BZA CHAIR HILL: Okay. And are we doing those
8 at two o'clock now, Mr. Moy?

9 MR. MOY: Yes, sir.

10 BZA CHAIR HILL: Okay. So I'm going to go
11 ahead and make a motion to have a closed meeting for the
12 purpose of seeking legal counsel from our legal counsel,
13 but not deliberate upon, but just seek legal counsel on
14 those dates that Mr. Moy had suggested at 2:00 o'clock and
15 ask for a second, Ms. John.

16 MEMBER JOHN: Second.

17 BZA CHAIR HILL: The motion as been made and
18 seconded. Mr. Moy if you could take a roll call vote?

19 MR. MOY: Thank you. If you would please
20 respond with a yes, no, or abstain. Zoning Commission
21 Chair Anthony Hood?

22 ZC CHAIR HOOD: Yes.

23 MR. MOY: Vice Chair Hart?

24 VICE CHAIRPERSON HART: Yes.

25 MR. MOY: Ms. John?

1 MEMBER JOHN: Yes.

2 MR. MOY: Chairman Hill?

3 BZA CHAIR HILL: Yes.

4 MR. MOY: We have a board seat vacant. Staff
5 would record the vote as four to zero to one.

6 BZA CHAIR HILL: Okay, great. Mr. Moy, is that
7 all that's for today?

8 MR. MOY: That's all for today from the staff,
9 and I wish you all a happy Fourth.

10 BZA CHAIR HILL: Thank you very much, everybody
11 have a happy Fourth of July as well, I forgot.

12 VICE CHAIRPERSON HART: Yes, happy Fourth.

13 (Whereupon, the above-entitled matter went off
14 the record at 5:52 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 Meeting

Before: DCBZA

Date: 07-01-20

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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