

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JANUARY 27, 2021

+ + + + +

The Regular Public Hearing of District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 10:06 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA JOHN, Vice-Chair
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Commissioner
MICHAEL G. TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
BRANDICE ELLIOTT
ANNE FOTHERGILL

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

MATT JESICK
STEPHEN MORDFIN
CRYSTAL MYERS
KAREN THOMAS
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JOHN RICE, Esquire
ALEXANDRA CAIN, Esquire

The transcript constitutes the minutes from the
Regular Public Hearing held on January 27, 2021.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 20362 - Application of Lollar & Lollar
 (Rescheduled to March 3, 2021) 7

Case No. 20348 - Application of 51 Friendship Development
 Partners, LLC (Rescheduled to March 24, 2021) 7

Case No. 20360 - Application of 555 E Street, S.W., LLC
 (Withdrawn) 7

Case No. 20315 - Application of Scott Cooper
 (Withdrawn) 7

Case No. 20282 - Application of Spectrum Builders
 Group, LLC 8

Case No. 20352 - Application of 426 Manor Place, LLC. 37

Case No. 20355 - Application of T-Mobile, N.E., LLC 89

Case No. 20359 - Application of West Virginia, LLC
 (Rescheduled to March 10, 2021) 97

Case No. 20361 - Application of G3, LLC
 (Rescheduled to March 17, 2021) 129

Case No. 20363 - Application of Peter and Karen Byrne. 139

Case No. 20365 - Application of Kari McCarron and Jesse
 Leifert 154

Case No. 20366 - Application of Colleen A. Slattery, Trustee
 164

Case No. 20307 - Eckington Court, LLC
 (Continued to March 24, 2021) 173

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

2 (10:06 a.m.)

3 CHAIRPERSON HILL: The hearing will please come to
4 order.

5 Good morning, ladies and gentlemen. We are convened and
6 broadcasting this public hearing by videoconference. This is the
7 January 27th, 2021, public hearing of the Board of Zoning
8 Adjustment of the District of Columbia. My name is Fred Hill,
9 Chairperson. Joining me today is Lorna John, Vice-Chair;
10 Chrishaun Smith, Board Member; and representing the Zoning
11 Commission will be Anthony Hood, Chairman Hood. However, also
12 Commissioner Turnbull is with us for one case.

13 Today's hearing agenda is available to you on the Office
14 of Zoning's website. Please be advised that this proceeding is
15 being recorded by a court reporter and is also webcast live via
16 Webex and YouTube Live.

17 The webcast video will be available on the Office of
18 Zoning's website after today's hearing. Accordingly, everyone who
19 is listening on Webex or by telephone will be muted during the
20 hearing, and only persons who have signed up to participate or to
21 testify will be un-muted at the appropriate time.

22 Please state your name and home address before providing
23 oral testimony on your presentation. Oral presentations should be
24 limited to a summary of your most important points. When you're
25 finished speaking, please mute your audio so that your microphone

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

1 is no longer picking up sound or background noise.

2 If you're experiencing difficulty accessing Webex or
3 with your telephone, please call our OZ hotline number, or if
4 you've forgotten to sign up 24 hours prior to the hearing at 202-
5 727-5471. Once again, 202-727-5471 to receive Webex login or
6 call-in instructions. All persons planning to testify either in
7 favor or in opposition should have signed up in advance. They
8 will be called by name to testify. If this is an appeal, only
9 parties are allowed to testify. By signing up to testify, all
10 participants completed the oath or affirmation as required by
11 Subtitle Y 408.7.

12 Requests to enter evidence at the time of an online
13 virtual hearing such as written testimony or additional supporting
14 documents other than live video, which may not be presented as
15 part of the testimony, may be allowed pursuant to Subtitle Y
16 103.13, provided that the person making the request to enter an
17 exhibit explains how the proposed exhibit is relevant, the good
18 cause that justifies allowing the exhibit into the record,
19 including an explanation as to why the requester did not file the
20 exhibit prior to the hearing pursuant to Y 206, and how the
21 proposed exhibit would not unreasonably prejudice any party.

22 The order of procedures for special exceptions and
23 variances are in Subtitle Y 409. The order of appeals is in Y
24 507.

25 At the conclusion of each case, an individual who is

1 unable to testify because of technical issues may file a request
2 for leave to file a written version of the planned testimony to
3 the record within 24 hours following the conclusion of public
4 testimony in the hearing.

5 If additional written testimony is accepted, then
6 parties will be allowed a reasonable time to respond as determined
7 by the Board. The Board will then make its decision at its next
8 meeting, but no earlier than 48 hours after the hearing.

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

14 The Board's agenda may include previous cases set for
15 decision. After the Board adjourns the hearing, the Office of
16 Zoning, in consultation with myself, will determine whether a full
17 or summary order may be issued. A full order is required when the
18 decision it contains is adverse to a party, including an affected
19 ANC. A full order may also be needed if the Board's decision
20 differs from the Office of Planning's recommendation. Although
21 the Board favors the use of summary orders whenever possible, an
22 applicant may not request the Board to issue such an order.

23 The District of Columbia Administrative Procedures Act
24 requires that the public hearing on each case be held in the open
25 before the public. However, pursuant to Section 405(b) and 406 of

1 the Act, the Board may, consistent with its Rules of Procedures
2 and the Act, enter into a closed meeting on a case for purposes of
3 seeking legal counsel on a case pursuant to D.C. Official Code
4 Section 2-575(b)4, and/or deliberate on a case pursuant to D.C.
5 Official Code Section 2-575(b)13, but only after providing the
6 necessary public notice and, in the case of an emergency closed
7 meeting after taking a roll call vote.

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

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

15 MR. MOY: We do. And again, I would suggest that I call
16 those preliminary matters when I call the specific case. Mr.
17 Chairman, other than that, I would want to announce the status of
18 cases on today's docket that will not be heard today. Case
19 Application No. 20362 of Lollar and Lollar, L-O-L-L-A-R, has been
20 postponed, and rescheduled to March 3rd, 2021.

21 Application No. 20348 of 51 Friendship Development
22 Partners, LLC, postponed and rescheduled to March 24th, 2021.

23 And we had two applications that were withdrawn by the
24 applicant and those are Application Nos. 20360 of 555 E Street,
25 S.W., LLC, and Application No. 20315 of Scott Cooper. That's it,

1 Mr. Chairman.

2 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. Could you go
3 ahead and call the case that Commissioner Turnbull is with us on?

4 Good morning, Commissioner Turnbull.

5 COMMISSIONER TURNBULL: Good morning.

6 MR. MOY: All right. So this would be Case Application
7 No. 20282 of Spectrum Builders Group, LLC. This application was
8 amended for special exceptions under the residential conversion
9 requirement, Subtitle U, Section 320.2; under Subtitle E, Section
10 206.4 from the architectural rooftop elements requirement;
11 Subtitle E, Section 206.1; under Subtitle E, Section 5201 from the
12 side yard requirements of Subtitle E, Section 207.3. This would
13 convert an existing semi-detached principal dwelling unit into a
14 three-unit apartment house in the RF-1 Zone at premises 1638
15 Trinidad Avenue, Northeast, Square 4055, Lot 53. As the Board is
16 aware, there's -- this was last heard by the Board on December the
17 16th.

18 CHAIRPERSON HILL: All right. Great. Thank you, Mr.
19 Moy.

20 Mr. Cross, can you hear me?

21 MR. CROSS: I can. Thank you.

22 CHAIRPERSON HILL: Could you please introduce yourself
23 for the record?

24 MR. CROSS: Sure. My name is Michael Cross, architect.
25 I'm joined by Emily Bacher, project architect.

1 CHAIRPERSON HILL: Okay. And who else is here with you?
2 There's a Mr. Craddock?

3 MR. CROSS: That's correct. Mr. Craddock is one of the
4 owners with Spectrum Builders.

5 CHAIRPERSON HILL: Okay. Great. All right, Mr. Cross.
6 Mr. Cross, you look like you're like in an interrogation room.

7 MR. CROSS: Yeah, I apologize. My office doesn't
8 provide for a great background.

9 CHAIRPERSON HILL: All right. Okay. Let's see. Can
10 you tell us, Mr. Cross, what happened since the last time you were
11 with us?

12 MR. CROSS: Certainly, yes. So this case was originally
13 heard on December 15th and at the conclusion of that hearing it
14 was suggested that we return to the ANC in hopes of receiving
15 their support. The discussion continued with the ANC and the
16 adjacent property owner immediately following that BZA case.
17 Subsequently, the ANC withdrew their opposition on December 31st
18 in Exhibit 53.

19 The timing of that is due to the commissioner who had
20 been working with us and the adjacent neighbor on this since the
21 summer. Her term was expiring at the end of the year. So that
22 letter was submitted on the 31st, and we subsequently met with the
23 ANC and its new commissioners formally on January 12th where they
24 voted to support this application with a vote of 6 to 0 to 1 with
25 the abstaining member having a professional conflict with all

1 zoning cases.

2 And we point you to Exhibits 55 for the drawings that
3 were approved in that January ANC meeting as well as 53 and 53A
4 with the withdrawal opposition from the ANC and the adjacent
5 neighbor.

6 CHAIRPERSON HILL: Got it. Mr. Cross, I remember, you
7 know, your testimony, and the case, and your argument as to, you
8 know, how you're meeting the standards. I'm know that -- I'm
9 looking at your drawings and you guys moved that window and then
10 you -- and then you're now showing the fence even though --

11 MR. CROSS: Right.

12 CHAIRPERSON HILL: -- I think the fence was already
13 going to be there; but is that correct?

14 MR. CROSS: I believe that largely represents all the
15 changes that were made in working with -- continuing to work with
16 the adjacent neighbor.

17 CHAIRPERSON HILL: Right. The adjacent neighbor was
18 concerned about the window and the work that they did concerning,
19 I think, cars or something like that? Right. Okay.

20 MR. CROSS: Correct. He uses a portion of that side
21 yard.

22 CHAIRPERSON HILL: Okay. Does the Board have any
23 questions for the applicant? I'm going to start with you first,
24 Commissioner Turnbull.

25 COMMISSIONER TURNBULL: Yeah. I just got maybe one,

1 maybe two. This case has gone on for quite a while. It's changed
2 quite a bit from when we first saw it where the applicant was
3 asking for a fight for easement on the neighbor's property, so
4 quite a stark change from -- and it just -- which goes to the
5 whole idea that talking with the neighbors and resolving conflicts
6 is the best way to go about doing this.

7 The only thing I had, one of the items I think that's
8 requested is the mechanical equipment is now going to be in the
9 rear yard in the middle of the yard. I think it's shown on the
10 little site plan where it is. There's a certain dimension. I
11 forget. Fifteen feet from one yard or something. I'm not sure.
12 You can correct me, but I think it's almost centered in the rear
13 yard.

14 Now, do you have to -- are you going to screen that
15 mechanical equipment, or do you need to, or is it just going to be
16 out in the open, or what are -- what's it going to look like?

17 MS. BACHER: We don't have anything specifically
18 proposed at the moment, but it would be screened.

19 COMMISSIONER TURNBULL: It would be screened?

20 MS. BACHER: We don't have a specific design proposed at
21 the moment for that screening, but they -- because of the
22 location, for the benefit of everybody, the neighbors and the
23 owners of that property, they would -- the two units that are on
24 the ground would be screened.

25 COMMISSIONER TURNBULL: Okay. So you're proffering to

1 do that, so that could be in the order then, that it would be
2 screened? Okay. The only other thing that I find -- what I
3 haven't been able to really determine on your plans in either a
4 section or an elevation, you say that the maximum height -- the
5 height of the house is 35 feet, but I don't really -- I see some
6 dimensions given where at the rear of the house where it talks
7 about 31.3 to the roof deck and then to the parapet it's 33.9 and
8 then -- but what is actually the height of the building? I don't
9 really see that anywhere. To the roof. The highest point of the
10 roof. And since it's -- it's not a flat roof totally. It's kind
11 of a sloping roof, so you've got to go to the midpoint to make
12 your measurements. I'm just curious, and Ms. Vitale can correct
13 me on that if I'm wrong, but -- so what actually is the height?
14 You're saying 45 feet, but I'm -- is it really 35 feet?

15 MS. BACHER: I would have to pull up the drawings real
16 quick --

17 COMMISSIONER TURNBULL: Okay.

18 MS. BACHER: -- to review.

19 COMMISSIONER TURNBULL: I mean, it's only a point of
20 clarification for myself. I think you, in meeting with the
21 neighbors, you've done your -- you've been able -- I think you've
22 gone a long way in meeting the neighbor's concerns. I think
23 moving the window, the fence, the mechanical equipment. I really
24 don't have an issue with the architectural embellishment now. I
25 mean, I think in concept it matches in similar scale and size, the

1 effect of the addition, the architectural embellishment, the
2 dormer-like off -- next door. So I'm not really -- don't have
3 concern about that. I'm just -- just clarification on the actual
4 height of the building. The height of the house.

5 MR. CROSS: I was able to pull up the permit drawings
6 most quickly and I'm seeing that it is measured from the building
7 height measurement point in the front of the building which is
8 center of front facade at the original grade, it looks like, the
9 natural grade, up to the top of roof structure. I think we're
10 suggesting this is a flat roof. It's a low slope roof and so
11 we're measuring it to top of roof structure. And because we set
12 that structure, we have it set at exactly 35'0" in this set of
13 drawings I'm looking at.

14 COMMISSIONER TURNBULL: Okay. All right. Well, I don't
15 know if we really need to see a drawing or not. It would have
16 been good for you to actually submit that for us to have that on
17 the plans for the -- for us to look at to confirm it, but I don't
18 know if the Board wants to -- is concerned about that or not. But
19 if you're stating for the record, being on the record, that it is
20 35 feet, that may be -- that may suit the rest of the Board, so
21 I'll let it go with that image here. Those are my only concerns.

22 CHAIRPERSON HILL: Okay.

23 Mr. Smith, do you have any questions?

24 BOARD MEMBER SMITH: No. Actually, Mr. Turnbull's last
25 question was my question. I wanted to clarify the height.

1 CHAIRPERSON HILL: Well, we can ask the Office of
2 Planning. We can ask the Office of Planning also when we get to
3 them.

4 Vice Chair John?

5 VICE CHAIR JOHN: Thank you, Mr. Chairman. So I was
6 just looking at the Exhibit 55 with the south elevation and
7 there's no mention of a 35-foot height there. It seems to be
8 including the parapet, it's 33.9 inches. I don't know if I'm
9 reading that correctly, but it's Exhibit 55 and the number of the
10 slide is -- oh, Slide 8 and 9.

11 CHAIRPERSON HILL: Okay. Let me -- I'll check with the
12 Office of Planning here real quick as well.

13 COMMISSIONER TURNBULL: Yes, I would -- Mr. Chair, I
14 would agree with Ms. John. The only dimensions that show are on
15 the rear elevation and they really don't relate to what Mr. Cross
16 is talking about from the measuring point in the front to the
17 point where you would actually measure the roof. This is not from
18 the rear which is at a different elevation. And so --

19 MS. BACHER: Yeah.

20 COMMISSIONER TURNBULL: -- it's a little confusing to
21 look at it that way.

22 MS. BACHER: Sorry. I just wanted to chime in and say
23 that the site is sloped up toward the rear, so the grade is higher
24 at the rear of the property than it is at the front of the
25 property. So at the rear, it's measured -- the top of the parapet

1 is measured at 33 feet above the grade at the rear, but the
2 overall height of the building as is specified in the Zoning Code
3 measured at the building height measuring point, at the front
4 center, is 35 feet.

5 COMMISSIONER TURNBULL: And it has --

6 MS. BACHER: Which is within what is allowed by the
7 standard, by the Code for this, so.

8 MR. CROSS: Yeah. I think that your point is duly
9 noted. I have the drawings up. It does not seem like we have
10 labeled that in the clearest manner, and we'll be sure to do that
11 in the future. I think that the issue here is we're not seeking
12 relief for the height in this application so it's not our intent
13 to exceed the matter-of-right allowed and we would be ensuring
14 that we get that height correct in the building permit, I guess.

15 VICE CHAIR JOHN: So, Mr. Cross, our position has always
16 been that what we -- that the -- that you're bound to build the
17 way it's represented in the record. But I guess in this case, you
18 would be assuming the risk. Is this self-certified?

19 MR. CROSS: It is self-certified, and we do believe that
20 the roof is set at 35 feet from the building height measuring
21 point. We just don't have that labeled in the BZA set here.

22 VICE CHAIR JOHN: Yeah. So, I mean, this A08, when I
23 looked at this yesterday, I assumed that, you know, the height was
24 32.9 inches or, you know, as represented in that elevation which
25 is the front of the building not the rear. Anyway, I guess I

1 won't belabor the point. They have really made it so far, so I'm
2 prepared to move on with that caveat. I don't know if Mr. Rice
3 thinks we need to add something to the order that mentions that we
4 take no position on the height.

5 MR. RICE: You can incorporate that into any order,
6 ma'am.

7 VICE CHAIR JOHN: Thank you.

8 CHAIRPERSON HILL: Okay. Ms. Vitale, are you there?

9 MS. VITALE: Good morning, Mr. Chair and members of the
10 Board. Elisa Vitale with the Office of Planning.

11 CHAIRPERSON HILL: Could you just give us -- well, first
12 of all, your report. I guess I know you already gave it once
13 before, but if you can just kind of give us your thoughts and then
14 also if you can provide any kind of clarification on the height.

15 MS. VITALE: Well, yes. The Office of Planning is
16 recommending approval of the requested relief. We, you know,
17 continue to recommend approval and would note that the applicant
18 has revised the plans and the adjoining property owner, and the
19 ANC are now in support.

20 With respect to building height, as stated, the
21 applicant did not request relief for building height. It is a
22 self-certified application. The applicant asserts that they're
23 within the permitted height and number of stories as outlined in
24 the Zoning Regulations. Subtitle B, Section 308 describes height
25 measurement for residential buildings in the RF zone. So I

1 actually would just leave it at that. That concludes my report.
2 I'm happy to answer any questions that you might have.

3 CHAIRPERSON HILL: Okay. I mean, as far -- I mean, my
4 fellow Board members, I'm happy to do whatever it is, but, I mean,
5 I don't even need to issue a -- I don't even think we need to talk
6 about it in the order, in that this is, you know, this is on them.
7 Right? And so if there's a problem, it'll come back up later, but
8 I do think that, I mean, Mr. Cross comes before us often. So, you
9 know, if you could, in the future, make sure that you clarify the
10 height in a way that is easier to understand, that would be
11 helpful.

12 But other than that -- and then I guess in terms of the
13 -- even the conditions, I guess, that -- it's not even necessarily
14 -- like, we got an email from the ANC. So I don't even really
15 know if we -- I don't know if there is anything we're necessarily
16 able to give great weight towards. However, I think that the
17 conditions are all not conditions. They're just kind of things
18 that they already kind of agreed to, so there's nothing that I
19 would necessarily be adding to the order, but I'm happy to add
20 anything to an order anyone wants to add.

21 So first I'm going to go around the table and see if
22 anyone has any questions for the Office of Planning.

23 Commissioner Turnbull?

24 COMMISSIONER TURNBULL: No, I'm fine.

25 CHAIRPERSON HILL: All right.

1 Mr. Smith?

2 BOARD MEMBER SMITH: Same.

3 CHAIRPERSON HILL: Ms. John?

4 VICE CHAIR JOHN: No, I have nothing further.

5 CHAIRPERSON HILL: Okay. Mr. Cross, do you have any
6 questions for the Office of Planning?

7 MR. CROSS: We do not.

8 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
9 here wishing to testify?

10 MR. YOUNG: There is not.

11 CHAIRPERSON HILL: Okay. All right.

12 Does anybody have any final questions for the applicant?
13 Okay. I don't see anyone raising their hand. Mr. Cross, do you
14 have anything you want to add at the end?

15 MR. CROSS: No. I appreciate your time and we'll be
16 sure to label the height in the future.

17 CHAIRPERSON HILL: Okay. Well, I hope they free you
18 from your little room one day there and you get, you know -- all
19 right. I'm going to --

20 COMMISSIONER TURNBULL: Get an architect to help you
21 design it though.

22 CHAIRPERSON HILL: I know. My God, really, you look
23 like you're frickin' -- like, the lawyer is right next to you and
24 the police are like grilling you right now, so.

25 MR. CROSS: We expanded our office, and I got the desk

1 no one else wanted. So I guess this is my burden.

2 COMMISSIONER TURNBULL: A noble gesture.

3 CHAIRPERSON HILL: All right. I'm going to go ahead and
4 close the record and the hearing.

5 Mr. Young, if you could please excuse everyone from the
6 room.

7 Okay. Since I've been talking a lot, Commissioner
8 Turnbull, would you mind starting us off?

9 COMMISSIONER TURNBULL: Yes, I would be glad to. I
10 think this case has come a long way. I think as I said in the
11 beginning, we started off with this case where the applicant
12 wanted a 5-foot easement on the adjacent neighbor's property and
13 he was building right up to the lot line and was really an
14 imposing -- it would have been a great effect, a great impact on
15 the neighbor. You have to (audio interference) to try to work out
16 a 5-foot easement.

17 So I think the applicant has met the burden of -- that
18 we've always asked them; to meet with the neighbors, resolve the
19 problems that they've got, and come up with a solution that's
20 acceptable to everyone. And so I think that they worked with the
21 ANC. I think the fence, moving the window and understanding the
22 nature of the next-door neighbor's business and what he does, I
23 think he went a long way to do that. So I have -- I'm real ready
24 to vote in favor of the application.

25 The only thing is, I think because there was so much

1 talk about the windows, and the fence, and the privacy, and the
2 HVAC being relocated to where it is, I almost think that we -- it
3 ought to be mentioned somewhere in the order just to say that
4 these are the serious issues that were covered and addressed, and
5 the applicant has met the burden of proof of trying to live with
6 his neighbors. So my only feeling is to add something on those
7 elements just so that they're covered. That's it for me.

8 CHAIRPERSON HILL: Okay. Mr. Rice, did you hear all
9 that?

10 MR. RICE: Yes, sir. And for the record, we can just
11 put "noted in the order." It doesn't change the order status, or
12 the summary order, or full, or advanced. It's not, you know,
13 anything substantial. It's just a note as to what the
14 application's representations were made at the hearing.

15 CHAIRPERSON HILL: And then when you -- and now I'm just
16 going to further clarify. I mean, the thing that Mr. Turnbull was
17 talking about is like the screening for the HVAC, right?

18 MR. RICE: Uh-huh.

19 CHAIRPERSON HILL: Like, that was something that I think
20 Mr. -- Commissioner Turnbull mentioned, that it wasn't -- I mean,
21 they said they were going to do it, but they didn't have -- we
22 don't have anything that shows that. So that's what would be
23 mentioned in the order.

24 Correct, Mr. Rice?

25 MR. RICE: Yes.

1 CHAIRPERSON HILL: Okay.

2 MR. RICE: We can come back to that and we can specify
3 it in detail if you guys want or we can just note that they said
4 it would occur.

5 CHAIRPERSON HILL: I'm fine with noting it would occur
6 unless Commissioner Turnbull has another issue and he's nodding
7 yes, so this is okay.

8 Mr. Smith?

9 BOARD MEMBER SMITH: I agree with Mr. Turnbull. This
10 has been a (audio interference) and substantial change from the
11 previous application especially in light of the last application.
12 We had opposition from the neighbor because of the business and
13 the window, and I believe, again, opposition from the ANC because
14 of the (audio interference). So this is what we like to see. We
15 like to see our applicants go back and have a deliberate
16 conversation with the parties in opposition so then we can get to
17 a position where the parties are largely -- the opposition is
18 largely evaporated because they decided to listen to their
19 neighbor.

20 So considering the changes that the applicant has made
21 and meaningful (audio interference) of the report, I did give
22 great weight to the supplemental report and I do believe that the
23 applicant has demonstrated, you know, it does meet the criteria
24 for us to grant this special exception, so I would be in support
25 of this application.

1 CHAIRPERSON HILL: Vice Chair John?

2 VICE CHAIR JOHN: I don't have anything to add. I
3 believe the application, based on all of the changes since it was
4 originally proposed, meets the requirement for relief and I agree
5 with OP's analysis, and I'm pleased that with the changes the ANC
6 is no longer in opposition. So I can support the application.

7 CHAIRPERSON HILL: Okay. All right. I don't have
8 anything to add. I agree with everything that my colleagues have
9 said.

10 I'm going to make a motion to approve Application No.
11 20282 as captioned and read by the Secretary and ask for a second.
12 Ms. John?

13 VICE CHAIR JOHN: Second.

14 CHAIRPERSON HILL: Mr. Moy, the motion has been made and
15 seconded. Could you please take a roll call vote?

16 MR. MOY: Sorry, Mr. Chair. I've lost my prompter.

17 CHAIRPERSON HILL: That's okay.

18 MR. MOY: So when I call your name, if you would please
19 respond with a yes, no, or abstain to the motion made by Chairman
20 Hill to approve the application for the relief requested. The
21 motion was seconded by Vice Chair John. Zoning Commissioner,
22 Michael Turnbull?

23 COMMISSIONER TURNBULL: Yes.

24 MR. MOY: Mr. Smith?

25 BOARD MEMBER SMITH: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: We have a Board seat vacant. Staff would
6 record the vote as 4 to 0 to 1 and this is on the motion of
7 Chairman Hill to approve, motion seconded by Vice Chair John.
8 Also in support of the motion, Mr. Smith and Zoning Commissioner
9 Michael Turnbull. Again, the motion carries 4 to 0 to 1.

10 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy.

11 All right. Commissioner Turnbull, I guess that's it for
12 you. You have a good day.

13 COMMISSIONER TURNBULL: Yes, you too. You folks enjoy
14 and stay dry. I don't think it's raining now, but it was. All
15 right. Take care.

16 CHAIRPERSON HILL: Okay. Bye-bye.

17 All right. So let's get Chairman Hood back in here.

18 Okay. So what I propose is that on 20329 and 20353 we
19 go ahead and let the items into the record. We can take a look at
20 20329 and 20353 at a break now and then come back and decide what
21 we want to do. Does that work for everybody? And if not, raise
22 your hand.

23 Okay. So Mr. Moy, is that it? Like, how long will it
24 take for it to be in the record?

25 MR. MOY: Well, this is the --

1 CHAIRPERSON HILL: These are the items that they -- the
2 one was like a technical issue and the other one was they were --
3 the mail. They didn't get notice.

4 MR. MOY: Right. Right. Right. Right. Right. Right.
5 So are you referring to both of them or one of them --

6 CHAIRPERSON HILL: Both of them.

7 MR. MOY: -- in terms --

8 CHAIRPERSON HILL: I'm looking right now to see if --
9 what we need. Okay. So everything actually looks like it's in
10 for 20329. Is that right, Mr. Rice --

11 MR. MOY: Yes.

12 CHAIRPERSON HILL: -- or Mr. Moy?

13 MR. RICE: That's correct.

14 MR. MOY: Yes, that's in the record. 20329 of Graham.
15 So that fills out the record. That's in there. What's missing is
16 the other case, Longfellow Street, 20353, to allow time for that
17 to -- time to ripen, so to speak.

18 CHAIRPERSON HILL: So you haven't -- so -- I'm just
19 trying to be clear. So 20353, the letter from Ms. Martin is not
20 in the record or is in the record?

21 MR. MOY: It is not.

22 CHAIRPERSON HILL: Okay.

23 MR. MOY: So it's an email.

24 CHAIRPERSON HILL: Okay. Can you go ahead --

25 MR. RICE: So 20353 --

1 CHAIRPERSON HILL: Mr. Rice?

2 MR. RICE: I was just going to say as a matter of
3 procedure in Case 20353, if you guys are willing to let in Ms.
4 Martin's message, procedurally you would first be letting in the
5 message and then you'll determine whether to reopen the hearing
6 and proceed after you've reviewed the message.

7 CHAIRPERSON HILL: Right. So how long -- I mean, I
8 think I now know what's going to happen with 20353. We're just
9 trying to figure out the date. But go ahead and -- okay, Mr. Moy,
10 could you let the email in from Ms. Martin for 20353?

11 MR. MOY: Yes, I can have staff do that now.

12 CHAIRPERSON HILL: Okay. So unless the Board has any
13 objection, that's my -- I'm not even necessarily making a motion.
14 I guess it's just by consent. Like, we're going to go ahead and
15 let Ms. Martin's information into the record and then we'll come
16 back and determine whether or not we want to, and I think we're
17 going to now at this point, I guess, is allow time for the parties
18 to respond. I just have to kind of like figure out the timing on
19 that, but that is my suggestion. And if anyone has anything to
20 add, please raise your hand.

21 Okay. All right. So let's go ahead and take a 20-
22 minute break, if that's all right with you guys, to go ahead and
23 let the thing come into the record and then we'll take a look at
24 looking at it and we'll come back at 11:00. Is that good? Okay.
25 Everybody is nodding. Okay. All right. Thank you. See you guys

1 at 11:00.

2 (Whereupon, the above-entitled matter went off the
3 record and then resumed at approximately 11:04 a.m.)

4 CHAIRPERSON HILL: All right. Let's see where we are.
5 Mr. Moy, was Graham 20329?

6 MR. MOY: Yes, yes. Yeah, I just sent you the (audio
7 interference) stats.

8 CHAIRPERSON HILL: You must be kidding me. Boy, I'm
9 confused. Well, all right. Let's do the first thing first then.
10 So let's talk about 20353. Okay? So what has been discussed with
11 20353 is that we'll go ahead and reopen the record and allow Ms.
12 Martin's testimony. This is my suggestion. Allow Ms. Martin's
13 testimony and then -- and Commissioner Hood, you're not on that
14 one actually. And then we can come back for a decision meeting
15 again after giving the parties the proper time to respond and then
16 we can take a look at it again and deliberate and if we think it
17 necessary, at that time, we can, you know, have a continued
18 hearing and determine what we want. So given those -- given that
19 time and, Mr. Moy, I was trying to get it back sooner than the two
20 months, when do you think we might be able to come back with that?

21 MR. MOY: All right. Given what we know, then I would
22 suggest the meeting session on February 24th and then allow all
23 the parties to respond to the -- just allow testimony by February
24 17th.

25 CHAIRPERSON HILL: Okay. All right. Let's go ahead and

1 do that.

2 And then, I guess, Mr. Rice, are you on that case also?
3 Okay. So you'll write something up for us again to take a look at
4 before the decision meeting? Okay. All right. All right. So
5 let's go ahead and do that.

6 And then Chairman Hood, you're back with us now for
7 20329.

8 And Mr. Rice, I was a little confused. Was -- I thought
9 it seemed as though -- was the ANC in opposition to this because I
10 thought they looked as though they were in support, and Mr. Moy
11 seemed to think they were in opposition, right?

12 BOARD MEMBER SMITH: Mr. Rice is on mute. Mr. Rice is
13 on mute. He's talking, but he's on mute.

14 MR. RICE: Oh.

15 CHAIRPERSON HILL: Got it.

16 MR. RICE: Chairman, I'm going to double-check right
17 now, but I think when I double-checked this morning, the ANC
18 letter starts out by saying that it's still largely opposed to the
19 project.

20 CHAIRPERSON HILL: So then why -- I'm -- in Exhibit 44,
21 I thought it says they're in support and then --

22 VICE CHAIR JOHN: In my case, I have Exhibit 32, ANC 4C
23 (audio interference).

24 MR. RICE: Chairman, I'm reading from the first
25 paragraph of the first page of Exhibit 49 and it's the ANC's

1 letter. It says, "In response to Ms. Hammett's testimony, ANC 7C
2 agrees with Ms. Hammett's concerns about this project development
3 of the duplex and supports her position in opposition for the side
4 yard variance."

5 CHAIRPERSON HILL: So, but I'm just trying to clarify
6 because -- were you looking at Exhibit 44?

7 VICE CHAIR JOHN: Is this 20329?

8 CHAIRPERSON HILL: That's what I thought.

9 MR. RICE: Yes, ma'am.

10 VICE CHAIR JOHN: Okay. All right. So I had the wrong
11 exhibit. Sorry.

12 MR. RICE: So Exhibit 44, sir, the first paragraph
13 states that, "The Commission voted in support of the special
14 exception for the side yard requirement contingent on the
15 applicant presenting plans and seeking approval from Deanwood
16 Citizens Association." And then the final paragraph, the second
17 sentence says, "Unfortunately the applicant and the DCA were not
18 able to reach a consensus (audio interference) progress on
19 generating a CBA. ANC 7C must vote in opposition of this
20 request." So looking at that --

21 CHAIRPERSON HILL: Okay. I got it.

22 MR. RICE: -- exhibit --

23 CHAIRPERSON HILL: All right.

24 MR. RICE: -- the ANC is opposed.

25 CHAIRPERSON HILL: Okay. All right. So I'm going to

1 ask you guys what you all want to do. I mean, you know, I did
2 read everything. I saw the exhibit from -- I mean, it's the
3 adjacent neighbor and then there was -- and then the applicant did
4 respond to the concerns, but it's not clear to me as to -- it's
5 not clear to me whether or not we have to have a continued hearing
6 on this and talk to these guys again.

7 Again, the reason why this didn't get before us at the
8 time was because of the whole, like, technical stuff that was
9 going on with the application. I mean, I'm going to go around the
10 table with -- hearing everybody's thoughts.

11 Commissioner Hood?

12 COMMISSIONER HOOD: Yes, Mr. Chairman. Ms. Hammett's,
13 and hopefully I pronounced her name correctly, I'm looking at her
14 issues and I looked at the response. My concern is was some of
15 that worked out because I didn't see, in previewing this rather
16 quickly, I didn't see where some of her issues were even worked
17 out and it seems like it could be according to the applicant's
18 response.

19 But what concerns me is she says in her submission to
20 us, "Due to technical difficulties on your end." So the way I
21 believe that this system was set up, that you could use the
22 telephone if you were having problems and call Mr. Moy or Mr.
23 Young if there were some problems. So, I mean, I understand what
24 she's -- her issue. She wanted to get in. I have no problems
25 with that. But I think if she was having computer issues, then we

1 have a phone line as well which, I believe, you read into your
2 statement for her to be able to make the call.

3 Now, back to the issues. I'm just curious, and I would
4 like to hear from others, I didn't see where it was far apart, I
5 mean, an issue of us not going forward. I just wanted to know
6 were they able to work out some issues because it looks, according
7 to the applicant, it looks as though they were willing to work out
8 some of her issues with her that could be worked out or mitigated,
9 so that's kind of where I am.

10 CHAIRPERSON HILL: Mr. Smith?

11 BOARD MEMBER SMITH: I agree with Chairman Hood's -- the
12 second statement he said. I was wondering had they had attempted
13 to meet with her and mitigate some of her concerns. For example,
14 she is recommending that the applicant place an 8-foot fence up.
15 Of course, an 8-foot fence would require a variance, but has the
16 applicant -- have they even attempted to meet halfway to
17 potentially erect a 6-foot fence, something (audio interference)?
18 So my overall question is can some of these concerns be mitigated,
19 but I don't know if that's enough for us to make a decision to,
20 you know, rescind our previous approval, but that's where I stand
21 right now and I would just like to hear from my other members.

22 CHAIRPERSON HILL: I don't think either one of you gave
23 me a -- what you want to do, so -- but that's okay.

24 Ms. John, do you want to -- so, just again, and I'll go
25 back around because I don't really know either. Like, I mean, I -

1 - I mean, I guess we could do it -- I'd rather not have to do it,
2 but I guess we could have a continued hearing on these issues.
3 It's so difficult for us to kind of like jump back and remember
4 what was going on and then, you know, then have a discussion on
5 the merits of the case.

6 And so, I guess, I'm leaning towards having a continued
7 hearing on these issues that were brought up by both the adjacent
8 -- because it's the adjacent neighbor, right, and then also the
9 ANC has also chimed in that they agree with the issues from the
10 adjacent neighbor, so you kind of want to hear about them, I
11 suppose. So I guess I'm leaning towards having a continued
12 hearing, but Ms. John, do you have -- and I'll turn back around
13 and go through with the gentlemen again, but Vice Chair John, do
14 you have a thought?

15 VICE CHAIR JOHN: So I'm also leaning to -- towards a
16 continued hearing, but, as you say, a limited hearing because I
17 did not see in the drawings any indication that there is any fence
18 proposed and I could be wrong about that. And I looked at the
19 response to Ms. Hammett and there was no commitment to build a
20 fence, just an objection to an 8-foot fence. So I would like to
21 hear some testimony as to the matters she's raised. Some of the
22 issues are not within the Board's purview so I would not -- you
23 know, I would not be interested in addressing those, but as to the
24 issue of privacy, I think we should hear testimony about it.

25 CHAIRPERSON HILL: Okay. So Chairman Hood and Mr.

1 Smith, are you guys fine with having a continued limited scope
2 hearing?

3 BOARD MEMBER SMITH: Yes, I'm fine.

4 COMMISSIONER HOOD: Mr. Chairman, I'm fine, but I,
5 again, raise my concern. Mr. Holmes, my friend, Mr. Holmes, I
6 still see they're laden with all of these things that are not
7 germane to the Board's proceedings and I'm going to make -- I'm
8 going to say it again today and I'm going to say it again in the
9 limited scope hearing. What he does, the ANC does, is eventually
10 get on board when they agree with Ms. Hammett's opposition and
11 start talking about the issues that are relevant to the Board. So
12 yes, I'm in agreeance with a limited scope hearing. Thank you.

13 CHAIRPERSON HILL: Okay. So, Mr. Moy, when could we
14 come back for a limited scope? So what I'm proposing -- well,
15 first of all, I'm proposing we're going to go ahead and rescind
16 our vote. We're going to reopen the case and we're going to have
17 a limited scope hearing on this, the issues that were brought up
18 by the adjacent neighbor, and also the testimony that the ANC has
19 put forward and we'll hear just about that and I'll do that by
20 consensus. If anybody raises their hand in opposition to what I
21 just said, please raise your hand. No?

22 COMMISSIONER HOOD: Mr. Chairman? Mr. Chairman, I hate
23 to --

24 CHAIRPERSON HILL: Mr. Hood?

25 COMMISSIONER HOOD: I would -- because of what she says

1 about on us, I would like to do a motion.

2 CHAIRPERSON HILL: Okay.

3 COMMISSIONER HOOD: I would move that we rescind our
4 vote in BZA Case -- hold on a second, let me get the case. Give
5 me one second. I'll move that rescind our vote in BZA Case 20329
6 for the simple reason or the main reason of the -- one of the
7 participants not being able to get into the system to be able to
8 participate in that hearing and I want to make that motion for the
9 record, and I'll ask for a second.

10 CHAIRPERSON HILL: I second the motion.

11 Mr. Moy, if you could take a vote -- I mean, roll call
12 vote.

13 And if I might just clarify for Chairman Hood or not --
14 I'm not clarifying the motion. Just for us, I guess, the thing
15 for me as to why I'm agreeing with the -- or want to talk about is
16 it's the adjacent neighbor, right. Like, if this is something
17 that had happened, and I'm kind of just stating it for our
18 discussion because I don't want, you know, if something happens
19 like this in the future and it's somebody who's down the road or
20 is not really, you know, that involved with the case, I wouldn't
21 necessarily be voting to reopen. I'm just kind of stating that
22 point.

23 COMMISSIONER HOOD: Well, let me -- while we're having
24 this dialogue, Mr. Chairman, let me add why I wanted to make a
25 motion, so it is clear why we are doing this because we're

1 basically doing this because of technology reasons. I'm not going
2 to point fingers and say it was us or her, but I wanted to do that
3 on purpose because sometimes some of our rulings, some
4 participants come down and say, "Well, you did it here for this."
5 I wanted to really specify the reason we did that and that was my
6 rationale.

7 CHAIRPERSON HILL: Okay.

8 So Mr. Moy, the motion has been made and seconded. If
9 you could please take a roll call vote.

10 MR. MOY: Yes. Yes. Thank you, Mr. Chairman. So when
11 I call your name, if you would please respond with a yes, no, or
12 abstain to the motion made by Zoning Commission Chair Anthony Hood
13 to rescind the vote seconded by Chairman Hill. Mr. Smith?

14 BOARD MEMBER SMITH: I agree with the motion, yes.

15 MR. MOY: Vice Chair John?

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Zoning Commission Chair Hood?

18 COMMISSIONER HOOD: Yes.

19 MR. MOY: Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MR. MOY: We have a Board seat vacant. Staff would
22 record the vote as 4 to 0 to 1. The motion carries.

23 CHAIRPERSON HILL: Okay. And so now when can we
24 reschedule this for a limited scope hearing, Mr. Moy?

25 MR. MOY: We can reschedule it as early as March the

1 3rd.

2 CHAIRPERSON HILL: Okay. What do we have on March 3rd?

3 MR. MOY: Ten cases. This would be the -- this would be
4 the 11th case, sir.

5 CHAIRPERSON HILL: Okay. Chairman Hood, can you come
6 back for us on March 3rd?

7 COMMISSIONER HOOD: Yes, sir, Mr. Chairman. Just tell
8 me what time and I'll be here.

9 CHAIRPERSON HILL: Okay. Well, if -- we'll go ahead and
10 try to do it first if you're just not with that whole day, but
11 we'll see what happens.

12 MR. MOY: He's available, sir.

13 CHAIRPERSON HILL: Oh. Okay. All right. Great.

14 MR. MOY: That's all I'll say.

15 CHAIRPERSON HILL: Okay. All right. Great. Good. You
16 guys, I'm sorry. There's just something I just have to deal with
17 for like five minutes, so I do apologize to everyone. Can I just
18 take five minutes real quick and we'll come back?

19 VICE CHAIR JOHN: Yes.

20 (Whereupon, the above-entitled matter went off the
21 record and then resumed at approximately 11:30 a.m.)

22 CHAIRPERSON HILL: Yeah. For that case, for 20329, the
23 one that we're doing the limited scope hearing on, I mean, in
24 terms of filings, I guess, I don't know if we need any -- I guess,
25 yeah. Whatever you suggest or Mr. Rice might suggest in terms of

1 filings for the timing to hear from -- how would we do that?

2 Because now, if we're going to reopen the record, I
3 guess we want to have anything from -- any further testimony from
4 the applicant. I mean, and also, you know, what the Board has to
5 say about this. I mean, any further filings from, you know, the
6 applicant that they want to put forward for the limited scope
7 hearing and then I guess the ANC would have an opportunity to
8 respond and I guess we would also allow that adjacent neighbor to
9 respond to the filings. So what dates would we need for all that?

10 MR. RICE: Chairman, in Case 20329 we've already got the
11 applicant's response as well as the ANC's response, so I don't
12 know if you're wanting like more responses than what came into the
13 record today or if you just want to, you know, debate on what has
14 been filed and what's now in the record.

15 CHAIRPERSON HILL: What does the Board think? Do you
16 all want to hear anything else or? I mean, I'm fine with what's
17 in there.

18 VICE CHAIR JOHN: Yes.

19 CHAIRPERSON HILL: I think the question for me would be
20 then, you know, we are going to hear from people. So, you know,
21 they would -- they're going to come with something. Do you all
22 want to leave the record open to get stuff from the people before
23 we hear them for the limited scope hearing?

24 Chairman Hood?

25 COMMISSIONER HOOD: Mr. Chairman, I think the only

1 fundamental issue why we left it open was dealing with Ms.
2 Hammett's testimony, I believe. So I would like to just gear to
3 that and, as we stated, see what kind of mitigations they would
4 come up with and I think that's it. I think everything else is
5 complete.

6 CHAIRPERSON HILL: Okay. Then if that's the case, then
7 I don't think we need any further filings and I see everyone
8 nodding.

9 So Mr. Moy, we'll -- the record is closed. Like, we
10 don't need anything else and we'll just hear from everybody at the
11 limited scope hearing.

12 MR. MOY: Very good. Thank you, sir.

13 CHAIRPERSON HILL: Yep.

14 MR. MOY: Thanks for the clarity.

15 CHAIRPERSON HILL: Okay. All right. So that being the
16 case, we can actually start our day and you can call our first
17 case.

18 MR. MOY: Okay. So the Board is back in session and the
19 time is at or about 11:33. The case application before the Board
20 is 20352 of 426 Manor Place, LLC. It was amended for special
21 exceptions under the residential conversion requirements, Subtitle
22 U, Section 320.2; under Subtitle C, Section 703.2, from the
23 minimum parking requirements Subtitle C, Section 701.5; Under
24 Subtitle E, Section 5201 from the court requirements, Subtitle E,
25 Section 203.1 to convert an existing principal dwelling unit to a

1 three-unit apartment house at the -- in the RF-1 Zone of premises
2 426 Manor Place, Northwest, Square 3036, Lot 67.

3 CHAIRPERSON HILL: Okay. Mr. Sullivan, are you there?

4 MR. SULLIVAN: Yes. I am, Mr. Chair.

5 CHAIRPERSON HILL: Could you introduce yourself, please,
6 for the record?

7 MR. SULLIVAN: Yes, thank you. My name is Marty
8 Sullivan with Sullivan & Barros on behalf of the applicant.

9 CHAIRPERSON HILL: And Mr. Sullivan, who is here with
10 you today?

11 MR. SULLIVAN: So we have Adam Crain, the architect and
12 from the applicant, Matt Scorzafava.

13 CHAIRPERSON HILL: Okay. Commissioner Boese can you
14 hear me?

15 COMMISSIONER BOESE: Sir, yes, sir.

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

18 COMMISSIONER BOESE: Sure. Kent Boese, Advisory
19 Commission 1A, SMD 1A08.

20 CHAIRPERSON HILL: Okay. Commissioner, welcome back.

21 Mr. Sullivan, I guess, I know that the court
22 requirements were added to the caption and my question for you, I
23 guess, is this what you presented to the ANC? You also presented
24 them with the application the way it is with the court
25 requirements?

1 MR. SULLIVAN: It is, yes.

2 CHAIRPERSON HILL: Okay. So unless the Board has any
3 opposition, because I'm going to go ahead and allow the applicant
4 to add the court requirements to their application and I'm just
5 going to look and see if the Board has anything to add and if so,
6 raise your hand. Okay. So we're going to go ahead and allow that
7 in because I think, you know, all the parties know about it.

8 So Mr. Sullivan, I'm going to go ahead and -- oh, Mr.
9 Moy?

10 MR. MOY: Yeah. I'm sorry, Mr. Chairman. I forgot to
11 mention that there are two letters of support from a neighbor at
12 531 Irving Street and 525 Park Road and they submitted their
13 letters within the 24-hour period before a hearing, so those two
14 letters are not in the record.

15 CHAIRPERSON HILL: Okay. If you -- go ahead, unless the
16 Board has any objections, and add them to the record so we can
17 have a full record.

18 MR. MOY: All right. Thank you, sir.

19 CHAIRPERSON HILL: All right. Let's see.

20 Mr. Sullivan, I'm going to go ahead and put 15 minutes
21 on the clock there, so I know where we are and if you want to go
22 ahead and present your case.

23 MR. SULLIVAN: Thank you, Mr. Chair and members of the
24 Board. Marty Sullivan with Sullivan & Barros on behalf of the
25 applicant. The project address is 426 Manor Place. If we could

1 have the PowerPoint up and it'll show -- the first page of the
2 PowerPoint shows the front of the building.

3 And next slide, please?

4 So this is the RF-1 zone. It's currently a single-
5 family. We're seeking conversion to three units on a lot that's
6 larger than 2,700 square feet. Also asking for the court relief
7 and there's no alley access so we're asking for special exception
8 relief from the parking requirement.

9 Before I turn it over to Mr. Scorzafava to talk a little
10 bit about his interaction with the community, I just want to set
11 the stage a little bit and give you an overview of what's going
12 on. This is one of two applications. Only this one is before the
13 Board for 426. The applicant also owns 428 and has filed an
14 application to do a conversion for that one as well in addition to
15 the parking relief on that.

16 CHAIRPERSON HILL: Is that next door --

17 MR. SULLIVAN: And it is --

18 CHAIRPERSON HILL: -- Mr. Sullivan?

19 MR. SULLIVAN: Yes, it's next door. So 426 is the end
20 unit. If you go back a slide, please, Paul, to Slide 1. So the
21 subject property is the one on the left and 428 is the one that's
22 a different application to be heard in another month or two. So
23 there's an alley or it's not an alley, but there is -- it's open
24 here. It's at the end of the block perpendicular to houses facing
25 the other way on the street around the corner.

1 So it's an end unit. That's where the court is in the
2 back facing this open space and two things I want to point out at
3 the beginning. Mr. Scorzafava has done a lot of work with the
4 community. He's made a lot of effort in trying to address their
5 concerns and it's led to two pretty substantial modifications.
6 The one is scaling back the massing of both of these buildings in
7 order to match up with the current massing of 430 Manor.

8 And actually, 428 did not, as originally proposed, does
9 not require 10-foot rule relief as it relates to 430 Manor because
10 it did not go more than 10 feet past the first rear wall.
11 However, 430 Manor, their first story goes back further than their
12 upper stories. So Mr. Scorzafava modified the plans to match the
13 massing on all floors.

14 The other substantial change was that on the other side
15 of the street here, on the north side of Manor, they do have an
16 alley behind them, and Mr. Scorzafava located a property owned by
17 a longtime owner across the street who did not have a parking
18 space in the back, and he arranged to create a parking space. So
19 it's not our parking space. We're not under contract to use it.
20 If we were, we would not need this relief, but he created that
21 space for that owner's use as a way of mitigating some of the
22 concerns. So he -- we are, essentially, taking a car off of the
23 street.

24 So with that, I'll turn it over to Mr. Scorzafava to
25 talk briefly about his interaction with the community. Thanks.

1 MR. SCORZAFAVA: Hi. Matt Scorzafava, the applicant for
2 426 Manor Place. Thank you for letting us come and present today.
3 I briefly want to talk about this property. As Mr. Sullivan said,
4 we attended numerous meetings through the ANC and then also
5 coordinated some meetings with the neighbors directly; group
6 meetings and then also specifically with some of the neighbors
7 individually, and one of the concerns that came up was from 430
8 Manor Place. They have a deck on their upper floors that was
9 originally going to be blocked by, potentially, by some of our
10 rear addition and so it became pretty obvious to me that that was
11 a concern of theirs and that they were hoping that we would
12 address it.

13 So what we did is we ended up scaling back the massing
14 on both buildings as Marty already touched on. The other concern
15 that they had was they have some skylights on their roof that lead
16 to some bathrooms. So we originally had roof decks designed for
17 these properties and with the change in the massing, we were -- we
18 took the roof decks off the top and just created a deck very
19 similar to what they have in the back of the property.

20 One of the other concerns that we heard quite a bit from
21 neighbors was trash. So what we did early on was we created a
22 sunken trash area underneath the porch away from the entrance to
23 the lower unit with the hopes that the trash would be hidden
24 there, sunken under the porch and then have some landscaping in
25 front of it.

1 One of the other things we offered to do was there's
2 some four-unit buildings across the street that, purpose-built
3 apartment buildings, that utilize private trash from Tenleytown.
4 We offered to contract with Tenleytown and pretty early on in the
5 conversations I believe some of the community members thought that
6 that would just add an additional trash day to their street, so we
7 decided against that.

8 And then at one of the community meetings we had that
9 wasn't specific to the ANC, we were introduced to Ms. Robinson who
10 lives directly across the street at 425 and there was also another
11 neighbor, one of her neighbors, and they both expressed some
12 parking concerns. Ms. Robinson has been in the community, she
13 said, for almost her whole life, decades, at two different spots
14 and we offered her to build her like a paver parking spot. We
15 showed her some examples of what we've done at other properties.
16 She's very excited about it. She had mentioned that she had, when
17 she gets groceries and things, that she has trouble climbing up
18 the front stairs.

19 We offered the same opportunity to one of her neighbors,
20 but they were very interested in keeping their backyard for their
21 kids especially during COVID so that they could have a place to
22 play, but, you know, ultimately, we tried to hear the concerns and
23 address as many of the concerns that we could. And I think from
24 there, I'll pass it on to Adam.

25 MR. CRAIN: Hello everyone. Adam Crain. I'm the

1 architect for this project. As Matt and Marty mentioned, there
2 were significant reductions here after some discussions with the
3 neighbors. If on the slide we could go to page 5, please. So
4 here you're looking at the 3D renderings, probably most evident on
5 the left in the rear perspective you'll see the second and third
6 floor were significantly pulled back. Our original design had a
7 full third floor going back. This removed a bedroom from both
8 upper units. It went from three to two from both units.
9 Obviously, that'll be a roof terrace there. Please go to the next
10 slide.

11 Again, here where you see that void in the top left on
12 the east elevation, all of that was removed in response to the
13 neighbor at 430's concern. You know, they've got that lower level
14 bump-out that we're more or less matching with this. Next slide?

15 There's a site plan. You can see a bit of the outline
16 of 428 which will be separately submitted, but we're more or less
17 mirroring this plan. The thought here with the court was really
18 to reduce, while we're doing a rear addition, pulling it off the
19 property line, reduces kind of the impact on both adjacent
20 neighbors. Even though we're on the right-hand side of 426 here,
21 we're looking at the rear yard setbacks which nothing is likely to
22 be built there at all. When you transpose that over to 430, it
23 reduces the amount of party wall that we're building. You know,
24 we're, in effect, giving them more light in there with the
25 addition. Next slide?

1 So diving into floor plans here, cellar level. Pretty
2 similar throughout. Cellar level we have a two-bedroom flat. The
3 first floor we have a two-bedroom flat. In the previous design,
4 this first floor had an internal stair to a third bedroom at the
5 rear that was removed in response to the neighbor's concern. Next
6 slide?

7 So this is the upper unit. This is two bedrooms plus an
8 office. Again, you'll see that large terrace at the rear. That
9 was where the third bedroom of the lower unit used to occupy and
10 on the third floor, we had another bedroom. This was a three-
11 bedroom level which was significantly reduced. Next slide?

12 This is just showing the roof plan overall. I think
13 that's all I've got.

14 MR. SULLIVAN: Adam, if you could go to the next slide
15 please, we'll get to the criteria. The general criteria, of
16 course, special exception, the granting of the special exception's
17 in harmony with the general purpose and intent of the RF-1 Zone
18 and will not intend to affect adversely the use of neighboring
19 property.

20 As I assume you will hear from the ANC, parking was the
21 concern, was a big concern here. We believe for several reasons
22 that granting special exception for parking will not adversely
23 affect the use of neighboring properties for several reasons.
24 One, we'll note from the file that Ms. Robinson mentioned that the
25 previous owners of these two buildings had five or six cars out in

1 front of their property as it was as a single-family.

2 Also, the matter-of-right project here is two units and
3 a lot of developers do large two-unit buildings when they can't do
4 a third. Arguably, and it's my opinion, that a three-unit
5 building that is meant for a couple or a smaller family tends to
6 have less cars than a six-bedroom two unit building or 12 bedrooms
7 which caters more to individuals and potentially brings a lot more
8 adults into that scenario. So I think it's negligible, the
9 difference.

10 Also, in this case, I think it's really -- in the -- all
11 the parking special exception cases that I've seen, I think it's -
12 - this is the first time I've seen somebody create a spot to take
13 a car off the street.

14 And the final thing is, the ANC report is a little bit
15 confusing in the sense that they mention that all of the homes in
16 this square could be converted into three units. Actually, that
17 square, 3036, has quite a few lots and less than half of them are
18 convertible. In fact, if you look at the block, rather than the
19 entire square, the block of Manor itself, the north side of Manor,
20 none of those lots are convertible and they all have alley access
21 as well, so I think that's a little bit misleading not to mention,
22 of course, the precedent issue itself, as the Board knows, every
23 case is decided on its own merits and we are asking -- in the end,
24 we're asking for relief for both of these buildings, we will be,
25 but we're not asking to convert the entire block, of course. And

1 so next slide, please?

2 The specific requirements for the conversion. First of
3 all, we safely meet this. It's a residential building. We're not
4 doing four units and we have 2,750 in square feet so we meet the
5 900-foot rule. Next slide, please?

6 For the parking relief, we are required to meet one of
7 those conditions in 703.2 and due to the physical constraints of
8 the property, the required parking spaces cannot be provided on
9 the lot or within 600 feet of the lot and based on our review of
10 the surrounding property, we were not able to find a parking
11 space. As mentioned, we did find one that we could provide the
12 infrastructure for on this block, on the north side of Manor, for
13 Ms. Robinson. Next slide, please?

14 For the court relief, it's the light and air privacy
15 test. Again, the court opens up to the alley. It's not required
16 and so there's safely no impact on light and air or privacy to
17 neighboring properties. Next slide, please?

18 Also, the relief for the court doesn't detract from the
19 character, scale, and pattern of houses along the street because
20 of its location and its size and we've provided plans to show
21 that. Next slide, please?

22 So I think that's it if you have any questions for us.
23 Thank you.

24 CHAIRPERSON HILL: Mr. Sullivan, can you just speak to
25 the court relief a little?

1 MR. SULLIVAN: Sure. Well, the court relief, it just
2 requires -- the special exception criteria for that are light, and
3 air, and privacy. The court's not required, of course, and if it
4 was a two-unit building, there is no minimum court width. But
5 there's a minimum court width of 6 feet and we're asking for a
6 court area of 4 feet and that's facing the open side of the -- it
7 doesn't face 428. It faces the open side of the property, so
8 there's no impact at all from the court.

9 CHAIRPERSON HILL: Okay. Are you -- I know it's another
10 case. Are you going to need court relief on the other case?

11 MR. SULLIVAN: Yes.

12 CHAIRPERSON HILL: Okay. Okay. Does the Board have
13 questions for the applicant? I'll start with you, Chairman Hood.

14 COMMISSIONER HOOD: Yes, I want to go to Mr. Sullivan.
15 Mr. Sullivan, I want you -- let me preface this so I won't sound
16 like I'm being harsh. I appreciate your work, but sometimes I
17 don't understand your findings. I don't even know where you get
18 them from. Maybe you keep your own track record of what you
19 believe and you're representing your client because I think that
20 when you mention that something is negligible -- so let me back
21 up.

22 Is it your testimony, and I think in the record for what
23 you all have submitted, Ms. Sullivan, that there are no adverse
24 impacts of this project for what's being proposed?

25 MR. SULLIVAN: Yes.

1 COMMISSIONER HOOD: So when you say that units that have
2 -- and I don't want to -- I'm not quoting you verbatim, I'm just
3 calling it how I remember it. When you say that there are three
4 units and it's supposed to be less, most of the time isn't it fair
5 to say that whatever unit in this city pretty much, especially in
6 this area like in Ward 1, Ward 4, Ward 5, certain areas that each
7 unit has a car? Is that a fair assessment? Would you agree with
8 me on that?

9 MR. SULLIVAN: No, I -- it's just -- and I'm not an
10 expert in that, but I think it depends on the situation. Some
11 single-family homes have multiple cars. Some homes have no cars.

12 COMMISSIONER HOOD: And you -- and with Ms. Robinson --

13 MR. SULLIVAN: I think our position -- I'm sorry.

14 COMMISSIONER HOOD: No, go ahead. Go ahead. Maybe
15 that'll let you --

16 MR. SULLIVAN: So I think --

17 COMMISSIONER HOOD: -- answer some questions.

18 MR. SULLIVAN: I think what's different about this case
19 is we did take a car off the street and the Zoning Commission, of
20 course, has provided this special exception relief since the --
21 under the 2016 regulations which I believe recognized the need to
22 provide some flexibility on the parking when you don't have access
23 thereto.

24 And according to the other cases that the BZA has
25 decided, of course every case on its own merits, they've approved

1 quite a few parking special exceptions because the, I believe,
2 there's wide latitude in the special exception criteria for lots
3 that, for some reason, can't provide parking.

4 This is the first time I've seen a situation where an
5 applicant creatively found a parking space. And again, you know,
6 they could have negotiated further, I guess, or made it so that
7 they were entitled to that parking space and then we wouldn't
8 (audio interference) that (audio interference). But it's --
9 rather that space is for the use of somebody else on this block
10 right across the street, but -- so I think that neutralizes the
11 situation if the argument is one more car is going to adversely
12 affect the use of neighboring properties.

13 COMMISSIONER HOOD: And certainly I do not want to do
14 away with Ms. Robinson's parking space because I think that was
15 how you garnered her support; and is that a fair assessment? You
16 agreed to build her a parking space in her yard which is across
17 the street; is that correct?

18 MR. SULLIVAN: Well, she -- yes, and she submitted a
19 letter. I don't know if that's directly the reason for her
20 support. She, obviously, supported for other reasons as well and
21 she noted that in her letter.

22 COMMISSIONER HOOD: Okay. I have her letter right in
23 front of me. So I just got through reading it and that's the way
24 I interpret it, so.

25 MR. SULLIVAN: Yeah.

1 COMMISSIONER HOOD: The other thing is adverse impacts.
2 I cannot believe that -- here's the thing. The Board's duty, and
3 there are provisions of the Zoning Commission put in place, is to
4 look at the adverse impacts and make sure they're mitigated, but
5 it's your testimony that in this particular case, in this
6 particular scenario, there are no adverse impacts.

7 MR. SULLIVAN: I would say that according to the
8 standard that the BZA has laid down in parking special exception
9 cases, yes, there are not and whatever impact there could be can
10 be mitigated or is mitigated by offering this space. However,
11 even without that space I would say in accordance with other BZA
12 decisions. So I mean, everything goes according to a standard.
13 It's not a subjective standard. It's an objective standard of
14 what is adverse and according to other decisions by the Board for
15 parking relief, which there have been many, and almost all of them
16 for relief of a much greater degree than this. Under that
17 standard, yes, that is what I'm saying.

18 COMMISSIONER HOOD: So all I'm -- I'm ready to move on,
19 Mr. Chairman, but all I wanted Mr. Sullivan to tell me that this
20 does have adverse impacts. The Zoning Commission has known over
21 the years of all of the cases that have been sent back to us from
22 the courts. There are adverse impacts to typically every case,
23 the question is whether they're mitigated or not. And so, Mr.
24 Sullivan, one of these days I'm going to get you to admit to me
25 that there are adverse impacts in these cases. So thank you, Mr.

1 Chairman and thank you, Mr. Sullivan.

2 CHAIRPERSON HILL: Okay. I'm going to go to Mr. Smith
3 next, but just to clarify when we were talking about the court
4 relief, I also wanted to waive the deficiency in the notice
5 requirements because I believe, again, that everyone has had an
6 opportunity to understand what is before us. So unless the Board
7 has an issue with that, I'm also waiving that notice and if you do
8 have an issue, please raise your hand. Okay.

9 All right. Mr. Smith, do you have any questions?

10 BOARD MEMBER SMITH: No questions, Mr. Chair.

11 CHAIRPERSON HILL: Ms. John?

12 VICE CHAIR JOHN: I wanted to ask about the other side
13 of the street. Mr. Sullivan, you said that those houses were not
14 convertible. Could you elaborate some more on that?

15 MR. SULLIVAN: Sure. The north side of Manor which
16 actually does happen to be in that square, it's a large square.
17 It takes up more than just one square. It goes across the street
18 to Manor, but if you're looking at the block, and I believe the
19 ANC filed a map that sort of cut this off a little bit.

20 Maybe if we pull up the presentation, I might have a
21 slide that I can reference this. The north side of Manor has full
22 alley access and what it consists of -- maybe you're on Slide 2 or
23 3, Paul. Yeah. Well, let's look at this. Yeah, let's look at
24 Slide 3 then. So you see our subject property indicated there and
25 so the north side of Manor on the left half of the block, there

1 are five purpose-built four-unit buildings which cannot be
2 expanded and then the right half of the block are all lots which
3 are well under 2,700 square feet. So there's no potential
4 expansion in the number of units on the north side of the block.

5 And as you look at this, the lots that you see running
6 on the side streets, all of the lots on this block, on the south
7 side of Manor that are facing Manor, are 2,700 square feet or
8 more. All of the lots to the right and left, or almost -- maybe
9 all but one are not. They're under 2,700. So the comment that
10 all the lots in the square are convertible is just not accurate.

11 VICE CHAIR JOHN: Okay. Thank you.

12 BOARD MEMBER SMITH: Mr. Chairman, I do actually have a
13 question on this (audio interference). This is very (audio
14 interference).

15 CHAIRPERSON HILL: Sure. Go ahead, Mr. Smith.

16 BOARD MEMBER SMITH: When they do the supreme of this
17 (audio interference) potentially (audio interference), the rear
18 addition that you're proposing off the rear of the house that you
19 cut the back room off, you cut off the third story addition. What
20 is the relative height of that addition relative to homes that
21 back up off of Park? Is it roughly comparative with the heights
22 of the rears of those homes or could you speak to that?

23 MR. CRAIN: Sure, I can pull that up. I'm just actually
24 taking a Google view so I can lay a second set of eyes on it, but
25 we -- I know this was in response to 430 Manor and the

1 conversations with 430 Manor Place owner that he -- they've got a
2 lower level bump-out that kind of sticks out. That's what we were
3 matching with the lower level. The upper levels were trimmed back
4 because he felt that he was going to have this mass that was kind
5 of hanging above him and blocking, I guess, some of the morning
6 and late morning sun that's coming in.

7 So yeah, I mean, this third floor will be above. I
8 don't think any of the other ones along the street have a third-
9 floor addition, but, you know, I guess there is -- I guess the
10 design is respective of their existing rear facades and the fact
11 that we do trim the second and third floors back to allow for the
12 light and the air.

13 So I'd say that the portion of the building that would
14 have the most impact of the sun on that road to the west has been
15 removed.

16 MR. SCORZAFAZA: Adam. I can add that to a little bit.
17 So I can add to that a little bit. The 430 Manor, I think, was a
18 vacant property before it got rebuilt a few years ago. I think
19 the community had a lot of involvement in, or at least I heard on
20 the ANC meetings and the community meetings that the community had
21 a lot of involvement in designing that property. So they have a
22 cellar and a first floor that extend back and the properties on
23 Park Place are two stories above a cellar. And then there is
24 actually one additional property on Manor Place that does have a
25 third story already.

1 BOARD MEMBER SMITH: Okay. Thank you.

2 CHAIRPERSON HILL: Okay. Commissioner, do you want to
3 give your testimony first or do you have any questions that you'd
4 like to ask first?

5 COMMISSIONER BOESE: I could just give testimony. I do
6 better with answering questions than asking questions if that's
7 fine.

8 CHAIRPERSON HILL: Sure. Go ahead.

9 COMMISSIONER BOESE: Okay. But I will start by saying
10 that I'm happy to be here today so that I can clear up any
11 confusion Mr. Sullivan has on reading our report and I would also
12 like to point out that how many cars may or may not have been
13 owned by the previous owners of those properties is immaterial and
14 undocumented as are his unbased conclusions as to how many cars
15 units generate based on size. If you can show me the hard data, I
16 would be happy to accept that, but I don't think there is any hard
17 data or study.

18 With regards to the court relief and all other aspects,
19 those were fully discussed with the ANC. We were fully aware of
20 the scope of this project. I would like to commend Mr. Scorzafava
21 for his community outreach and his engagement. It was more than
22 we get with many. What we have a problem with, and I think
23 Chairman Hood is hitting the nail on the head in a way, is we do
24 see what the Regulations say, and we do see that they talk about
25 adverse impacts, but I would encourage people to think about

1 adverse impacts differently.

2 Adverse impacts are almost nearly impossible to document
3 fully because we're talking about things, events, that may or may
4 not happen in the future and we can't see the future. We're
5 trying, but we can't. I also like to think that people should be
6 looking at these cases with, "What are the clear benefits to the
7 community?" Like, someone should be able to demonstrate a clear
8 benefit and adding a third unit that will push up property taxes
9 for neighbors who may be on fixed incomes isn't a benefit. I
10 mean, creating new housing that isn't lower than market rate isn't
11 really a benefit and so I would ask people to think about that.

12 And with regards to -- our main concern is we do
13 understand that in some ways each case is unique, but it's really
14 not in this case. We're talking about a lot which is bordered by
15 Manor, Park Place, Park Road and Warder where 26 properties are
16 landlocked, right. I mean, this is what happens when you allow
17 developers to have full control over creating a community. This
18 block was created about 1906. It's before there was zoning, it's
19 before planning of the city went north of Florida Avenue.

20 This is entirely the result of people building as much
21 housing as they can to make a profit. There's no alley, they are
22 landlocked. We're talking about like -- in this specific case if
23 you want to talk specifics, the Office of Planning report says
24 that there are two parking spaces required. They're providing
25 zero. They have been able to find an alternative for one across

1 the street, but that's still a loss of one. And if they had been
2 able to find two, I have no doubt they would be here talking about
3 two.

4 But so they found one for this case. That means they
5 will find no parking for the next case, which is coming up in a
6 month, and it sets a precedent that we don't care about the
7 adverse impacts of parking on the community. It may be true that
8 many young couples do not own a car when they first move into
9 these, but we have seen many examples, even on this block, where
10 once there is the first child and once there's the need for
11 doctor's appointments, they get a car. You know, they tried to
12 live the car-free lifestyle, they love bikes, but now they have to
13 get to doctor's appointments at specific times with reliability
14 and they require parking.

15 So in this case, you know, I know on one level we're
16 talking about, "Oh, what's one space?" But, I mean, depending
17 upon like giving a similar approval to all 26 properties that are
18 landlocked, I mean, are we talking about ultimately leading to a
19 point where we've created parking relief for 52 spaces? I mean,
20 that's unsustainable. I mean, this is the only block in this
21 community that does not have an alley where houses are this
22 tightly packed.

23 This Commission has supported similar parking relief
24 when the property that is before us is the exception to the block
25 not the rule for the block and I think that has to be taken into

1 consideration and to not do so would be malfeasance at a very high
2 level with everyone involved.

3 CHAIRPERSON HILL: Okay. Thank you, Commissioner.

4 Does the Board have questions for the Commissioner;
5 Chairman Hood?

6 COMMISSIONER HOOD: Thank you, Mr. Boese, and especially
7 for all your historical knowledge of not just Ward 1 and the city,
8 I really always appreciate hearing your comments. So as I look
9 through this case, Mr. Boese, is there any way -- I'm looking
10 trying to refresh my memory on the ANC's letter of opposition.
11 Someone voted against the -- first of all, who's single in the
12 District? Is this your Single Member District?

13 COMMISSIONER BOESE: Yes, sir.

14 COMMISSIONER HOOD: Oh. Okay. So somebody -- one of
15 your commissioners voted against the motion or the resolution of
16 the ANC. Okay. Could you tell me why --

17 COMMISSIONER BOESE: Well --

18 CHAIRPERSON HILL: -- they voted against it?

19 COMMISSIONER BOESE: -- they didn't -- I don't believe
20 they voted against it. I believe it -- did they vote against it
21 or was it an abstention?

22 COMMISSIONER HOOD: It says 4-1-1. You did have an
23 abstention --

24 COMMISSIONER BOESE: Okay.

25 COMMISSIONER HOOD: -- as well.

1 COMMISSIONER BOESE: I'm not entirely sure which
2 commissioner voted against it. I do know that there are some that
3 strongly believe we should shoehorn as much housing into the city
4 as we can even if it's the most expensive way possible which is a
5 conversion of a row house to three units. Like, to me, that is
6 the most expensive way to create this new housing we desperately
7 need.

8 CHAIRPERSON HILL: Let me say, I recorded your vote
9 wrong. I was looking at what we put down for an example. Maybe
10 you're right. Nobody voted against it. It was somebody who
11 abstained, so I incorrectly read that. So I hear you because I
12 was on another case where we -- I think it was worked out though
13 through the ANC where you all had approved the last case, I
14 remember seeing you on about a parking space and I think you bring
15 up a valid point of this case, the next case, the next case. I
16 just don't know if this is necessarily the form in this case, but
17 in that neighborhood do you have any resolution or solutions that
18 could help maybe the Zoning Commission or the Board as we move
19 forward?

20 COMMISSIONER BOESE: Honestly, I will -- I think this is
21 the first time anybody that has real power with zoning cases has
22 asked to work with me on this issue, so I haven't really given it
23 much thought, but I would be delighted to try to find sustainable
24 solutions to issues like this.

25 The one thing that we do try to tell developers,

1 particularly the ones that we know are going to be coming back
2 before us and better ones, and I do believe that the gentleman
3 here today is a stand-up guy. I do appreciate all of the
4 community outreach. What we would love and what we can't codify
5 and we can't force, but we would really love for people to talk to
6 us at the very beginning even before they're thinking about buying
7 a property.

8 Like, we know where we can support variances with
9 minimal harm. We also know where it's just a bridge too far and
10 unfortunately, because of the way speculative development is,
11 sometimes the prices paid are more than can sustain a win-win for
12 the community and we're stuck.

13 COMMISSIONER HOOD: So again, Commissioner Boese, and
14 this is my last question for you. Would you agree, in this case,
15 that there are adverse impacts?

16 COMMISSIONER BOESE: Oh, there are serious adverse
17 impacts. You know, and it -- like I said, the parking is one of
18 them. In fact, the parking is the major one that we just couldn't
19 find a solution to and it wasn't -- it wasn't this case entirely.
20 It was the precedent it sets for a series of Dominoes. And while
21 I didn't -- we didn't include it on our map, it's kind of included
22 in our map, there are also five similar properties on the west
23 side of Warder in the exact same situation with no alley access.

24 But it's not just the parking. Like, we do have
25 concerns with tripling the amount of recycling and trash that's

1 generated on a street where there is no alley access to collect
2 those goods and services. You know, I am concerned over time with
3 how third stories kind of preemptively make a decision on abutting
4 neighbors on whether or not they can have solar panels, right.
5 Like, if there's solar panels, we know that it's not going to get
6 approved, but if those panels don't exist today, that decision is
7 made for an abutting property owner de facto by the actions of
8 someone next to them.

9 You know, it's just -- there are always adverse impacts.
10 Even in the most benign case, there are adverse impacts.
11 Sometimes there are impacts that are de minimis and we can live
12 with them and sometimes they're significant. To me, anything that
13 would lead to, and I'll be generous and say even if it was just 40
14 additional cars on the block that couldn't be absorbed by parking,
15 I don't know where to put them, you know, and it just -- it
16 creates frustration and anger.

17 And then with the example of Ms. Robinson across the
18 street, she was opposed to this until the off-street parking was
19 offered to her. But at the same time, even if that option had not
20 been afforded her, I know that due to her current condition, she
21 is eligible for a handicapped parking permit and she was going to
22 go down that route. So as far as walking in from the back of her
23 house or walking in from the front of the house, that was never in
24 question.

25 I mean, I appreciate having one fewer car on the block,

1 but we're not talking about one fewer car. Even with these two
2 properties, we're talking about three fewer -- you know, like
3 three more cars demanding parking based on off-street parking
4 requirements.

5 COMMISSIONER HOOD: Okay. Thank you, Commissioner. I
6 have other questions that I didn't ask the applicant because one
7 of the things that I was hearing is I've never seen anybody build
8 a structure that increases the shading -- I mean, took away the
9 shading. But anyway, that's a whole other -- I was basically
10 trying to figure out adverse impacts and I don't necessarily --
11 the way the Commission and the way the Board has the Regulations,
12 there are certain things they can do to mitigate them, but I think
13 it's a bigger problem that you have already elaborated on. So
14 thank you, Commissioner Boese and thank you, Mr. Chairman.

15 CHAIRPERSON HILL: Mr. Smith, do you have any questions?

16 BOARD MEMBER SMITH: No questions.

17 CHAIRPERSON HILL: Vice Chair John?

18 VICE CHAIR JOHN: No questions.

19 CHAIRPERSON HILL: Okay. I'm going to turn to the
20 Office of Planning.

21 MS. ELLIOTT: Good afternoon, Mr. Chairman, members of
22 the Board. I'm Brandice Elliott representing the Office of
23 Planning. This application has actually changed a little bit
24 since we filed our report, so I would like to go through it a
25 little bit if you'd find that helpful.

1 So, first of all, the applicant is asking for special
2 exception relief for the conversion. OP does support that special
3 exception relief. The additions to the building themselves do not
4 require additional relief. They're basically matter-of-right
5 additions. The third floor is permitted. It's not exceeding a
6 height of 35 feet and, again, that's something -- that's an
7 addition that could be made to a flat or a single-family dwelling,
8 so that's a matter-of-right.

9 The rear addition has actually been scaled back, as the
10 applicant showed us in the presentation, quite a bit since we've
11 reviewed this project and that is also a matter-of-right. They've
12 removed the rear yard relief for the 10-foot extension that we did
13 provide in our report, so that relief is no longer necessary. So
14 in summary, we are supporting the conversion.

15 As far as the minimum parking requirements are
16 concerned, I may need the applicant to clarify something because
17 the Regulations do require one parking space per two dwelling
18 units, and so in this case two parking spaces would be required in
19 the RF-1 Zone, but I think there may be a parking credit on the
20 lot because there was no parking provided before and if that's the
21 case, then only one parking space is required.

22 So maybe because we don't -- OP doesn't tend to get too
23 involved with parking credits, I can't say for certain, but that
24 might be the case and that might be why the applicant is
25 indicating only one parking space is required. With that being

1 the case, the special exception criteria for parking is fairly
2 broad and it does allow relief under many circumstances.

3 In this case, the relief is permitted because there's no
4 alley access, also because DDOT would not, or public space, would
5 not issue a curb cut for the property and if they did, there's
6 nowhere to park the car. And this lot is also about a quarter of
7 a mile from Georgia Avenue, so it is fairly close to a high-
8 capacity transit corridor with, you know, various bus routes and
9 the Georgia Avenue Metro station not being too far away and, you
10 know, the reason why that matters is because it has a potential to
11 reduce the need for vehicles in the area.

12 We also have a report from DDOT indicating that they
13 have no objection to the relief and that it should not cause -- it
14 should not negatively impact the transportation network in the
15 area. And so for that reason, we are supporting the parking
16 relief as well.

17 We do find that the additional parking space or the
18 parking space that's being created for the neighbor across the
19 street is a creative way of increasing parking for the neighbors
20 that are already there, and we do appreciate the applicant's
21 efforts working with the neighbors to try and improve the design
22 and meet their needs. So with that, I'll end my presentation.
23 I'm happy to take any questions you have.

24 CHAIRPERSON HILL: Mr. Sullivan, can you clarify that
25 parking credit question?

1 MR. SULLIVAN: Yes. The requirement is one. It's not -
2 - they don't use the terminology "credit," but the parking
3 requirement is the increase from what the requirement is for the
4 current use to what the requirement is for the proposed use. So
5 we're going from a requirement of one to a requirement of two, so
6 you're -- it's an increase of one and so that's our requirement.
7 If we already had a space back there, we would be held to that and
8 we would need the two. So we're responsible for the increase in
9 the requirement which is one space.

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

11 Does the Board have questions for the Office of
12 Planning? Chairman Hood?

13 COMMISSIONER HOOD: Yes, I have a question for Ms.
14 Elliott. Ms. Elliott, first thing, I got your name right. So
15 that's one plus for me, so remember that. The second thing is, in
16 your report, you basically listed in your analysis of why you're
17 supporting this all around is because you mentioned, for example,
18 the parking space, how close it is to the Metro, Georgia Avenue,
19 the bus lines, other modes of transportation.

20 So would you say -- I think the Office of Planning
21 recognizes there is, at least this is what I got, and you just
22 tell me whether I'm right or wrong, the Office of Planning
23 recognizes there are adverse impacts, but they also recognize due
24 to the Zoning Regulations and the courts have said that these can
25 be mitigated by some of the solutions that you mentioned about the

1 Metro and it's close to a major thoroughfare for transportation
2 and those kind of issues. Is that a fair assessment?

3 MS. ELLIOTT: I think that that's generally fair, yes.
4 We do know that there is an impact when there's new developments.
5 Certainly, you know, there's no escaping that, but I think in this
6 case, you know, we give credit to the fact that it is close to a
7 Metro station and other methods of transportation and also, you
8 know, the thing that I noticed in the neighborhood is that
9 although there is parking on the streets, it's not restricted
10 necessarily except for people who don't live in that neighborhood.

11 There's probably an inconvenience factor for some of the
12 people in the neighborhood. They may not be able to park as close
13 to their house as they would like from time-to-time, but that is
14 not something that we would consider an unduly impact on the
15 neighborhood. There is still parking. It may be inconvenient,
16 but it's still available.

17 COMMISSIONER HOOD: The other thing is you heard
18 Commissioner Boese's issue about this case, the next case, the
19 next case, the next case. Is there ever going to be a tipping
20 point? And you don't have to -- you don't necessarily -- if you
21 don't have the answer, which you may not have at this point, I
22 would suggest that maybe Commissioner Boese again reach out to the
23 Office of Planning and work with whoever the neighborhood person
24 is or the development review team or whomever because there is a
25 point to try to help us find some type of mitigation because that

1 tipping point eventually is going to happen.

2 I agree with him 100 percent if we continue going down
3 this line, but I realize the precautions you put in about the
4 transportation modes and right next to the Metro, but eventually
5 that's going to -- it sounds good now and it's working, but
6 eventually that's going to play out. It's going to get to a
7 tipping point and that will no longer be the analysis that we're
8 able to use to be able to mitigate these type of cases. So I'll
9 just put that out. You don't necessarily have to give a comment
10 unless you want to and thank you, Mr. Chairman and thank you, Ms.
11 Elliott.

12 CHAIRPERSON HILL: Mr. Smith, do you have any questions?

13 BOARD MEMBER SMITH: No questions.

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

15 VICE CHAIR JOHN: Just a couple comments for Ms.
16 Elliott. So the applicant says that the court is -- they're 5
17 feet. I'm sorry, 4 feet. So do I take it you plan to amend your
18 report now to state that it's working. I'm just looking at your
19 report, January 15th, and there seems to be a disconnect between
20 you and the applicant. And I'm looking at the applicant's
21 presentation, Exhibit 42, and the proposed court is 4 feet.

22 MS. ELLIOTT: That's correct. I think that the previous
23 plans were showing a court that was 5 feet in width and that was
24 revised. I think the OP can continue to support the relief for an
25 even smaller court and the reason being that, first of all, the

1 court is not required, but also, it's located along the elevation
2 that faces other rear yards. And so really all it's doing is
3 providing additional light and air in the location it is which is
4 always, you know, a positive element, so we would continue to
5 support the relief even if it's narrowed to 4 feet.

6 VICE CHAIR JOHN: Okay. Thank you. And this might be
7 for the applicant, but your report says to the west, the rear wall
8 would be 20 feet and I think that should be corrected because
9 they're not asking for rear wall relief. If the other house has
10 not been built, they would technically be expanding by an extra 10
11 feet. I'm not quite sure how you looked at that. The house --
12 the owner of the houses and I think they plan to match the first
13 floor on both houses. So right now, since we have to approve that
14 second house, would they still not need rear yard relief? I'm not
15 quite clear. I'm just seeking clarification.

16 MS. ELLIOTT: The applicant actually received an
17 interpretation form the Zoning Administrator they can probably
18 elaborate on, but that the relief would only be necessary if they
19 didn't pull permits within six months of each other, I believe, is
20 how that was interpreted, so Marty can probably clarify.

21 VICE CHAIR JOHN: Thank you. Sorry I asked the wrong
22 person.

23 MR. SULLIVAN: Thanks. Yes, we received a determination
24 from the Zoning Administrator that if a common owner is building
25 projects together that they won't enforce the 10-foot rule. Of

1 course, those projects have to end up, in the end, not violating
2 the 10-foot rule. So if you're building two buildings and they
3 both go back 20 feet, if they're going to be in the same place at
4 the end of the day or not at the end violating either adjoining
5 property's 10-foot rule, then you don't need to ask for that
6 relief and so we withdrew that relief because that's the case
7 here.

8 And I would -- I'd just note that for 428, 428
9 originally was not asking for 10-foot rule relief either before it
10 was scaled back. So we started from a position of not needing any
11 10-foot rule relief before it was even reduced. So we didn't
12 reduce to eliminate the 10-foot rule relief. It was more than --
13 we only needed it for 426 just because 428 is not yet built, but
14 because they're being built together, we're confident that we
15 don't need that relief based on Mr. LeGrant's determination.

16 VICE CHAIR JOHN: I think I understand, but I got a
17 little confused when you said 428 would not have originally
18 required relief. Is it -- are you building less than 10 feet or
19 10 feet back on 428?

20 MR. SULLIVAN: Well, I was referring that 428 relates to
21 430.

22 VICE CHAIR JOHN: Right.

23 MR. SULLIVAN: It was originally -- it did -- we weren't
24 -- we were not asking for relief under this scenario where -- as
25 it relates to 430, no, we weren't.

1 VICE CHAIR JOHN: Thank you. That's fine.

2 MR. SULLIVAN: Yeah.

3 CHAIRPERSON HILL: Okay. Commissioner Boese, do you
4 have any questions for the Office of Planning?

5 COMMISSIONER BOESE: I guess the only question I have
6 for the Office of Planning would be to follow-up on the
7 recommendation of Chairman Hood and that would be can we have a
8 productive conversation. You know, I'm still waiting for follow-
9 up on a productive conversation of rooftop architectural elements,
10 but Office of Planning drops the ball every time we make these
11 requests. So if they can take that back, that we really want to
12 have this conversation, that would be great.

13 MS. ELLIOTT: I will do that for you, Commissioner
14 Boese.

15 CHAIRPERSON HILL: Okay. Mr. Young, do you have anybody
16 here wanting to provide testimony?

17 MR. YOUNG: Yeah. We have one witness signed up.

18 CHAIRPERSON HILL: Could you please allow that person
19 in?

20 MR. NASAW: Hi, everybody. Can you hear me, or see me,
21 or both?

22 CHAIRPERSON HILL: Yes. Please introduce yourself for
23 the record.

24 MR. NASAW: Yes, I am Daniel Nasaw and I live with my
25 wife and my son at 434 Manor Place, a few doors down from these

1 two properties and I'm also here on behalf of --

2 CHAIRPERSON HILL: I'm sorry. Go ahead, Mr. Nasaw.

3 MR. NASAW: Okay. I'm also speaking on behalf of many
4 of our neighbors who have signed a petition in opposition here.
5 So --

6 CHAIRPERSON HILL: Mr. Nasaw --

7 MR. NASAW: Yes, sir?

8 CHAIRPERSON HILL: -- just to let you know a couple
9 things. So you'll have three minutes to testify when we do begin
10 with your testimony.

11 MR. NASAW: Okay.

12 CHAIRPERSON HILL: And then in terms of, for the record,
13 we do have the petition, but you can't technically speak on behalf
14 of all of them --

15 MR. NASAW: Sure.

16 CHAIRPERSON HILL: -- unless there's something in the
17 record that says you are allowed to speak on behalf of all of
18 them, but you're obviously allowed to give your testimony and
19 speak to the petition if you like.

20 MR. NASAW: Okay.

21 CHAIRPERSON HILL: So go ahead and begin whenever you
22 like.

23 MR. NASAW: Thanks. So then let me draw your attention,
24 please, to the petition that we filed. It's signed by 30 of my
25 neighbors and I also want to note we had seven neighbors who

1 testified in opposition in the ANC meeting. You know,
2 Commissioner Boese really represented us well here. He's my
3 single member. You know, to start, I just want to note that, you
4 know, Ms. Elliott from the Planning Office, and Mr. Sullivan, and
5 Mr. Scorzafava, and everybody else who is playing down the adverse
6 impact here, you know, we appreciate them, but they're never going
7 to have to drive around in the rain with a screaming toddler and a
8 load of groceries looking for parking, you know, or push a
9 stroller around the trash bins twice a week.

10 You know, so this house, these two houses, are not the
11 only ones that are landlocked. We're all landlocked. You know,
12 we have what amounts to a beautiful peaceful private park in the
13 back and that's one of the reasons we moved here, but we also knew
14 that this parking, we were never going to have off-street parking
15 and that we're going to have to deal with trash crowding the
16 sidewalk twice a week, but we knew that when we moved here. It's
17 a trade-off.

18 The applicant knew that too, but, you know, he's made it
19 clear he thought the ANC and the BZA would just rubberstamp this
20 request to build the three units. We've taken the time out of our
21 busy schedules to organize in opposition to this and we appreciate
22 you hearing us out. You know, I'm all about the public
23 transportation. I ride my bike whenever I can, take the Metro,
24 but, you know, we have a 16-month-old son now and as Commissioner
25 Boese said, you know, we need the car. We need it for medical

1 appointments, for groceries, for daycare.

2 There are nine children under the age of 12 on the 400
3 block of Manor Place and several elderly and infirm residents.
4 You know, so this case isn't just about the single property and
5 the single parking spot. It's not just about the two. It's about
6 everybody else on the block, 26 properties. I'll point you to the
7 diagram that Commissioner Boese filed. You know, so we'll ask you
8 to side with our -- with your neighbors here. Like, this isn't
9 just an opposition. This isn't *NIMBYISM*. This is in opposition
10 to development in the neighborhood. This is going to have a real
11 impact on our livability here.

12 The Zoning Code mandates that developers who want the
13 third unit build the off-street parking spot. He can't do that,
14 so he's asking you to waive the requirement. We're asking you
15 not. Please don't waive that requirement because we need this.
16 We need the clear sidewalks, and we need the street parking. We
17 don't need a third unit here. And I'll just -- I explored this in
18 my written comment and the petition. Thanks.

19 CHAIRPERSON HILL: Thank you, Mr. Nasaw. Thank you for
20 your testimony.

21 Does the Board have any questions for Mr. Nasaw and if
22 so, please raise your hand? Okay.

23 Commissioner, do you have any questions for the witness?

24 COMMISSIONER BOESE: I don't have any commissions --
25 questions, but I would thank him for taking the time to represent

1 the views of a neighbor who actually is directly impacted.

2 CHAIRPERSON HILL: Mr. Sullivan, do you have any
3 questions for the witness?

4 MR. SULLIVAN: No, thank you.

5 CHAIRPERSON HILL: Okay. Mr. Nasaw, once again, thank
6 you for your testimony and we're going to excuse you from the
7 room.

8 All right. I guess -- well; I'm just going to take --
9 since -- a minute. I have to -- I mean, Commissioner Boese, I
10 really wanted to kind of just be very honest in thanking you for
11 kind of all the time you take in representing your neighborhood
12 and I know, you know, you take a great interest in the city itself
13 and so I just kind of, you know, wanted to mention we see you a
14 lot and so like, you know, I really do appreciate the testimony
15 that you give and also the representation because it just informs
16 us more and better as to what's going on. So that's just kind of
17 a comment, I suppose.

18 I guess I did have a question for you, Commissioner. I
19 mean, the -- I mean, I know you know and I've said this one before
20 too, like the way that we have to look at the regulations and how
21 we're supposed to look at the case that's before us and I guess
22 the -- I don't know if this is a question or more of a comment
23 because I have you with us here and after you go, I can't
24 necessarily talk to you, that the Regulations, you know, they're
25 supposed to meet one of these criteria to get away from the

1 parking and -- or not get away from, to allow us to grant the
2 parking relief.

3 Then also this particular developer, as you've mentioned
4 before, seems to have done a lot in terms of pulling back from
5 what they could have tried to build and they are adding the one
6 parking space and I guess you have said that, at least in this
7 particular case, the applicant has tried their best to work with
8 the neighborhood. You would -- you agree to that or you did state
9 that, correct?

10 COMMISSIONER BOESE: Yeah. I mean, we recognize the
11 time he put in and the effort he put in to trying to creatively
12 find solutions. We just -- there just isn't a solution to this.

13 CHAIRPERSON HILL: Right. And I agree with the
14 discussion that we're having in terms of I don't know what the
15 tipping point is to Mr. -- Chairman Hood's point. I guess I was
16 just kind of making some comments, Commissioner Boese since you're
17 here with us.

18 COMMISSIONER BOESE: Can I make a comment in return?

19 CHAIRPERSON HILL: Sure. Go ahead.

20 COMMISSIONER BOESE: Because, and I do understand the
21 way the Regulations are written and I do understand this notion
22 that perhaps you're in a very narrow lane, but I also think we
23 need to get back to what's the intent of the Regulations, right?
24 I mean, was the intent of the Regulations to carte blanche approve
25 a situation like this when it's not a unique situation for a lot

1 on the block or a square, or is the intent to find creative ways
2 to allow development to move forward when it is an exceptional
3 situation, right?

4 But I really have a hard time believing, because we know
5 that Regulations, are written generally based on what's generally
6 in an area and the general type of buildings that are there.
7 That's why we have, you know, zones that in RF-1 generally they're
8 rowhouses even though we know rowhouses -- not everything in an
9 RF-1 zone is a rowhouse.

10 So I -- you know, I have a hard time accepting that we
11 have to be so narrow in what we're looking at that we can't see
12 the bigger harm that we're creating, and I just think that's a
13 disservice if we allow ourselves to be so tied up in red tape and
14 procedure that we can't see the damage we're doing to our
15 communities and our city.

16 CHAIRPERSON HILL: Okay. Okay. Thank you, Commissioner.

17 All right. Does anybody have any more -- I'm going to
18 let Mr. Sullivan, the applicant, provide us with a little
19 conclusion here, but is there any questions, further questions,
20 anybody has and, if so, please raise their hand.

21 All right. Mr. Sullivan, do you have anything you'd
22 like to add at the end?

23 MR. SULLIVAN: Yes, just I would just like to recognize
24 that I think in regards to particularly the comment on tipping
25 point and some of the other comments, I believe these are Zoning

1 Commission and Office of Planning type discussions. We're not
2 asking for 26 conversions. We're asking for one, which we believe
3 we have actually very specifically mitigated, and I think the
4 discussion from the ANC is not focused on the difference. What's
5 before the Board is what's the difference and what goes on there
6 today and what we're asking for and it's one parking space which
7 we've actually created.

8 I've heard discussions about there's going to be serious
9 adverse impacts and one of the things that was noted was adding a
10 story, a matter-of-right story. This project is matter-of-right.
11 Not only is it matter-of-right, but it was matter-of-right (audio
12 interference) massing before it was scaled back in response to
13 neighbor's concerns about their view from their back decks which
14 made the comment that we believe it's a rubberstamp approval
15 really unfair because this applicant has done a lot of work and
16 looked really hard for ways to make this a more -- a project
17 that's more palatable to the community and I think they've done a
18 lot.

19 That really hit their bottom line too, you know, as far
20 as losing bedrooms in order to respond to a neighbor's concerns.
21 Even though that neighbor said that they still would not be in
22 support of this, the applicant still made the changes regarding
23 430 Manor.

24 So -- also, some of the comments about whether it's a
25 unique situation, we're actually in this situation because it's

1 not unique and it's not required to be unique because we're not
2 seeking variance relief. I think the Zoning Commission and the
3 Office of Planning have laid out the -- what the regulatory scheme
4 is for parking. I think they provided a special exception which
5 the BZA has approved in, I believe, every case where it's been
6 requested for anywhere from one parking space to 20 parking
7 spaces.

8 Not that that's the precedent that should apply in every
9 case, but Commissioner Boese stated that his concerns, I think he
10 stated, are not this case entirely, it's the precedent and I get
11 that. I get the concern for what might be down the road, but
12 we're not asking for what's down the road. We're just asking for
13 this case and I think in this case the application provides a very
14 substantial response to the concerns. I realize it has not
15 satisfied, but I think it should satisfy the Board because I
16 believe it satisfies the special exception requirement. Thank
17 you.

18 CHAIRPERSON HILL: Okay. All right.

19 Unless anyone has anything else and, if so, raise your
20 hand. I'm going to close the hearing.

21 Oh, Chairman Hood?

22 COMMISSIONER HOOD: Right quick, I just wanted to
23 respond. Mr. Sullivan, the tipping point issue was me and I do
24 know, as I've stated in previous cases and even in this case, I
25 know you represent your -- I mean, your client like you should the

1 best you can, but I think these discussions to basically brush off
2 adverse impacts and brush of me saying the tipping point. See the
3 issue is whether it's the Zoning Commission, Office of Planning,
4 or BZA, if you're in front of the Zoning Commission, Mr. Sullivan,
5 you're going to tell the -- say, "Well, the BZA has authority to
6 do this." So, but since you're in front of the Board of Zoning
7 Adjustments now, you go to the Zoning Commission, "Well, that's a
8 discussion for the Zoning Commission and the Office of Planning."

9 The reason that the Zoning Commission -- you know the
10 reason that the Zoning Commission sits here, and I think that's
11 what I'm doing, exercising the reason that I sit here, and I will
12 continue to do that as long as the Mayor keeps appointing me, so I
13 think we have to be fair about things that we put out there.

14 And not that I'm upset with what you said, I just think
15 that we need to make sure it stays within context because we're
16 doing exactly -- the Zoning Commissioner's role and what I've said
17 about the tipping point is doing exactly what we're doing because
18 this case is today. You'll be back in about a month or so to do
19 another case similar. You'll be back in two or three months from
20 then doing another case similar and we need to realize the impacts
21 that are happening to that community.

22 Now, I will say that with the Regulations that we have
23 here, I believe that, and I'm still up in the air about this
24 because I don't think you or your client has admitted to adverse
25 impacts and I have a fundamental problem with that because the

1 courts have said that's what we're supposed to look at and you
2 have basically presented to this Board that there are no impacts.
3 I just want you to admit that there are impacts that you have to
4 mitigate. To your knowledge, you have mitigated them. That's my
5 only point. I see the Chairman laughing. I'm not lecturing, but
6 I think that's the reality of it because when the courts send
7 stuff back, they don't usually -- they send a few things back to
8 the BZA. They send it back to us and we have to try to confine
9 and deal with it. So anyway, thank you, Mr. Chairman.

10 CHAIRPERSON HILL: All right. Thank you, Chairman Hood.

11 Okay. All right. So I guess we're done. I had to stop
12 at 12:30. There was something that was going on. So if it's
13 okay, I'll go ahead -- well, never mind. Let' just go ahead. All
14 right. So I'm going to close the hearing. Thank you all very
15 much for being here.

16 Mr. Young, if you could please excuse everyone.

17 COMMISSIONER HOOD: I'm sorry, Mr. Chairman. Since I
18 did all the talking and I've made you miss your 12:30, I will be
19 quiet, and we can take a roll call vote.

20 CHAIRPERSON HILL: No, no, no, no, no. No, no. I think
21 is going to take a little bit of time. I think this is going to
22 be a little bit of a discussion, so that's why I kind of was just
23 trying to figure out what we're going to do, but I think we can do
24 it, you know, a little bit.

25 So I can start. You know, I did mean what I said about

1 Commissioner Boese and all the work that he's doing and therein.
2 It's disappointing -- I don't know if -- well, yeah, it's
3 disappointing that, you know, they, the whole ANC, voted against
4 this, but, in fact, he -- I'll use his word. I do think we do
5 have a narrow swim lane here, right. Like, I mean, the Zoning
6 Commissioner, Chairman Hood, gives us what we get, right, okay,
7 and then -- now, see I can see your face too, right?

8 And so, you know, we get what we get, and this is what
9 we get, right. We have to decide what we have that's in front of
10 us. It's a special exception. Do they meet the criteria for the
11 special exception that the Zoning Commission put forward, right?
12 And I think they actually do meet the criteria and I'm not
13 necessarily -- and in this particular case, that's the thing.
14 Like, it's this one case. I mean, I don't know how you look at
15 the whole block. I don't know how you look at like -- you know,
16 it's the one parking space. How is the adverse impact for the one
17 parking space? Talk about the parking.

18 Like this is what I understand we're tasked to do, but
19 I'm happy to have a discussion and I think this might be even a
20 discussion for later with, you know, the Office of Planning or
21 Zoning Commission, what have you. But they have, in fact, even
22 provided a creative way to get a car off the road if not two,
23 right. And then this project, they even went and pulled back some
24 of the project from what they could have possibly done matter-of-
25 right which, by the way, also, and we've heard all this, even kind

1 of got rid of, you know, a quote, unquote, "family unit," you
2 know. Like, you know, so I don't even know.

3 It seems as though in this particular case the developer
4 has gone forward with doing their best to mitigate any adverse
5 impact that could have been done with the project and I do agree
6 with the Office of Planning in their analysis as to how they're
7 meeting the criteria.

8 I mean, under C 703.2, you know, this isn't -- they
9 don't have alley access and so that's what something -- and I'm
10 not jumping on the Zoning Commission, but that's something that
11 the Zoning Commission, I guess, said you can get a special
12 exception if you can meet one of these criteria and they're
13 meeting that criteria.

14 So for those reasons, I mean, I'm going to have to vote
15 against the ANC and vote in favor of the project, but I'm going to
16 go around the table now. And Chairman Hood, since I start with
17 you guys, please go next.

18 COMMISSIONER HOOD: Mr. Chairman, I would really like
19 for you to let me go last.

20 CHAIRPERSON HILL: Okay. All right.

21 Mr. Smith?

22 BOARD MEMBER SMITH: I agree with everything that you
23 said, you know, Chairman Hood. I think there is a bigger question
24 that needs to be addressed. Do we want -- does the Zoning
25 Commission want to continue to allow special exceptions for this

1 type of situation or does there need to be an extensive amount of
2 review of additional criteria that you need to analyze, as pointed
3 out too, does the block have alley access? If it doesn't have
4 alley access is there some type of study that could be done about
5 how much parking is taking up on the street during a 24-hour basis
6 where we can have some type of analysis of that to help me form my
7 decision.

8 But, unfortunately, this is the criteria that we have as
9 the BZA to make an analysis and I do believe that the applicant,
10 I'm just going to repeat what Chairman Hill said, has come up with
11 a fairly unique arrangement to try to remove parking off the
12 street to alleviate some of the impacts of the development, but on
13 the cross street still there's no parking spaces in the rear of a
14 property that does have an alley in the back. So I think it's a
15 fairly unique arrangement, but I think it does serve to mitigate
16 some of these adverse impacts.

17 In relation to the building's character along the
18 street, as Chairman Hill alluded to, the applicant was pulling
19 back the bulk of the mass of the building, moving the (audio
20 interference) of the third floor, so this particular property
21 doesn't highly impact the privacy, and light, and air to adjacent
22 properties. I believe the applicant also said that they removed a
23 rooftop deck to mitigate some complaints that addressed 430 who
24 had had some (audio interference) light.

25 So I think that applicant has attempted to address some

1 of these adverse impacts that is referenced by this particular
2 (audio interference). The sticking point is the parking. You
3 know, unfortunately, the Regulations are the Regulations and I do
4 believe, based on the Regulations, and that's C 703.2, that they
5 have sufficiently mitigated parking impacts, and I am in support
6 of this particular special exception.

7 CHAIRPERSON HILL: Ms. John?

8 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree with
9 everything that's been said. I think that this applicant has done
10 an amazing job of trying to accommodate the interests of the
11 neighbors in terms of the bulk of the building and especially
12 locating additional parking across the street and that's what the
13 Regulations says, that if there is no alley, then the applicant
14 should try to find parking within 600 feet. It is true that this
15 parking won't be dedicated to the applicants -- to the residents
16 of the new building, but it takes one car off the street.

17 And so I am in support of this application. I'm also
18 going to give great weight to OP's analysis of how the application
19 meets the standard for the parking relief and I would also note
20 that DDOT did not object to the conversion, and there is one other
21 thing I wanted to say, but it's -- I guess I'll pass. So I -- as
22 I said, I can support this application.

23 CHAIRPERSON HILL: Okay.

24 And I'll give Chairman Hood the final word, but the -- I
25 did forget -- right, DDOT didn't have any objection to the parking

1 really, right. And then the last thing before I turn it over
2 Chairman Hood again is like, you know, this is where else it was a
3 little confusing. I mean, the property next door, they're coming
4 before us again and they've now already made their creative way of
5 getting the parking off the street, right. They're not going to
6 find another creative way. And so we're going to be back here
7 again with the alley access situation.

8 So Chairman Hood?

9 VICE CHAIR JOHN: I remembered what I wanted to say, Mr.
10 Chairman.

11 CHAIRPERSON HILL: Oh, please. Go ahead.

12 VICE CHAIR JOHN: I just wanted to say I appreciate the
13 neighbor's concerns concerning, you know, adding more residents on
14 the block and I do believe there will be some impact on the
15 property, so I agree with Commissioner Hood in that respect, but I
16 believe the applicant does meet the Regulation and has tried to
17 mitigate it without having more residents. And I think there
18 would be the same situation, there's potentially the same
19 situation, with a two-unit project, so I would just (audio
20 interference).

21 CHAIRPERSON HILL: All right. Thank you, Vice Chair
22 John.

23 Chairman Hood?

24 COMMISSIONER HOOD: Yeah, thank you, Mr. Chairman and
25 thank you, Ms. John. I do agree with my colleagues. I actually

1 agree with each of you, but I do want to say this about the Zoning
2 Commission and the Regulation. The Regulations are the
3 Regulations, and the Board should just go by the Regulations.
4 Every time we run into these kind of issues, it doesn't mean that
5 the Zoning Commission has to go back and redo something and so --
6 and I'm not being defensive, I'm just being real. Sometimes they
7 don't always work like I like to see them work.

8 In this particular case, I believe that there's a point
9 that things need to be revisited. This is a living document. It
10 took us nine years to put this in place and it'll probably be 20
11 years to straighten some of the things out. 1958 stood the test
12 of time even though there were a lot of amendments, but I think
13 for the Board's purposes, the way I see it, this Commissioner sees
14 it, is that the Regulations are there. You look at adverse
15 impacts.

16 For me, what got me to support their -- support this
17 application is because I look at what's written. I'm not saying
18 that I like it. I'm not saying that I think -- I think the ANC
19 brings up a valid point in opposition and I agree with them 100
20 percent, so those are the kind of things I look to as we're
21 crafting Regulations on the ZC. But I think, as stated already,
22 in 703.2, we already recognize the adverse -- everybody
23 recognizes, at least Ms. John and I, and I'm sure other colleagues
24 do, Mr. Sullivan did not recognize any adverse impacts in this
25 case, and I think that's a disservice because I think there are

1 adverse impacts.

2 The question, the fundamental question that the court
3 says, "Can they be mitigated?" And I think Ms. Elliott, and I'm
4 not picking on Mr. Sullivan, I'm just being real, I think Ms.
5 Elliott, for me, helped me get over the threshold when she started
6 talking about the 703.2 as well as the parking space that was
7 created.

8 But the flip side of that for me, as we move forward and
9 start promulgating Regulations, I think Commissioner Boese has a
10 major issue along with those who are in opposition because, guess
11 what, if we keep going down this road and I'm not saying this is
12 the road that we should not be going down, then we're exacerbating
13 the problem.

14 But I think for this particular case and this case only,
15 and I know you all may have another case that's coming up soon,
16 but I think for this particular case, I think they have mitigated,
17 I think the applicant has met to try to mitigate some of the
18 impacts and not necessarily create a way because then you just
19 come up with ways to mitigate these impacts and lessen the impacts
20 on those of us who -- or those who are going to still be living in
21 that neighborhood are going to have to endure whatever goes on.
22 So that's my two cents. Thank you, Mr. Chairman.

23 CHAIRPERSON HILL: Okay. All right. So I'm going to go
24 ahead and make a motion to approve Application No. 20352 as
25 captioned and read by the Secretary and ask for a second. Ms.

1 John?

2 VICE CHAIR JOHN: Second.

3 CHAIRPERSON HILL: The motion has been made and
4 seconded. Mr. Moy, if you could please take a roll call vote?

5 MR. MOY: Thank you, Mr. Chairman. When I call your
6 name, if you would please respond with a yes, no, or abstain to
7 the motion made by Chairman Hill to approve the application for
8 the relief -- for the amended relief being requested. The motion
9 is seconded by Vice Chair John. Zoning Commission Chair Anthony
10 Hood?

11 COMMISSIONER HOOD: Yes.

12 MR. MOY: Mr. Smith?

13 BOARD MEMBER SMITH: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: We have a Board seat vacant. Staff would
19 record the vote as 4 to 0 to 1. This is on the motion made by
20 Chairman Hill to approve and seconded by Vice Chair John. Also in
21 support of the motion is Mr. Smith and Zoning Commission Chair
22 Anthony Hood. Again, the motion carries on the vote of 4 to 0 to
23 1.

24 CHAIRPERSON HILL: Okay. Thank you, guys. Is 1:30
25 okay? We'll just give it a try, come back.

1 BOARD MEMBER SMITH: Yes, sir.

2 CHAIRPERSON HILL: Okay. All right. See you at 1:30.

3 (Whereupon, the above-entitled matter went off the
4 record and then resumed at approximately 1:39 p.m.)

5 CHAIRPERSON HILL: All right, Mr. Moy.

6 MR. MOY: One, two, three, four. Okay. Boy, I don't
7 know what I'm going to do if I have to count to five.

8 CHAIRPERSON HILL: One day I think you will. There's
9 somebody coming supposedly.

10 MR. MOY: Okay. The Board is back in hearing session
11 after a quick lunch recess and the time is at or about 1:40 p.m.
12 So the Case Application before the Board is Application No. 20355
13 of T-Mobile, N.E., LLC. It's amended for special exception under
14 Subtitle C, Section 1304.2 and 1312 from the roof-mounted antenna
15 setback and height requirements of Subtitle C, Section 1304.1(a)
16 through (b) to modify an existing rooftop antenna in the PDR-1
17 Zone at premises 2633 Barry Road, Southeast, Square 5864, Lot 807.

18 CHAIRPERSON HILL: All right. Great. Thank you.

19 All right. Mr. Dwyer, can you hear me?

20 MR. DWYER: Yes, I can.

21 CHAIRPERSON HILL: Okay. Could you please introduce
22 yourself for the record?

23 MR. DWYER: Sure. For the record, my name is Timothy
24 Dwyer from Network Building & Consulting representing T-Mobile,
25 N.E. and building owner.

1 CHAIRPERSON HILL: Okay. Mr. Dwyer, I've got 15 minutes
2 on the clock there and you can begin whenever you like.

3 MR. DWYER: Okay. Thanks for your time. Again, this is
4 a special exception application on behalf of T-Mobile, Northeast
5 for the installation of rooftop antennas at 2633 Barry Road,
6 Southeast. The applicant here is seeking relief from Section C
7 1304.1(a) and C 1304.1(b) which is the rooftop-mounted antenna
8 section regarding setbacks from the roof edge of a 1 to 1 setback
9 as well as total mounted height of 12 feet.

10 This application is unique in the fact that in 2017 T-
11 Mobile filed a building permit with DCRA to install the antenna
12 mast and antennas located on that mast and was approved through
13 DCRA and received a building permit. Subsequently, they built the
14 site and built the antenna mast which is the subject of this
15 application, and that has been in place since 2017.

16 When we attempted to modify, and add antennas, and swap
17 antennas on that mass last year, DCRA noticed their error and
18 required us to come here and seek retroactive relief. So this is
19 a unique case than some of the others cases you see because we can
20 probably assess the negative impacts since the site has been up
21 for four years or close to.

22 Again, we are looking for relief for a 31-foot antenna
23 on the rooftop that currently exists. In your -- in the
24 application package, you'll see pictures of that mast as well as
25 it has -- on a chimney. That chimney is not the subject of the

1 application as it abides by the Zoning Code.

2 If we review the standards for special exception here,
3 will this be in harmony with the general purpose and intent of the
4 Zoning Regulation and zoning maps? Given the zone here, the PDR-1
5 zone which is heavy machinery, large workforce, and those types of
6 uses, I believe that there is justification for this use in that
7 zone and the violation of the Zoning Ordinance.

8 The second part of the standards, will it tend -- not
9 tend to affect adverse use of neighboring property in accordance
10 with the Zoning -- in accordance with the title. The bottom line
11 is, this location here and this building is buffered by I-295 to
12 the north, Suitland Parkway, Firth Sterling Avenue, and South
13 Capitol Street and there are no residential homes right in the
14 vicinity here. It's well-buffered in a parcel with other
15 buildings around it, so I believe this satisfies those
16 requirements for special exception.

17 That is all I have. I will take any questions you have
18 and thank you.

19 CHAIRPERSON HILL: Okay. Does the Board have any
20 questions for the applicant?

21 VICE CHAIR JOHN: Just a couple. Could you talk about
22 the special exception through C 1312 in addition to the general
23 special exception criteria? It might be in your record.

24 MR. DWYER: Sure. So C 1312 -- give me one second. Let
25 me pull that up so I have it. One sec. There we go. Yeah, so C

1 1312, 1312, basically talks about the items that the Board needs
2 or that the applicant needs to provide for a special exception.
3 Number one is a map of the area to be served by the new antenna.
4 That should be uploaded. I put in the application materials an RF
5 map showing the general area this T-Mobile site serves.
6 Obviously, ideally, this really does serve I-295. It's a heavy --
7 obviously, a heavy trafficked area so this is -- the main point of
8 this site is to serve 295, but also some of the residential areas
9 to the east and southeast.

10 The second requirement is a map and explanation of the
11 area being inadequately served that necessitates its proposed
12 antennas. Again, that's -- this is a little strange, this
13 application, because most of the time you have applicants coming
14 in for new towers that aren't existing. This site has been up and
15 on air since well before 2017 and this, the subject is this
16 application has been there since 2017. So this is serving that
17 area currently and we need to modify this site to introduce that
18 5G technology that you hear so much about and continue to service
19 T-Mobile and Sprint customers.

20 The third requirement of 1312 is a map indicating the
21 location of any other antennas and related facilities. I also
22 uploaded that to this, I think about two weeks ago, showing the
23 other existing T-Mobile sites that are on air and if you look at
24 that map, you can see that without this T-Mobile site that's
25 circled on that map, there would be a huge loss and a huge gap in

1 coverage as no other sites exist in this area or even south of
2 this area.

3 And again, D, E, and F, those were all uploaded. It's a
4 site plan and roof plan which was uploaded as well as elevation
5 drawings and pictures of the proposed antennas which I included in
6 the package.

7 VICE CHAIR JOHN: Are there any trees nearby?

8 MR. DWYER: There are not --

9 VICE CHAIR JOHN: (Audio interference).

10 MR. DWYER: -- trees in the area, no.

11 VICE CHAIR JOHN: Okay.

12 MR. DWYER: No, it's a very industrial warehouse type
13 area here with a lot of -- it's a -- you know, I hate to say it,
14 but a "concrete jungle," you know, with all the roads.

15 VICE CHAIR JOHN: Okay. Thank you.

16 MR. DWYER: You're welcome.

17 COMMISSIONER HOOD: Mr. Chairman --

18 CHAIRPERSON HILL: Yes, please go ahead.

19 COMMISSIONER HOOD: -- one quick question. Mr. Dwyer,
20 is Southwest Distribution in that building?

21 MR. DWYER: Yes.

22 COMMISSIONER HOOD: So this building -- I used to work
23 for them. That's a sign though. Thank you, Mr. Dwyer.

24 MR. DWYER: You're welcome.

25 CHAIRPERSON HILL: Mr. Smith?

1 All right. I'll go to the Office of Planning?

2 MS. THOMAS: Yes. Good afternoon, Mr. Chair. I'm Karen
3 Thomas with the Office of Planning. The Office of Planning is
4 recommending approval of this application. This is to correct,
5 you know, an error in permitting as the site has been up since
6 2017. It's the kind of area where we would commit these types of
7 installations as a matter-of-right.

8 Albeit it is in excess of the height and it wasn't
9 meeting setback, but where it wasn't meeting the setback it's from
10 the edge, roof of the edge that faces the highway which we don't
11 see that as a problem, and as well as the height to be able to
12 transmit and receive signals.

13 So with that, we believe that the application met the
14 criteria of Section 1312 as well as the -- with respect to
15 impacts, adverse impacts on the neighborhood. It's well away from
16 a residential neighborhood and with that, I'll rest on the other
17 elements of our record. Thank you.

18 CHAIRPERSON HILL: Okay. Does the Board have any
19 questions for the Office of Planning? No?

20 Does the applicant have any questions for the Office of
21 Planning? Okay.

22 Mr. Young, is there anyone here wishing to testify?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Mr. Dwyer, I did have one question.
25 What was your outreach to the ANC because I didn't see anything, a

1 letter, from them?

2 MR. DWYER: Yeah. I reached out to the ANC about a
3 week-and-a-half ago and I received no response. I just wanted to
4 answer any questions on this application to them, but I hadn't
5 heard anything from them back on this application (audio
6 interference).

7 CHAIRPERSON HILL: Okay. All right. Is there anything
8 else you'd like to add, Mr. Dwyer?

9 MR. DWYER: No, thank you.

10 CHAIRPERSON HILL: Okay. All right. I'm going to close
11 the hearing. Mr. Young, close the record and the hearing. Mr.
12 Young, if you could excuse everyone.

13 Okay. I'll let my fellow Board members chime in, but I
14 didn't really have an issue but that doesn't mean -- it's in the
15 PDR-1 zone. I agree with everything that the Office of Planning
16 had said in terms of their analysis with being next to the highway
17 there in terms of the setback relief and I'll be voting in favor.

18 Chairman Hood, is there anything you'd like to add?

19 COMMISSIONER HOOD: No, Mr. Chairman. I think the
20 merits of this case, I'll be voting in favor. You're not going to
21 be (audio interference).

22 CHAIRPERSON HILL: Mr. Smith?

23 BOARD MEMBER SMITH: I don't have anything to add. I
24 would be in support of it too.

25 CHAIRPERSON HILL: Ms. John?

1 VICE CHAIR JOHN: I don't have anything to add. It's a
2 fairly straightforward case and I would give great weight to OP's
3 analysis.

4 CHAIRPERSON HILL: Okay. I'm going to make a motion to
5 approve Application No. 20355 as captioned and read by the
6 Secretary and ask for a second. Ms. John?

7 VICE CHAIR JOHN: Second.

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

10 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
11 your name, if you would please respond with a yes, no, or abstain
12 to the motion made by Chairman Hill to approve the application for
13 the relief that's being requested. Vice Chair seconded the
14 motion. Zoning Commissioner -- Zoning Commission Chair, Anthony
15 Hood?

16 COMMISSIONER HOOD: Yes.

17 MR. MOY: Mr. Smith?

18 BOARD MEMBER SMITH: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: We have a Board seat vacant. Staff would
24 record the vote as 4 to 0 to 1 and this is on the motion of
25 Chairman Hill to approve, seconded by Vice Chair John. Also in

1 support of the motion, Mr. Smith and Zoning Commission Chair Hood.

2 Motion carries, sir.

3 CHAIRPERSON HILL: Okay. Thank you.

4 Give me a second here.

5 All right. Okay. Got it. All right. I was just
6 pulling up something.

7 Okay. Mr. Moy, you can call our next case when you get
8 a chance.

9 MR. MOY: Yes. So this is Case Application No. 20359 of
10 1301 West Virginia, LLC as amended for a special exception under
11 the residential conversion requirements of Subtitle U, Section
12 320.2 to convert the existing principal dwelling unit into a
13 three-unit apartment house. This is in an RF-1 zone at premises
14 1301 West Virginia Avenue, Northeast, Square 4064, Lot 75.

15 There are a number of preliminary matters in this case,
16 Mr. Chair, as you know, which includes a party status request from
17 two individuals, I believe. What I want to add before I forget,
18 let you know, filings are not accepted 24 hours prior to the
19 hearing. So there is a party in opposition who filed a PowerPoint
20 as well as a revised PowerPoint from the applicant and there are
21 two letters in opposition that were submitted within the 24-hour
22 period.

23 CHAIRPERSON HILL: Okay. Let's see where we get with
24 this. Mr. Williams, are you there?

25 MR. WILLIAMS: I am. Good afternoon.

1 CHAIRPERSON HILL: Could you just introduce yourself for
2 the record?

3 MR. WILLIAMS: Yes. Zachary Williams, a land use
4 attorney with the law firm of Venable representing the applicant.

5 CHAIRPERSON HILL: Okay. There is -- is it Ms. Albury?
6 Albury, are you there?

7 Mr. Young, do you see Ms. Albury?

8 MR. YOUNG: I do not.

9 CHAIRPERSON HILL: Oh, I see -- wait, there's Albury.

10 MS. FEATHERSTONE: Yes, I'm here.

11 CHAIRPERSON HILL: Can you --

12 MS. FEATHERSTONE: Mr. Chair, can you hear us?

13 CHAIRPERSON HILL: I can hear you. I can hear you. Are
14 you choosing not to use your camera?

15 MS. FEATHERSTONE: I'm going to have my camera on.
16 Start video.

17 CHAIRPERSON HILL: Maybe --

18 MS. FEATHERSTONE: I'm starting --

19 CHAIRPERSON HILL: -- just try --

20 MS. FEATHERSTONE: I'm starting the video now if that's
21 okay with you.

22 CHAIRPERSON HILL: Okay. Maybe first could you
23 introduce yourself for the -- oh, there you go. Okay. Great.

24 MS. FEATHERSTONE: Oh. Okay. Thank you.

25 CHAIRPERSON HILL: Can you introduce --

1 MS. FEATHERSTONE: I thought --

2 CHAIRPERSON HILL: Can you introduce yourself for the
3 record?

4 MS. FEATHERSTONE: Yes. My name is Brenda Featherstone
5 and my sister Benita Dale-Albury, Albury-Dale. I'm here to
6 represent our mother who lives next door to 1301 --

7 CHAIRPERSON HILL: Okay.

8 MS. FEATHERSTONE: -- Ms. Lottie Albury.

9 CHAIRPERSON HILL: I'm sorry. Just bear with me.
10 There's a lot of preliminary things we have to deal with, so maybe
11 if you want to mute your microphones while we kind of talk through
12 some of this stuff.

13 There is someone who -- is Ms. Durbin here? Ms. Durbin?
14 No? Is there a representative from the church here? Okay.

15 MR. YOUNG: I have Ms. McLaughlin who's calling in who
16 is the other party status requestor.

17 CHAIRPERSON HILL: Okay. Could you let her in, please?
18 Did you say McLaughlin?

19 MS. MCLAUGHLIN: Yes. Can you hear me?

20 CHAIRPERSON HILL: Yes. Is it McLaughlin?

21 MS. MCLAUGHLIN: McLaughlin. Cheryl McLaughlin.

22 CHAIRPERSON HILL: Okay. Ms. McLaughlin, are you with
23 the church?

24 MS. MCLAUGHLIN: Yes. I'm representing the Reverend,
25 William Carloni.

1 CHAIRPERSON HILL: Okay. And you all have requested
2 party status, correct?

3 MS. MCLAUGHLIN: Yes.

4 CHAIRPERSON HILL: Okay. Ms. Durbin? Is Ms. Durbin not
5 here?

6 Mr. Young, you don't have anybody there, right?

7 MR. YOUNG: I do not.

8 CHAIRPERSON HILL: Okay. Okay. All right. Let me --
9 so Ms. McLaughlin, can you let us know why you think you're
10 meeting the criteria for us to grant you party status?

11 MS. MCLAUGHLIN: Well, the church actually owns the
12 property directly across the street from where the proposed
13 building is going to be. As a matter of fact, we own the two
14 buildings, one right on the corner of West Virginia and Neal
15 Street and the building right below that. They educate children
16 from the ages around four all the way up through the eighth grade
17 and so this is -- it'll have a direct impact on the school.

18 CHAIRPERSON HILL: The church owns property that's right
19 adjacent to the applicant's property; is that what you're saying?

20 MS. MCLAUGHLIN: Yes.

21 CHAIRPERSON HILL: Okay.

22 MS. CAIN: Mr. Chair?

23 CHAIRPERSON HILL: Yes?

24 MS. CAIN: I just want to point out that the church's
25 request for party status was actually filed late, so prior to

1 actually considering the merits of the party's status request, the
2 Board needs to consider the church's requested waiver of that
3 filing deadline.

4 CHAIRPERSON HILL: Okay. Ms. McLaughlin, can you hear
5 me?

6 MS. MCLAUGHLIN: Yes.

7 CHAIRPERSON HILL: Did you know that you're late?

8 MS. MCLAUGHLIN: Actually, we started it -- well, here's
9 the biggest problem. The biggest problem is that we received the
10 notification very late. It was very short notice. I don't --
11 they said that they had sent stuff out. We never received it and
12 then as soon as we did receive it, we started action on the
13 process and --

14 CHAIRPERSON HILL: Okay. Ms. McLaughlin --

15 MS. MCLAUGHLIN: -- then --

16 CHAIRPERSON HILL: -- that's -- just give me one second.

17 Ms. Cain, how late are they?

18 MS. CAIN: So it was filed on January 22nd. It's
19 supposed to be filed no less than 14 days before the first
20 scheduled hearing date, so.

21 MS. MCLAUGHLIN: And I don't even know that they got the
22 letter 14 days before the scheduled hearing date.

23 CHAIRPERSON HILL: Okay. Let's see. In this particular
24 case -- I don't know what my Board members think.

25 I guess, Ms. McLaughlin, I think you can't mute your

1 phone or maybe, Mr. Young, you can mute Ms. McLaughlin until we
2 ask questions of her.

3 I'll ask the Board, I guess. I kind of always have a
4 little bit -- I don't always rule -- I don't always vote the same
5 way on people filing late. In this particular case, I think that
6 due to just the way the mail has been lately and perhaps that
7 notice was not received, you know, they're here. I think it's
8 okay to at least talk about whether or not to allow them to have
9 party status. So I would go ahead and suggest waiving that
10 deadline so that at least we can discuss it.

11 Does anybody have an issue with that? And if so, please
12 raise your hand. Oh, Ms. John? Ms. John, you're on mute.

13 MR. WILLIAMS: May we respond as well, Chairman Hill?

14 CHAIRPERSON HILL: Yeah, I'll give you a second, Mr.
15 Williams.

16 MR. WILLIAMS: Thank you.

17 VICE CHAIR JOHN: I have another question concerning
18 whether or not Ms. McLaughlin is authorized to represent the
19 church. Do we have something in the record? We have something
20 from the Bishop, I believe. Would that be --

21 MS. CAIN: I believe she was authorized but let me just
22 double-check the record.

23 VICE CHAIR JOHN: Okay.

24 CHAIRPERSON HILL: Okay. So let Ms. Cain take a look at
25 that. Mr. Williams, you had something you wanted to say?

1 MR. WILLIAMS: Yes, I would just note that we oppose the
2 waiver and that the church actually filed something in this matter
3 on January 11th to postpone the hearing and that was outside the
4 14 days, so the church had notice. I know they had notice more
5 than 14 days outside of the window because they filed something in
6 this case more than 14 days prior to the hearing. I just want to
7 make that clear for the --

8 CHAIRPERSON HILL: Okay.

9 MR. WILLIAMS: -- for the record.

10 CHAIRPERSON HILL: Ms. McWilliams (sic), do you have
11 some response to that, that you should have known to file for your
12 party status request? And now you may be on mute. I don't know.
13 Ms. McWilliams?

14 MS. MCLAUGHLIN: Oh.

15 CHAIRPERSON HILL: I'm sorry.

16 MS. MCLAUGHLIN: McLaughlin.

17 CHAIRPERSON HILL: McLaughlin.

18 MS. MCLAUGHLIN: Okay.

19 CHAIRPERSON HILL: McLaughlin, I'm sorry.

20 MS. MCLAUGHLIN: Okay. Yeah, I wasn't sure you were
21 talking to me.

22 CHAIRPERSON HILL: Sorry.

23 MS. MCLAUGHLIN: I really don't. All I know is that as
24 soon as this stuff started coming in, we tried to file everything
25 according to what was sent to us and put in front us. Like I

1 said, this is kind of new to us, I will be honest with you, and --

2 CHAIRPERSON HILL: All right. That's fine. I got it.

3 So Ms. Cain, did you find something?

4 MS. CAIN: Yeah. So at Exhibit 53 which is the church's
5 request for party status, at page 4 there is authorization for Ms.
6 McLaughlin to represent the church.

7 CHAIRPERSON HILL: Okay. So I'm still back to, I guess,
8 where, you know, it's not -- I mean, we're just going to discuss
9 whether or not to allow the party status. So, you know, I'm going
10 to go ahead and let them in to talk about it. And so I'm going to
11 turn to the Board again to see if you have any issues with that.
12 I mean, they're not attorneys, so I guess that's another reason,
13 but does the Board have any issues with allowing it into the
14 record and, if so, raise your hand.

15 Okay. All right. Ms. McLaughlin, we're going to go
16 ahead and allow your request into the record.

17 MS. MCLAUGHLIN: Right. Yeah.

18 CHAIRPERSON HILL: And so now, I guess, we, the Board,
19 can decide what we think. I'm trying to see if there's -- I mean,
20 the fact that the church owns the property adjacent to the
21 applicant, I would be in favor of awarding party status. I mean,
22 I don't know what you guys think and I'll start with you, Chairman
23 Hood.

24 COMMISSIONER HOOD: I would support Mr. Chairman in
25 making the church a party due to the surrounding ownership of

1 their properties.

2 CHAIRPERSON HILL: Okay.

3 Mr. Smith?

4 BOARD MEMBER SMITH: I agree with Chairman Hood.

5 CHAIRPERSON HILL: Ms. John?

6 VICE CHAIR JOHN: Mr. Chairman, when I looked at the
7 record, I did not notice that the church owned the property
8 adjacent to the project. I saw where the party status opponent
9 does have -- is the adjacent neighbor, but I didn't see where the
10 church also owned the property, I guess, to the other side if it's
11 adjacent.

12 CHAIRPERSON HILL: Ms. Cain, do you happen to point us
13 something in the exhibits?

14 MS. CAIN: So --

15 MS. MCLAUGHLIN: Yes, the --

16 MS. CAIN: -- the, and Ms. McLaughlin can correct me if
17 I'm wrong, I believe that the property that the church owns is on
18 the south side of Neal Street. So the property requesting the
19 application is on the corner of Neal and West Virginia and the
20 church's property is to the south of Neal Street on the opposite
21 corner.

22 CHAIRPERSON HILL: All right. So now I got to look at
23 something. Do you know if there's anything -- so it's not
24 adjacent?

25 MS. CAIN: It's separated by a street, so it is not.

1 They do not share a property line.

2 CHAIRPERSON HILL: Is there something we can look at in
3 the exhibits, do you know?

4 And Mr. -- oh, sorry. Go ahead, Ms. Cain.

5 MS. CAIN: Just if you look at the first page of the
6 plan set, there is a vicinity map to pull up.

7 CHAIRPERSON HILL: Which exhibit? I'm sorry.

8 MS. CAIN: You can just go to the first one which is
9 Exhibit 5. It's probably just easiest.

10 CHAIRPERSON HILL: Okay. I guess, Ms. McLaughlin, I
11 don't know if you can -- Ms. Cain, do you know which one they're
12 talking about?

13 MS. CAIN: So like I said, I believe that the church's
14 property is across Neal Street to the south. So on the south
15 corner of Neal Street and West Virginia.

16 CHAIRPERSON HILL: Got it. It's across that street. I
17 see. So it's south of the applicant's property across the street.
18 I guess it doesn't necessarily change my view.

19 Can you guys see that, my fellow Board members, and do
20 you have any thoughts? Does it change your consideration of the
21 party status? Chairman Hood, may I ask you?

22 COMMISSIONER HOOD: Yes, Mr. Chairman. I think the --
23 and I hate to always cite the Supreme Court or the -- not the
24 Supreme, the Court of Appeals. My view and what I've learned over
25 the years is that the Appeals said for the most part if you can

1 see it, then you're pretty much affected, and I think that this
2 church is doing their due diligence in presenting to us that they
3 are affected, so I'll leave it at that.

4 CHAIRPERSON HILL: Okay. All right. So then we'll
5 stand with allowing them to have party status unless one of my
6 fellow Board members raises their hand. They do not. Okay.

7 So Ms. McLaughlin, we're going to go ahead and allow you
8 to have party status in this case.

9 Ms. Cain, there was -- and I'm kind of looking through
10 some of your reports and everything. You had some thoughts about
11 us not postponing, but just maybe we might want to be hearing this
12 later and I'm trying to understand why again.

13 MS. CAIN: So the recommendation was that to allow the
14 parties, especially now that you've granted additional party
15 statuses in opposition, to allow them time to submit filings to
16 the record fully articulating their opposition to the case, so
17 explaining why they believe that the applicant has not met the
18 burden for the special exception that's sought and then to allow
19 time for the applicants to respond to those submissions and then
20 to give an opportunity to the Office of Planning and the ANC, if
21 they so choose, to respond to all of those filings. We think that
22 this will allow for a more full record. It'll make the issues
23 clearer for the Board to consider which this is actually taken up
24 for a hearing.

25 I would also, with the other party status request that

1 was mentioned at the beginning, I understand from the Office of
2 Zoning that they are reaching out to the individual to see if
3 she's still (audio interference) to participate. So I don't know
4 if Mr. Moy has any update on that, but that was my last
5 understanding from the Office of Zoning.

6 CHAIRPERSON HILL: Okay. I mean, I thought, and this
7 is, you can correct me if I'm wrong also Mr. Moy, but, I mean, the
8 fact that the person hasn't shown up, that is what -- oh, hold on.
9 Somebody is raising their hand.

10 COMMISSIONER HOFFMAN: Chairman Hill, this is Zachary
11 Hoffman. I'm the ANC Commissioner for 5D06. I'm in communication
12 with Ms. Durbin. She's attempting to join this session and is
13 having difficulty. Also, neither of us were granted any kind of
14 notice. I happen to just be on this call and caught that you were
15 talking about this case, but I didn't know it was happening right
16 at this moment, so that's why I was late, and I apologize. But
17 Ms. Durbin is attempting to join the session. She is -- we're
18 going back and forth on email right now.

19 CHAIRPERSON HILL: Okay. And if I remember correctly,
20 and I'm looking at this map then. Ms. Durbin is directly across
21 from the alley.

22 COMMISSIONER HOFFMAN: Yes.

23 CHAIRPERSON HILL: Right? And is she -- so she's
24 immediately, what is it, east of the property, I guess, if you
25 would say, southeast --

1 COMMISSIONER HOFFMAN: Yeah.

2 CHAIRPERSON HILL: -- across that alley?

3 COMMISSIONER HOFFMAN: Uh-huh.

4 CHAIRPERSON HILL: Commissioner, are you the SMD for the
5 area?

6 COMMISSIONER HOFFMAN: I am, yes.

7 CHAIRPERSON HILL: Okay.

8 COMMISSIONER HOOD: Mr. Chairman --

9 CHAIRPERSON HILL: All right.

10 COMMISSIONER HOOD: -- can I --

11 CHAIRPERSON HILL: I --

12 COMMISSIONER HOOD: Can I just ask --

13 CHAIRPERSON HILL: Sure.

14 COMMISSIONER HOOD: -- the commissioner a quick question
15 since we're on that? Commissioner Hoffman, are you a new
16 commissioner?

17 COMMISSIONER HOFFMAN: I am a new commissioner. I was
18 sworn in on the 2nd. This is my first term.

19 COMMISSIONER HOOD: So this is your first term? Okay.
20 So that's why in the record it says that it previously didn't have
21 a Single Member District Commissioner. Okay.

22 COMMISSIONER HOFFMAN: Yes. Jason Burkett resigned in
23 March of 2020 and their seat has been vacant until my swearing in
24 on the 2nd of January.

25 COMMISSIONER HOOD: Okay. Thank you.

1 CHAIRPERSON HILL: Okay. Now I'm looking at this again.
2 Commissioner Hoffman, you guys are also asking for a postponement;
3 is that correct?

4 COMMISSIONER HOFFMAN: That is correct.

5 CHAIRPERSON HILL: Okay. All right. I guess I'm
6 looking for -- well; I'm still trying to wait for Ms. Durbin here.
7 I'm trying to see if there's a way to -- Ms. Cain, are you able to
8 kind of tell us whether -- I can't remember whether -- I mean,
9 some of the issues were the same from all of the different -- from
10 a few of the parties or were they all completely different issues?

11 MS. CAIN: I believe there were -- it was similar
12 issues. Again, I mean, just per the Regulations, it related to
13 Ms. Durbin who is making the argument as to why she should be
14 awarded party status, so --

15 CHAIRPERSON HILL: No, I'm not looking -- that's okay.
16 I'm not looking for Ms. Durbin's arguments. I was just trying to
17 understand whether there was a way to possibly combine somebody's
18 party status and so that's what I'm trying to figure out.

19 Ms. Albury-Dale, have you provided all of your testimony
20 into the record already?

21 MS. ALBURY-DALE: In terms of the (audio interference)
22 presentation for today; is that what you're speaking of?

23 CHAIRPERSON HILL: Yeah. I guess that's what -- oh,
24 that's what you did 24 hours prior, correct?

25 MS. FEATHERSTONE: Yes.

1 MS. ALBURY-DALE: Yes, but I missed the three-minute
2 deadline so we will have to ask permission if this is -- goes
3 forward for me to present the presentation today.

4 CHAIRPERSON HILL: Okay. All right. I'm still waiting
5 for Ms. Durbin.

6 MR. MOY: Yeah. I'm sure the staff is trying to connect
7 her, but maybe if she can't enter the videoconference, then maybe
8 she can call the Hotline because we can do it through the use of
9 the telephone as well. Cell phone, Hotline.

10 CHAIRPERSON HILL: All right.

11 MR. MOY: That may be -- might -- I might help her, Mr.
12 Hoffman.

13 CHAIRPERSON HILL: Commissioner, you're muted.

14 COMMISSIONER HOFFMAN: I'll try to do that.

15 MS. CAIN: She's actually trying to call in right now is
16 my understanding.

17 COMMISSIONER HOFFMAN: Okay.

18 CHAIRPERSON HILL: Okay.

19 Ms. McLaughlin, can you hear me?

20 MS. MCLAUGHLIN: Yes. Yes, I can.

21 CHAIRPERSON HILL: Are you an attorney, Ms. McLaughlin?

22 MS. MCLAUGHLIN: No, I'm not. I'm actually the church
23 secretary.

24 CHAIRPERSON HILL: Okay. Do you know either of the
25 people that have requested party status?

1 MS. MCLAUGHLIN: Yes, I do know Ms. Albury.

2 CHAIRPERSON HILL: Okay. And then you do not know Ms.
3 Durbin?

4 MS. MCLAUGHLIN: No, I do not.

5 CHAIRPERSON HILL: Okay. Because what I'd like to try
6 to do is combine all of the party statuses. Like, everybody is
7 going to get party status, but I'd like to combine your
8 presentation into one presentation because you can all speak on
9 the different -- you can all speak to the issues, but it'll make
10 it more efficient for the Board to be able to hear everything.

11 MS. MCLAUGHLIN: Okay.

12 CHAIRPERSON HILL: And so, Ms. McLaughlin, I'm picking
13 on you because you're a church and so, I don't know, you would
14 think you're -- you have a big organization behind you and so
15 perhaps you could take the lead and speak with, if we get to Ms.
16 Durbin, Ms. Durbin and Ms. Albury-Dale --

17 MS. MCLAUGHLIN: Uh-huh.

18 CHAIRPERSON HILL: -- and then I'm going to put some
19 dates together, Mr. Williams. I'm sorry. We are going to
20 postpone this and I'm trying to make this, again, as efficient as
21 possible and get you back before us as efficiently as possible.
22 And then so what I would be looking for, and this is Ms. Albury-
23 Dale, if you could just kind of take note of this, just listen to
24 me first and I'll come back to you guys with any questions, but if
25 you could get together with Ms. McLaughlin at the church and then

1 submit anything you need to submit by the 10th -- by the 10th, and
2 then -- submissions by the 10th and then the applicant, Mr.
3 McWilliams (sic), you'll be -- Mr. Williams. I've got the Mc's
4 going on. Mr. Williams, you'll be able to submit any responses by
5 the 24th and then Commissioner Hoffman, if you submit any -- oh,
6 no. Wait. And then if you submit anything to us by the 3rd of
7 February, right, and we could also get something from the Office
8 of Planning. I'm sorry, not February. March. March.

9 COMMISSIONER HOFFMAN: March? Okay.

10 CHAIRPERSON HILL: And then what date were we thinking
11 about for this, Mr. Moy, if -- and I'm going to get back -- I'm
12 going to go back there and make sure we're clear on everything,
13 but Mr. Moy, what date were you looking at if we had responses
14 from the Office of Planning and the ANC by March 3rd?

15 MR. MOY: Okay. We could continue the hearing -- if the
16 last filing that's coming in would be February 24th, the earliest
17 date the Board could hear this could be March 10th. We have eight
18 cases on March 10th, so this will be the 9th case.

19 CHAIRPERSON HILL: All right.

20 MR. MOY: It's the same number of cases for the 17th or
21 the 24th if you want to do it that way and then, as well as March
22 31st. So you have your choice of any of the March dates, but the
23 earliest could be March 10th. Does that make sense?

24 CHAIRPERSON HILL: Yeah. I gotcha. So then what I
25 would propose again, and we still haven't gotten Ms. Durbin,

1 right?

2 MR. YOUNG: I have her, Mr. Chair.

3 CHAIRPERSON HILL: Okay.

4 MR. YOUNG: I can --

5 CHAIRPERSON HILL: Okay.

6 MR. YOUNG: -- unmute her now.

7 VICE CHAIR JOHN: Mr. Chairman, if I could interrupt you
8 for one minute? You know, Ms. Albury is the adjacent neighbor and
9 so I would like to hear her thoughts on whether she would like to
10 be represented by someone else or if she, you know, would like to
11 be -- you know, there's a --

12 CHAIRPERSON HILL: Not that particular --

13 VICE CHAIR JOHN: -- slightly different interest (audio
14 interference).

15 CHAIRPERSON HILL: I gotcha. And I'm not -- I won't --
16 and I'll let -- let me get through Ms. Durbin first --

17 VICE CHAIR JOHN: Yes.

18 CHAIRPERSON HILL: -- and then Ms. Albury, and I
19 apologize if I'm butchering your name, Albury-Dale, what -- it's
20 on the table and I'm not terribly sure what -- well, you can speak
21 to it, but again, what my thought was that it's not that you all
22 wouldn't get to voice all of your concerns, it's just that you
23 would do it in a more organized fashion. Right. Any of you guys
24 can -- you know, you can get with Ms. McLaughlin and I guess what
25 is happening is that they would be the spokesperson, right, and

1 everything would go through one voice. I've lost my voice, but
2 one voice, right. So that was my thought in terms of -- you know,
3 in terms of organizing the hearing. Like, still all of the same
4 issues and concerns would get voiced, you would just be going
5 through one person, whoever you all decide, if we ordered party
6 status to -- there'll be three people then, I guess. And you
7 don't know this because you don't do this all the time, but just
8 think about it for a minute and I'm going to think about it also
9 and now Ms. John is kind of maybe considering it. So but, Ms.
10 Durbin, can you hear me?

11 MS. DURBIN: Yes. Can you hear me?

12 CHAIRPERSON HILL: Yes.

13 MS. DURBIN: Hello?

14 CHAIRPERSON HILL: Yes.

15 MS. DURBIN: Yes, I'm here.

16 CHAIRPERSON HILL: So Ms. Durbin, can you tell us why
17 you think you should be awarded party status?

18 MS. DURBIN: Because my house is less than 200 feet.
19 It's literally across a 15-foot public alley and I have solar
20 panels that I installed and a significant investment on my roof
21 that I want to be assured will not be impacted by the proposed
22 development, but the development will affect me as well as the
23 Albury family by the impact on the increased volume and density on
24 the neighborhood.

25 CHAIRPERSON HILL: Okay. So all right. I mean, it

1 sounds to me like some of the issues are similar, but Ms. Albury-
2 Dale, can you hear me?

3 MS. ALBURY-DALE: Yes, we hear you.

4 CHAIRPERSON HILL: So the question is, do you want to
5 work together as a team, or do you want to go ahead and separate
6 your party status?

7 MS. ALBURY-DALE: I'm going to have my sister, Brenda
8 Featherstone, speak since she was slotted to give the presentation
9 today. I'll have her speak. Is that --

10 CHAIRPERSON HILL: Okay.

11 MS. ALBURY-DALE: -- okay?

12 CHAIRPERSON HILL: Sure.

13 MS. ALBURY-DALE: Okay.

14 CHAIRPERSON HILL: Just on this one issue.

15 MS. FEATHERSTONE: Just on this issue. I would like to
16 say -- can you hear me? Okay. I think the idea of combining all
17 the party statuses is a good one, but my sister and I would like
18 to take the lead on it and we're willing to work with the other
19 members or the other people who are going to be given party status
20 if that would be amenable to the Board.

21 CHAIRPERSON HILL: I gotcha. All right.

22 Ms. McLaughlin, did you hear that?

23 MS. MCLAUGHLIN: Yeah. Yes, I did. And actually, they
24 probably have a lot more flexibility in their schedule than what I
25 do as well and I mean, it wouldn't be a problem for us to put

1 together the paperwork and --

2 CHAIRPERSON HILL: Okay. Okay.

3 MS. MCLAUGHLIN: -- as to that.

4 CHAIRPERSON HILL: That's great. That's great.

5 Ms. Durbin, do you understand?

6 MS. DURBIN: The Albury's would be, essentially,
7 presenting for all of the parties' concerns; is that correct?

8 CHAIRPERSON HILL: Yeah. You all would get together and
9 they would just be the -- they would just be the mouthpiece.

10 MS. DURBIN: Got it. So they would cover all of the
11 concerns? But all three parties would be listed in opposition or
12 no?

13 CHAIRPERSON HILL: Yes.

14 MS. DURBIN: Okay.

15 CHAIRPERSON HILL: You would all receive party status,
16 but it would be combined and Ms. Durbin -- I'm sorry, Ms. Albury-
17 Dale would be the spokesperson.

18 MS. DURBIN: Yes, I'm fine with that.

19 CHAIRPERSON HILL: Okay. All right.

20 Ms. Cain?

21 MS. CAIN: I would just say if that's the way the Board
22 wants to proceed and all of the party status individuals are in
23 support of that, that they just submit along with these filings
24 that we're requesting, written confirmation that Ms. Albury-Dale
25 will be sort of taking the lead and coordinating the presentation

1 for the Board.

2 CHAIRPERSON HILL: Okay. Ms. Albury-Dale, did you hear
3 that?

4 MS. ALBURY-DALE: Yes, I -- can we also, since -- can
5 you also include my sister as well, Brenda Featherstone, because
6 the both of us represent our mother, Lottie Albury. Is that okay?

7 CHAIRPERSON HILL: Just submit something to the record -
8 -

9 MS. ALBURY-DALE: Okay.

10 CHAIRPERSON HILL: -- that states that your sister is
11 also a representative.

12 MS. ALBURY-DALE: Yes, that's already been done. We
13 already have done that.

14 CHAIRPERSON HILL: Oh. Okay.

15 MS. ALBURY-DALE: She is authorized. Yes, she is --

16 CHAIRPERSON HILL: Okay.

17 MS. ALBURY-DALE: -- authorized as well to represent our
18 mother.

19 CHAIRPERSON HILL: Okay. So just to be clear now, this
20 is what I'm looking for, right.

21 MS. ALBURY-DALE: Okay.

22 CHAIRPERSON HILL: By the 10th of February, okay, you
23 guys will submit your filings. Okay? So we don't need -- I'm not
24 going to put your PowerPoint in there now, right. So just go
25 ahead and, you know, by the 10th, talk with Ms. Durbin and Ms.

1 McLaughlin and go ahead and get your presentation together. Okay?

2 MS. ALBURY-DALE: Okay. Will do.

3 CHAIRPERSON HILL: Okay.

4 MS. ALBURY-DALE: Yes.

5 CHAIRPERSON HILL: And then that means that the
6 applicant, Mr. Williams, you'll have until the 24th to respond to
7 those filings. Do you understand?

8 And then Commissioner, we're going to get something from
9 the Office of Planning as well as from you by March 3rd.

10 COMMISSIONER HOFFMAN: Okay.

11 CHAIRPERSON HILL: Okay? And then we'll be back here on
12 the 8th.

13 COMMISSIONER HOFFMAN: Chairman, could I request -- oh,
14 I'm sorry. You said you were going to reconvene on the 8th?

15 CHAIRPERSON HILL: Yeah.

16 COMMISSIONER HOFFMAN: Okay. I don't have a public
17 meeting until the 9th that I can submit something to be voted on.

18 CHAIRPERSON HILL: That's okay. Well, I'm going to kick
19 it another week then. Give me one second.

20 Mr. Moy?

21 MR. MOY: You said March 8th? Actually, it would be
22 March 10th for the continued hearing date.

23 CHAIRPERSON HILL: Okay. So then that would work out
24 for you guys, Commissioner?

25 COMMISSIONER HOFFMAN: Yeah. I can have something

1 voted, signed and submitted before the deadline on the 10th.

2 CHAIRPERSON HILL: Okay. Great.

3 MR. WILLIAMS: Chairman Hill, I have a hearing that
4 night at 6:00 p.m. and seeing that we would be nine on the agenda,
5 I just -- unless we can be moved up in the agenda, that's fine,
6 but otherwise we might be a little tight.

7 CHAIRPERSON HILL: Well, we'll put you first. Okay, Mr.
8 --

9 MR. WILLIAMS: No problem with that.

10 CHAIRPERSON HILL: Okay. Just remember, Mr. Moy, okay,
11 because I won't remember. I get a little confused.

12 All right. So you're saying that we're going to hear
13 this on the 10th. You, Commissioner, are going to have your
14 meeting on the 9th, so we're not going to get anything from you
15 until the 10th.

16 COMMISSIONER HOFFMAN: I think in my letter that I sent
17 to you, and submitted here, and was voted on, we feel that by the
18 time it comes up at the next ANC meeting we will have a report and
19 a vote on the BZA exceptions at that meeting that will be able to
20 be submitted for that extended hearing.

21 CHAIRPERSON HILL: Okay.

22 I guess, Mr. Moy, what's the next one if it's not the --
23 the one after the 10th?

24 MR. MOY: It would be March 17th, sir.

25 CHAIRPERSON HILL: And how many cases --

1 MR. MOY: It would be March 17th.

2 CHAIRPERSON HILL: How many cases on --

3 MR. MOY: So --

4 CHAIRPERSON HILL: -- the 17th?

5 MR. MOY: Same, eight cases.

6 CHAIRPERSON HILL: Eight?

7 MR. MOY: Just -- yeah.

8 CHAIRPERSON HILL: Okay. Mr. Williams?

9 MR. WILLIAMS: Just to clarify, Mr. Hoffman, if he was
10 referring to the next hearing being February or in March because I
11 wasn't sure if he was saying that he would have it ready for the
12 10th or if he would need more time.

13 COMMISSIONER HOFFMAN: If I have a public meeting
14 scheduled for the 9th, I would have it ready that evening for the
15 10th, but if we do the 17th, there would be a week of review for
16 that.

17 CHAIRPERSON HILL: Right. So let me do this and I think
18 we should do the 17th and the reason why is because we won't have
19 enough time to really look at it. I don't know if my Board
20 members have -- you can either nod or raise your hand yes or no,
21 if that sounds like a better thing or, I mean, I'm just kind of --
22 I love how this is now just a democracy that, you know, we stick
23 with the 10th as long as you guys think you can review what you
24 need from the ANC. And, I guess, we could. I mean, I don't mind
25 staying with the 10th, I guess.

1 Do you, Ms. John, have an opinion?

2 VICE CHAIR JOHN: No, I don't. I'm fine with what
3 you're proposing.

4 CHAIRPERSON HILL: All right. Let's do it on the 10th.
5 I mean, Mr. Williams, you'd rather have it on the 10th,
6 right? Okay. I hear you saying yes. Okay. All right. So stick
7 with that --

8 MR. WILLIAMS: Yes, sorry.

9 CHAIRPERSON HILL: -- timeline. That's all right. So
10 then just so I'm repeating myself, the submissions are due from
11 the party opponents by February 10th. February 10th, okay. And
12 then the applicant can respond by February 24th. I guess we'll
13 get the Office of Planning's report at least by March 3rd and I
14 guess we're going to keep open the record for the ANC report all
15 the way until the 9th. March 9th. Is that correct by what you're
16 thinking, Mr. Moy and Ms. Cain? Is that timeline okay? Okay.
17 Good. Everybody is nodding their head. Okay. All right. Okay.

18 And so Ms. John, you have a question?

19 VICE CHAIR JOHN: If you're finished scheduling, I have
20 a question for Mr. Williams. I was wondering, Mr. Williams, if
21 you've had an opportunity to talk with Ms. Durbin, and the church,
22 and Ms. Albury-Dale about the revised (audio interference).

23 MR. WILLIAMS: Yes. We have had extended discussions
24 with Ms. Durbin. We've had discussions with the Albury's. We
25 have attempted to reach out to the church actually multiple times

1 over the last month and have not received any responses back, so
2 we're eager to have those discussions, but, to-date, we haven't
3 had an opportunity to get a response back. But like I have said
4 throughout this process, we're open and eager to have discussions
5 and find common ground with anyone else that's interested.

6 VICE CHAIR JOHN: Was this done after January 12th?

7 MR. WILLIAMS: No, these discussions have been going on
8 for several months now.

9 VICE CHAIR JOHN: Okay. So it might be a good idea for
10 everyone to meet before you're back here.

11 MR. WILLIAMS: Absolutely.

12 VICE CHAIR JOHN: Okay. That's it.

13 CHAIRPERSON HILL: Okay. So again, Ms. Albury-Dale --

14 MS. ALBURY-DALE: Yes?

15 CHAIRPERSON HILL: -- if you can go ahead and meet with
16 your other now party status members, get together and make the
17 information available to us by the date that was suggested, March
18 10th, right. I would really -- if you can, I'd highly recommend
19 go ahead and also including, you know, get your ducks in a row and
20 then have a conversation with Mr. Williams, okay, to see where
21 they are and where they might -- where you guys might find some
22 common ground. I'm just looking here at one thing. Give me one
23 second.

24 So Mr. Williams, you didn't present to the ANC yet?

25 MR. WILLIAMS: It was actually presented four times to

1 the ANC.

2 CHAIRPERSON HILL: Okay. And they've been in opposition
3 all those times?

4 MR. WILLIAMS: No, they just -- because we had the ANC
5 turnover, we ended up with a bunch of new commissioners in the
6 January meeting and so they did not vote at that time. They have
7 not voted either way, opposition or support, at this time.

8 CHAIRPERSON HILL: Okay. And then Ms. Albury-Dale, I
9 guess, you've been to those ANC meetings or you haven't, you
10 understand that they're now going to present again at the ANC
11 meeting on March 9th?

12 MS. ALBURY-DALE: Who is now going to -- who is -- I'm
13 sorry. (Audio interference).

14 CHAIRPERSON HILL: I can hear you. I can hear you. I
15 can hear you. The ANC is meeting on March 9th, and I assume Mr.
16 Williams will present there, right?

17 MS. ALBURY-DALE: Okay.

18 CHAIRPERSON HILL: So they will then take a vote, the
19 ANC, so I would suggest that you attend that meeting.

20 MS. ALBURY-DALE: (Audio interference).

21 CHAIRPERSON HILL: Okay?

22 MS. ALBURY-DALE: Can I say -- before you start, can I -
23 - when I -- can I say something please, for the record? Yes, when
24 we found out about the project, we had been attending all of the
25 ANC meetings. We only found out about this project late November

1 28th. And so with the help of Kevin Horton, we did attend the
2 first ANC meeting which I think was on December the 8th.

3 CHAIRPERSON HILL: Okay. So that's the previous --

4 MS. ALBURY-DALE: And so we've been (audio interference)
5 keep up with all of the meetings since then.

6 CHAIRPERSON HILL: And that was the previous
7 commissioner?

8 MS. ALBURY-DALE: I believe so, yes.

9 CHAIRPERSON HILL: Okay. So you might want to get with
10 your current commissioner, Hoffman, there, right, and just get all
11 your ducks in a row.

12 Ms. Brown-Roberts, you haven't -- could you introduce
13 yourself for the record, please?

14 MS. BROWN-ROBERTS: Good evening, Mr. Chairman and
15 members of the BZA. I'm Maxine Brown-Roberts from the Office of
16 Planning.

17 CHAIRPERSON HILL: Okay. You guys haven't submitted a
18 report yet, correct?

19 MS. BROWN-ROBERTS: Yes, we have.

20 CHAIRPERSON HILL: Well then where am I? Oh, God. All
21 right. I got a little mixed up. Right. So you were already --
22 so you reviewed the most recent plans, and the Office of Planning
23 is in approval?

24 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

25 CHAIRPERSON HILL: Okay. Okay. All right. So Ms.

1 Albury-Dale, you've seen the Office of Planning's report? No?

2 MS. ALBURY-DALE: No, I have not.

3 CHAIRPERSON HILL: Okay. Do you know how to access the
4 file?

5 MS. ALBURY-DALE: For that (audio interference)?

6 CHAIRPERSON HILL: Yes.

7 MS. ALBURY-DALE: Yes.

8 CHAIRPERSON HILL: Okay. So I'd take a look at the file
9 and take a look at the Office of Planning's report.

10 MS. ALBURY-DALE: All right.

11 CHAIRPERSON HILL: Right? And again now, this is really
12 your best opportunity to work with the applicant to try to get all
13 your issues resolved. Okay?

14 And Mr. Williams, I --

15 MS. ALBURY-DALE: Certainly.

16 CHAIRPERSON HILL: And Mr. Williams, I really hope you
17 can work with these guys. Okay?

18 MR. WILLIAMS: Me too.

19 CHAIRPERSON HILL: Okay.

20 All right. Does anybody have any questions and I'm
21 going to start with you, Ms. McLaughlin, because I can't see you.

22 MS. MCLAUGHLIN: No, we'll follow the process that's
23 been laid out, I think, and then we can just go from there.

24 CHAIRPERSON HILL: Okay. Ms. Durbin, do you have any
25 questions?

1 MS. DURBIN: Actually, I do have a question. Mr.
2 Williams mentioned that they had presented four times to the ANC.
3 I'm only aware of two, one at the December meeting and one at the
4 January meeting that were public meetings. If there were other
5 meetings, those were not public meetings that I'm aware of.

6 CHAIRPERSON HILL: Okay. They might have presented to
7 the Planning Division or something like that at their other
8 meetings.

9 COMMISSIONER HOFFMAN: Yes, Mr. Chairman. They
10 presented to the Zoning Committee that we have in our ANC.

11 CHAIRPERSON HILL: Right. So those are just meetings
12 that the ANC has first with the applicants before they get to the
13 public hearing.

14 COMMISSIONER HOFFMAN: That's correct. Commissioner.
15 The neighbors were also at, at least one, if not both, of those
16 meetings.

17 CHAIRPERSON HILL: But regardless (audio interference)
18 here, we're setting this up right now.

19 COMMISSIONER HOFFMAN: No, it doesn't. I just -- I
20 understand.

21 CHAIRPERSON HILL: No, that's okay. I understand. So
22 I'm just saying, so, again, there's a lot of different people with
23 different concerns and please, again, Ms. Albury, get together
24 with your other party status members, come up with your concerns
25 and then meet with Mr. Williams. And Mr. Williams, reach out to

1 Ms. Albury-Dale and try to get things set-up right away so that
2 you all can figure this out. Okay?

3 Okay. Well, it's lovely to have everybody. I don't
4 know if we are going to need Chairman Hood again or if you're
5 going to pass this off. Chairman Hood, do you know?

6 COMMISSIONER HOOD: We'll see, Mr. Chairman, but I don't
7 necessarily have to stick with this case because it depends on the
8 date and all that. I wasn't really paying the dates any
9 attention, but I can just tell you that there's five of us, so
10 somebody will be here.

11 CHAIRPERSON HILL: Okay. All right. Great. All right.
12 So just for the party status people, so you all know how this also
13 works, they, the applicant, will present. You will have the same
14 amount of time as the applicant to present. You will then be able
15 to ask questions of the applicant. They will also then be able to
16 ask questions of you. The applicant will then have an opportunity
17 to rebut anything that was said and then there'll be a little
18 conclusion at the end from both parties and the applicant. The
19 applicant gets the last word. Okay? So just letting you all
20 know.

21 And then Commissioner, you're a separate party
22 altogether, so you also get the same amount of time to present as
23 the applicant.

24 COMMISSIONER HOFFMAN: Yes. Thank you.

25 CHAIRPERSON HILL: Yeah. So welcome, Commissioner.

1 This is going to be, you know, your first time with us in this
2 way.

3 COMMISSIONER HOFFMAN: Yes, yes. I've become slightly a
4 zoning expert over the last three weeks, so.

5 CHAIRPERSON HILL: Okay. Great. All right. Okay. If
6 anyone has any questions, please raise your hand. All right.
7 Then I'll close this portion of the hearing and we'll have a
8 continued hearing on the 10th of March. Okay? All right. Thank
9 you everyone. Bye-bye.

10 COMMISSIONER HOFFMAN: Thank you.

11 CHAIRPERSON HILL: Okay. All right.

12 Okay. Mr. Moy, you can call our next one when you get a
13 chance.

14 MR. MOY: Thank you, Mr. Chairman. The next case
15 application before the Board is No. 20361 of G3. That sounds like
16 a summit. G3, LLC. This is a request for area variances from the
17 lot subdivision requirement of Subtitle C, Section 302.1; minimum
18 side yard requirements under Subtitle D, Section 206.3; minimum
19 lot dimension requirements of Subtitle D, Section 302.1. This
20 would subdivide a vacant lot and construct two semi-detached
21 principal dwelling units, R-2 Zone at 5135 Lee Street, Northeast,
22 Square 5200, Lot 113.

23 And for you, Mr. Chairman, the Affidavit of Posting, a
24 new exhibit, 30, was submitted three days late.

25 CHAIRPERSON HILL: Okay. Let me see. All right. Let's

1 see. All right. Okay. Is it Mr. --

2 MR. SALLAH: Sallah.

3 CHAIRPERSON HILL: Sallah, thank you.

4 MR. SALLAH: Yes, uh-huh.

5 CHAIRPERSON HILL: Mr. Sallah, are you just on the
6 phone?

7 MR. SALLAH: Yes, sir.

8 CHAIRPERSON HILL: Okay. All right.

9 Mr. Moy, you said something was late?

10 MR. MOY: Yes, the Affidavit of Posting. Exhibit No. 30
11 was untimely.

12 CHAIRPERSON HILL: Okay. I don't have any issues
13 allowing the Affidavit of Posting in unless somebody has someone
14 here and you could even raise your hand. Okay. All right. So
15 the Affidavit of Posting is in.

16 Mr. Sallah, is someone here with you or is it just you?

17 MR. SALLAH: Yes, the owner is also signed up as a --
18 you know, to present. Yeah, uh-huh.

19 CHAIRPERSON HILL: Okay. All right. Mr. Sallah, have
20 you presented to us before?

21 MR. SALLAH: Yes, I was with -- how do you call it, a
22 gentleman who was building 16th Street, Northeast and I was, you
23 know, with him when, you know, the Board was meeting in-person. I
24 think either last year or last -- two years ago.

25 CHAIRPERSON HILL: Okay. All right. You sound

1 familiar.

2 MR. SALLAH: Yes, sir. Uh-huh.

3 CHAIRPERSON HILL: Let's see. So we don't have any --
4 and I'm sorry, Mr. Sallah. You said you're the one who's going to
5 be presenting or the owner?

6 MR. SALLAH: I'm going to present. I'm going to be
7 presenting and the owner may put in a word if, you know, she wants
8 to.

9 CHAIRPERSON HILL: Okay. Mr. Sallah, did you present to
10 the ANC?

11 MR. SALLAH: Yes, the owner -- yes. I didn't do that
12 myself personally, but the owner did present to the ANC and I
13 believe yesterday we had a meeting with the ANC, and they
14 indicated that they would approve the -- I mean, it was during a
15 Letter of Support for the project.

16 CHAIRPERSON HILL: Okay. And you're aware that the
17 Office of Planning is recommending denial of your application?

18 MR. SALLAH: Yes, I'm aware of that and -- yes.

19 CHAIRPERSON HILL: Okay. I --

20 MR. SALLAH: What --

21 CHAIRPERSON HILL: That's okay. I'll let you get to it.
22 I'll let you get to it. All right. Okay.

23 Ms. Gregory, do you want to introduce yourself for the
24 record?

25 MS. GREGORY: Yes, sir. Good afternoon, Mr. Hill, Ms.

1 John, and the rest of the Board. I just wanted to say thank you
2 for the opportunity to be able to speak with you all today and
3 look forward to providing information to hopefully bring clarity
4 to what we're trying to do and find an amicable way to be able to
5 move forward. So I don't want to delay you all. We've been here
6 since 9:30 and it looks like you got a ton of things to do and so
7 we don't want to take your time. We'll yield it back to Alex
8 Sallah for you.

9 CHAIRPERSON HILL: Okay. Well, Ms. Gregory, welcome.
10 Thanks for being with us and, I guess, I mean, what I was trying
11 to point out to Mr. Sallah, and I guess, Mr. Sallah, you can speak
12 to this, but again --

13 MR. SALLAH: Yes.

14 CHAIRPERSON HILL: -- you know, the -- a variance is
15 actually a pretty high standard and it's a high --

16 MR. SALLAH: Yes, (audio interference).

17 CHAIRPERSON HILL: -- bar for us to overcome in terms of
18 the three prongs and that's why, I guess, the Office of Planning
19 is currently -- they don't think you're meeting the standard for
20 us to grant the application, but you have an opportunity now to
21 convince us otherwise. So --

22 MR. SALLAH: Yes, sir. Uh-huh.

23 CHAIRPERSON HILL: So go ahead and I'm going to give --
24 put 15 minutes on the clock there and you can begin whenever you
25 like.

1 MR. SALLAH: Okay. Good afternoon members of the Board.
2 My name is Alex Sallah at 8837 Western Hemlock Way, Lorton,
3 Virginia. Okay. The -- and I'm the engineer of the project.
4 Yes, today's meeting -- whilst thinking about today's meeting, I
5 came across some new information and -- but I didn't have time to
6 put that together. So we decided to go ahead with this meeting
7 today, but we would, most likely -- we would like to request a
8 short continuance of the, you know, the case so that we can
9 provide the new information.

10 CHAIRPERSON HILL: Mr. Sallah, what's the new
11 information?

12 MR. SALLAH: We want to study the subdivision history of
13 that area. According to what we've researched, we found that the
14 -- there was a big apartment built a long time ago on the lot, on
15 the -- in that area before it was demolished and then the
16 subdivision took place and we feel that if that subdivision -- I
17 mean, if that big apartment wasn't there before, the lots would
18 have been divided similar to the adjacent lots across the street.

19 CHAIRPERSON HILL: Okay. Ms. Vitale, can you hear me?

20 MS. VITALE: Yes, I can.

21 CHAIRPERSON HILL: Could you introduce yourself for the
22 record, please?

23 MS. VITALE: Certainly. Good afternoon, Mr. Chair,
24 members of the Board. Elisa Vitale with the Office of Planning.

25 CHAIRPERSON HILL: Ms. Vitale, did you hear what Mr.

1 Sallah just said?

2 MS. VITALE: Yes, I did.

3 CHAIRPERSON HILL: Do you know whether that has any
4 pertinence on what you're thinking?

5 MS. VITALE: No, I don't think we have enough
6 information to say one way or the other. Certainly if the
7 applicant believes that there is additional information that they
8 would like to provide in the record for the case, we're happy to
9 review that information. So if the applicant would like
10 additional time, that's certainly the applicant's, you know,
11 request to make.

12 CHAIRPERSON HILL: Okay.

13 Mr. Moy?

14 MR. MOY: Yes, sir?

15 CHAIRPERSON HILL: Do you know when we might be able to
16 hear this again?

17 MR. MOY: Can you give me a hint of how long do you
18 think the applicant needs to --

19 MR. SALLAH: Sure, sure.

20 MR. MOY: -- prepare for supplemental information? How
21 much time does he need, a month?

22 CHAIRPERSON HILL: I mean; I would think --

23 MR. SALLAH: About a month.

24 CHAIRPERSON HILL: -- he would at least need a month.

25 All right, Mr. Sallah?

1 MR. SALLAH: Yes, about a month will be fine.

2 CHAIRPERSON HILL: Okay. So you said we're pretty
3 backed up through -- well, you just said -- we just put another
4 case on March 10th which is going to take a long time and then
5 there was also eight cases the next thing which is March --

6 MR. MOY: 17th. March 17th we also have eight cases.

7 CHAIRPERSON HILL: You've got eight? What about the
8 24th?

9 MR. MOY: Same. Eight cases.

10 MR. SALLAH: Eight? Wow.

11 CHAIRPERSON HILL: What, Mr. Moy?

12 MR. MOY: That's true also. Eight cases for March 24th.

13 CHAIRPERSON HILL: Okay. So Mr. Sallah, the soonest we
14 would be able to get to you again is March 17th.

15 MR. SALLAH: That will be fine.

16 CHAIRPERSON HILL: And then, I guess, Mr. Moy, if you
17 could work backwards from that date as to what you need from them
18 when.

19 MR. MOY: March 17th? If the applicant can provide, and
20 to also allow Office of Planning to prepare a supplemental report,
21 if the applicant can make their filing by, let's say, March the
22 8th --

23 MR. SALLAH: Yes, that's --

24 MR. MOY: Does that help you, OP --

25 MR. SALLAH: Yes, that would be fine.

1 MR. MOY: -- Ms. Vitale?

2 MR. SALLAH: Yes.

3 MS. VITALE: If the applicant's not filing supplemental
4 information until the 8th, we would need a week, at least, to
5 review that and draft our report. So we wouldn't be able to get
6 anything to you until March 15th and that would just be two days
7 before the hearing.

8 MR. MOY: Okay. Mr. Sallah, can we revise your
9 submission from March the 1st?

10 MR. SALLAH: Yes, we can. We can do that.

11 MR. MOY: Okay. That'll be March 1st, and this is for
12 the March 17th continued hearing, correct?

13 MR. SALLAH: Yes, sir. It is.

14 MR. MOY: Does that work for you, Ms. Vitale?

15 MS. VITALE: That would be great. Would you then ask
16 for the OP filing to be due Monday, March 8th?

17 MR. MOY: That sounds fine by me unless you feel like
18 you need more time. I can push it down to another week.

19 MS. VITALE: No, I think that would be fine.

20 MR. MOY: Okay. Mr. Chairman?

21 CHAIRPERSON HILL: Yeah. Could you repeat the dates for
22 everyone, Mr. Moy?

23 MR. MOY: All right. The applicant would submit by
24 March the 1st, Monday, March 1st. Office of Planning supplemental
25 report, March the 8th. Continued hearing on March 17th.

1 CHAIRPERSON HILL: Okay.

2 Ms. Gregory, do you understand your dates?

3 MS. GREGORY: Yes, sir. Thank you, very much.

4 CHAIRPERSON HILL: Okay. Well, good luck and hopefully
5 you can get back, I guess, to the ANC even and see if, you know,
6 what you can get from them.

7 MS. GREGORY: Yes.

8 CHAIRPERSON HILL: Okay. All right. Then we'll see you
9 guys on that date.

10 MR. MOY: Since you mentioned the ANC, Mr. Chairman, do
11 we need any filings from the ANC or is the record clear?

12 CHAIRPERSON HILL: Ms. Cain? I forget what's in there
13 from the ANC.

14 MS. CAIN: We have not yet received anything from the
15 ANC on this case.

16 CHAIRPERSON HILL: Okay. So I would like to get
17 something, Mr. Moy, from the ANC.

18 MR. MOY: Well, let's see. Let's see. What did I say,
19 March 17? The staff will follow-up with the ANC. Perhaps we can
20 set the ANC report the same time as Office of Planning. I don't
21 think the Office of Planning needs to hear anything from the ANC.
22 Maybe they do.

23 CHAIRPERSON HILL: Okay.

24 Ms. Gregory, just try to get something from the ANC.
25 Okay?

1 MS. GREGORY: Yes, sir. He did -- Mr. Holmes did say
2 last night that it was going to be pretty late with them getting
3 it in, so I'll just follow-up to ensure that he gets it in to you
4 guys.

5 MS. CAIN: Chairman Hill --

6 CHAIRPERSON HILL: All right. (Audio interference) --

7 MS. GREGORY: Mr. Chairman --

8 MS. CAIN: -- I understand from OZ staff that the ANC
9 did actually submit something. As Ms. Gregory said, it appears it
10 came in very late. It's Exhibit 32, but it does not meet the
11 requirements for great weight, so this additional time period
12 could be used for the ANC to submit something that does meet the
13 requirements for great weight.

14 CHAIRPERSON HILL: So Ms. Gregory, if you can reach back
15 out to Commissioner Holmes and he knows the way it needs to be
16 submitted in order for us to give it great weight --

17 MS. GREGORY: Okay.

18 CHAIRPERSON HILL: -- and so you need to clarify that
19 hasn't been done.

20 MS. GREGORY: Thank you. I certainly will do that.

21 MR. MOY: And if you could remind him that, you know, if
22 he could try to submit an ANC letter by March 8th, that would be
23 helpful. And if there's any issues with that, if you can call our
24 staff. Thank you.

25 MS. GREGORY: Okay.

1 MR. MOY: Thank you.

2 MS. GREGORY: Thank you.

3 MR. SALLAH: Thank you.

4 CHAIRPERSON HILL: All right. Well, Ms. Gregory, we
5 wish you the best of luck. Okay. All right. See you guys later.

6 Okay. Do you want to do one more and then take a break?
7 Okay. All right.

8 VICE CHAIR JOHN: Yes, that's fine.

9 CHAIRPERSON HILL: Okay. All right.

10 You can go ahead and call the next one, Mr. Moy.

11 MR. MOY: Thank you, sir. So this will be Case
12 Application No. 20363 of Peter and Karen Byrne as amended for
13 special exceptions under the residential use provision, Subtitle
14 U, Section 601.1(f); from the alley lot use requirements of
15 Subtitle U, Section 600.1(f); and under Subtitle E, Section 25 --
16 Subtitle E, Section 5201.3, this is from the side yard
17 requirements of Subtitle E, Section 5100.1(e); and from the alley
18 centerline setback requirement, Subtitle E, Section 5100.1(d).
19 This would convert an existing residential parking garage to a
20 two-story detached principal dwelling unit, RF-1 Zone at 514
21 Archibald Walk, Southeast, Square 877, Lot 845.

22 CHAIRPERSON HILL: Okay. Great. Ms. Wilson, are you
23 presenting to us or is Mr. Sullivan?

24 MS. WILSON: I'll be presenting today.

25 CHAIRPERSON HILL: Okay. Could you introduce yourself

1 for the record, please?

2 MS. WILSON: Hi. Alex Wilson from Sullivan & Barros on
3 behalf of the applicant and I'm joined by Peter and Karen Byrne,
4 the homeowners. I believe they're on. Yeah, I see Peter and then
5 Mr. Donovan, the project architect, should also be joining us.

6 CHAIRPERSON HILL: Okay.

7 MS. WILSON: I don't see him right now.

8 CHAIRPERSON HILL: So first of all, there's, I guess, a
9 waiver for the 21-day filing. I guess it's so you're showing us
10 that you're going to try to get the subdivision or you're going to
11 get a record lot; is that -- can you clarify please?

12 MS. WILSON: Sure. So OAG requested that we submit the
13 subdivision application to prove that we intend to get a record
14 lot. It is a DCRA requirement, but we wanted to add that to the
15 record for OAG and then the Board requested we show the sprinkler
16 plan in the record. That is a FEMS request or condition, so we
17 wanted to add both of those to the record.

18 CHAIRPERSON HILL: Okay. I know the sprinkler plan is
19 something that I was interested in seeing, so I'm going to go
20 ahead and allow that into the record and then I don't have any
21 issue with the subdivision because that's also something that we
22 wanted to see. So unless the Board has any issues, I'll allow
23 both of those into the record and if you have any issues, please
24 raise your hand. No? Okay. So we'll go ahead and do that.

25 And then -- all right. So, Ms. Wilson, I'm going to go

1 ahead and put 15 minutes on the clock there and you can begin
2 whenever you like.

3 MS. WILSON: Thank you. I'm trying to see if the
4 architect has joined us yet. I don't see him, but would you mind
5 pulling up the presentation and I can, at least, begin while we
6 wait. Mr. Young, would you mind putting up the presentation when
7 you have a chance? Okay. Thank you. Could you go to the second
8 page, please? Thank you.

9 The owner is proposing to construct a second story
10 addition over the existing garage and use the building as a
11 single-family dwelling. The existing structure is not setback
12 from the lot lines and any addition requires a 2.5-foot setback
13 from the alley to the west and a 5-foot setback from the lot line
14 to the north as that's an abutting non-alley lot, so we are
15 requesting special exception relief from the alley centerline
16 setback and the side yard requirements in order to construct the
17 addition on top of the existing building footprint.

18 Regarding the other area of relief for alley access, a
19 single-family dwelling on an alley lot is permitted as a matter-
20 of-right under certain circumstances, but the property must have
21 access to a 15-foot-wide alley, no more than 300 linear feet from
22 the street. We do have access to an alley greater than 15 feet to
23 the east, but it's more than 300 linear feet from the street.
24 It's 499 linear feet, so we must request special exception relief
25 pursuant to U 600. If you could go to the next slide, please?

1 ANC 6B unanimously supported the application. We
2 presented to their Zoning Committee twice; once for HPRB and once
3 for zoning. Both received unanimous support from the committee
4 and ANC. The Office of Planning is recommending approval. HPRB
5 granted concept approval already and final approval is set to
6 occur at the staff level. There have been no objections from
7 DDOT, FEMS, and PD, or D.C. Water.

8 We have three letters in support including from the
9 directly abutting neighbors to the north and south as well as the
10 neighbor across the alley. I also saw that we have a support
11 letter from the Capitol Hill Restoration Society that was recently
12 submitted. We appreciate their support as well.

13 I don't see the architect on, so I might skip to Slide
14 13 just to go over the special exception criteria and then we can
15 come back. But essentially, it's a single-story dwelling right
16 now. It's used as a garage and they're proposing to construct a
17 second-story addition on top. Slide 12 actually shows the views
18 from the yard to the north which is the impacted side yard.
19 Ordinarily, we would be required to set that back 5-feet, the
20 second-story addition. That pergola is in the rear yard of the
21 property to the north, so that's what the setback would impact.

22 So if you could skip to Slide 19 -- here, I'll just go
23 over the side yard. I'm sorry. Slide 17. So the light and air
24 available to the neighboring properties will not be unduly
25 affected. The conditions on the alley are already relatively

1 shaded. There's a large treehouse structure to the south and
2 fences to the north, so the difference between a matter-of-right
3 project versus the proposed will be relatively imperceptible in
4 terms of light and air and will certainly not rise to the level of
5 undue.

6 And then the side yard relief, as I mentioned, is for
7 the north side of the building. That side faces the rear yard of
8 the building to the north and in that rear yard space, there is a
9 parking area and it's already covered by a pergola. So that's the
10 only area that would be impacted and it's already covered by a
11 pergola, so the difference between the proposed addition and the
12 matter-of-right addition that is setback about 5 feet from the
13 northern lot line does not rise to the level of undue since the
14 pergola is already there. If you could go to the next slide,
15 please?

16 Regarding privacy, the applicant is proposing two
17 windows that face north, but because of the viewing angle and the
18 lower height of the window, there should be minimal impacts on
19 privacy. The windows were designed to limit impacts on privacy for
20 both properties while still allowing light into that second story.
21 The windows will be separated from the building to the north by a
22 rear yard and relief to the alley centerline setback should not
23 substantially changes views from the second floor relative to a
24 matter-of-right project as the difference in distance would only
25 be 2.5 feet. Next slide, please?

1 Regarding character, the project has been reviewed by
2 HPRB and conceptually approval and final approval will be granted
3 at the stop level. The building matches the scale and pattern of
4 the historic alley dwellings.

5 Could you go back to Slide 12, Mr. Young? Thank you. I
6 just thought that would be a helpful visual presentation since
7 that's -- I'd say our largest request for relief is from that 5-
8 foot setback to the side yard. Next slide, please?

9 Regarding the general special exception requirements,
10 the RF zone is intended to provide for single-family and plot
11 development while the I lot regulations are intended to allow
12 residential use of reasonably sized and accessible alley lots.
13 The proposed building would satisfy the lot occupancy parking and
14 residential density requirements of the RF-1 Zone and will,
15 accordingly, not adversely affect the use of neighboring
16 properties. The property's use is in harmony with the surrounding
17 single-family dwellings as we are also proposing a single-family
18 dwelling. Next slide, please?

19 The application also safely meets the specific
20 requirements for special exception relief for the use of a single-
21 family dwelling on an alley lot not meeting the alley access
22 requirements. The alley lot is an RF-1 Zone. It is larger than
23 450 square feet and the applicant will convert the tax lot to a
24 record lot which is a DCRA requirement to construct an addition.
25 The tax lot may be converted to a record lot as a matter-of-right

1 and we have submitted that subdivision application and the
2 proposed use is limited to a single-family dwelling unit. Next
3 slide, please?

4 The subject site connects through improved alleys of E
5 Street and G Street. Relevant agencies such as FEMS, MPD, and
6 D.C. Water have stated they have no objection to the proposed use.
7 Next slide, please?

8 We reached out to all five agencies right after we filed
9 and received comments from four out of the five agencies. As I
10 mentioned, FEMS requested we put sprinklers in the building. We
11 agreed to this and the plan for the sprinklers is now on the
12 record as Exhibit 47A. And I do see that the architect is on or
13 should be on now. I don't know. He's still not on.

14 All right. Well, that concludes my portion of the
15 presentation. As I mentioned before, we have support from the
16 ANC, the abutting neighbors, the Office of Planning is
17 recommending approval, we have HPRB concept approval and there
18 have been no objections from any of the relevant agencies. Thank
19 you.

20 CHAIRPERSON HILL: Okay. I'll wait for (audio
21 interference). Thank you. Does the Board have any questions of
22 the applicant?

23 COMMISSIONER HOOD: Yes, Mr. Chairman. Ms. Wilson, what
24 is your architect's name?

25 MS. WILSON: Justin Donovan. He might need to be let in

1 by Mr. Young.

2 COMMISSIONER HOOD: Because he has his hand up.

3 MS. WILSON: There he is.

4 COMMISSIONER HOOD: Okay.

5 MS. WILSON: Oh, there he is. Yes.

6 CHAIRPERSON HILL: Okay. Chairman Hood, do you have any
7 questions for the applicant?

8 COMMISSIONER HOOD: No, I just wanted to know -- let
9 everybody know Mr. Donovan has his hand up.

10 CHAIRPERSON HILL: Got it.

11 MR. DONOVAN: Thank you, very much. I just wanted to
12 let you guys know that I was present, so.

13 CHAIRPERSON HILL: Okay.

14 MR. DONOVAN: And if it's helpful, I can run through a
15 presentation of the plans and elevations.

16 CHAIRPERSON HILL: Mr. Donovan, that's all right. We'll
17 see where we get. Okay?

18 MR. DONOVAN: Okay.

19 CHAIRPERSON HILL: You want to introduce yourself for
20 the record though now that you've spoken?

21 MR. DONOVAN: Sure. This is Justin Donovan with Richard
22 Williams Architects.

23 CHAIRPERSON HILL: Okay. Great. All right. I'm going
24 to turn to the Office of Planning. Oh, I'm sorry. Does -- Mr.
25 Smith, do you have any questions?

1 BOARD MEMBER SMITH: No questions.

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

3 VICE CHAIR JOHN: Yes. I have a question about the
4 windows to the north. I'm still not sure why there's no impact
5 and do we have any comment from the neighbor to the north? I see
6 there's a neighbor to the north.

7 MS. WILSON: Yes, we do. They're in support and I'll
8 turn it over to Mr. Donovan to explain why the windows are not
9 impacting the neighbor to the north. If Mr. Young could pull up
10 Slide 12, I think that would be helpful. And we are separated
11 from the building to the north by a large rear yard, so the side
12 of the building faces that rear yard. And again, they have
13 submitted a letter in support of the project.

14 MR. DONOVAN: Right. So here we can see the pergola
15 that's in that rear yard and we see windows that are in the
16 kitchen. Those windows are on top of the kitchen counter and then
17 again high above the kitchen cabinets and this, as Alex Wilson
18 just said, has been shared with that neighbor and we have a letter
19 of support from that neighbor.

20 VICE CHAIR JOHN: Okay. That's --

21 MR. DONOVAN: Yeah.

22 VICE CHAIR JOHN: That's fine. Thank you.

23 CHAIRPERSON HILL: Okay. Mr. Byrne -- oh, sorry. Mr.
24 Moy, go ahead.

25 MR. MOY: Just a reminder, Mr. Chair, since Mr. Justin

1 Donovan, the architect, called in, he wasn't able to sign the
2 oath, so I need to administer that whenever you want to do that.

3 CHAIRPERSON HILL: Okay. Mr. Donovan, can you hear me?

4 MR. DONOVAN: I can.

5 CHAIRPERSON HILL: Mr. Moy is going to administer the
6 oath. If you wouldn't mind just taking that?

7 MR. DONOVAN: Of course.

8 CHAIRPERSON HILL: Go ahead, Mr. Moy.

9 MR. MOY: All right. Mr. Donovan, do you solemnly
10 swear or affirm that the testimony you're about to present in this
11 proceeding which you've already started is the truth, the whole
12 truth, and nothing but the truth?

13 MR. DONOVAN: I do.

14 MR. MOY: All right. Thank you.

15 CHAIRPERSON HILL: Okay. Mr. Donovan.

16 MR. DONOVAN: Thank you.

17 CHAIRPERSON HILL: So everything you just said before
18 was the truth, correct?

19 MR. DONOVAN: Correct.

20 CHAIRPERSON HILL: Okay. I know people laugh. I ask
21 every time.

22 All right. Mr. Byrne, are you there?

23 MR. BYRNE: Yes, sir. I am.

24 CHAIRPERSON HILL: Do you want to introduce yourself for
25 the record?

1 MR. BYRNE: Yes. I'm Peter Byrne, one of the owners of
2 the property with my wife, Karen.

3 CHAIRPERSON HILL: Okay. Great. Well, welcome.

4 MR. BYRNE: Thank you.

5 CHAIRPERSON HILL: Mr. Byrne, what's the deal with that
6 treehouse?

7 MR. BYRNE: You know, that's a famous treehouse. It's
8 been in the Washington Post. It's --

9 CHAIRPERSON HILL: Really?

10 MR. BYRNE: -- partially on the neighbor's lot and
11 partially in public space and the neighbors have been in
12 litigation with DDOT and recently had a settlement about where the
13 treehouse can remain for four years and then must come down.

14 CHAIRPERSON HILL: Why four years?

15 MR. BYRNE: I think it was the neighbors said that their
16 children would have outgrown it in four years. The owners before
17 us, that the children would have outgrown it in four years.

18 CHAIRPERSON HILL: Got it. There is no Santa Claus.

19 MR. BYRNE: Well, DDOT's acting a little bit like Santa
20 Claus, but.

21 CHAIRPERSON HILL: All right. Okay. Thank you, Mr.
22 Byrne.

23 Can I turn to the Office of Planning, please?

24 MR. JESICK: Thank you, Mr. Chairman and members of the
25 Board. My name is Matt Jesick. The Office of Planning can rest

1 on the record in support of the application, but I'd be happy to
2 take any questions. Thank you.

3 CHAIRPERSON HILL: Okay. Does the Board have any
4 questions for the Office of Planning? And if so, please raise
5 your hand. All right.

6 Ms. Wilson, do you have any questions for the Office of
7 Planning?

8 MS. WILSON: No, thank you.

9 CHAIRPERSON HILL: Mr. Young, is there anyone here
10 wishing to testify?

11 MR. YOUNG: We do not.

12 CHAIRPERSON HILL: Okay. Before I get off -- right, so
13 we have the sprinklers in there and then -- and you've already
14 done the subdivision, so we don't have any conditions, Ms. Wilson,
15 correct?

16 MS. WILSON: That's my understanding, yes.

17 CHAIRPERSON HILL: Okay. All right.

18 Does the Board have any final questions of anyone? And
19 if so, please raise your hand. Okay. All right. I'm going to
20 close the record and the hearing. You guys have a nice day.

21 MS. WILSON: Thank you. You too.

22 MR. DONOVAN: Thank you.

23 CHAIRPERSON HILL: Okay. Man, that treehouse looks
24 awesome. Like, that's just like -- that's just a treehouse.

25 VICE CHAIR JOHN: Mr. Chairman, where is the treehouse?

1 CHAIRPERSON HILL: That's that -- the thing that's
2 surrounding the tree in the -- and then there's even one in a
3 photograph. I saw the photograph somewhere, but I don't know how
4 they got it up there to begin with, but I agree. Pardon?

5 VICE CHAIR JOHN: There is no treehouse.

6 CHAIRPERSON HILL: Yeah.

7 VICE CHAIR JOHN: Oh, I see it. That blue and green
8 thing.

9 CHAIRPERSON HILL: Yeah. I mean, it looks like they
10 have like air conditioning in there.

11 VICE CHAIR JOHN: That's not a treehouse. That's a --
12 that one-story thing?

13 CHAIRPERSON HILL: Yeah. Well, we're going to just talk
14 because it's fun, I guess, but it's in -- I see the bottom of it
15 in a picture. Otherwise, it's just like a white -- and it looks,
16 you know, it's significant.

17 VICE CHAIR JOHN: Hmm.

18 CHAIRPERSON HILL: And I guess you can look it up in the
19 Washington Post. I guess it's famous, but --

20 VICE CHAIR JOHN: Yes, I see it. It's (audio
21 interference).

22 CHAIRPERSON HILL: And Mr. Moy is nodding. Like, if you
23 know where that is, Mr. Moy, you can send that to me. I'd love to
24 read about it because that definitely isn't something that just
25 popped up one day. Okay. So back to the case. So I would agree

1 with the applicant and the analysis that was provided by the
2 Office of Planning as well as the ANC in terms of how -- well, the
3 Office of Planning in terms of how they're meeting the standard
4 for us to grant the application. There was the issue with the
5 subdivision that has been clarified as well as, you know, meaning
6 that they were going to make it a record lot, a tax lot, and then
7 there was now the sprinklers that were required by FEMS that is
8 now in the record. So I'm satisfied that they're meeting the
9 criteria for us to grant the application and so I'm going to be
10 voting in support.

11 Chairman Hood, do you have anything to add?

12 COMMISSIONER HOOD: No, Mr. Chairman, I don't have
13 anything to add. I think this case is (audio interference) for
14 our approval. I think the -- from the responses to adverse
15 impacts, I think have been dealt with or at least mitigated, so
16 good news. Thank you.

17 CHAIRPERSON HILL: Mr. Smith?

18 BOARD MEMBER SMITH: I agree with Chairman Hood. I
19 believe that the applicant (audio interference) in the case of the
20 properties are looking for us to support a special exception. I
21 would also note that they're in support of the adjacent properties
22 and also a letter from the Capitol Hill Preservation Society, so
23 they -- it sounds like everybody is fully in support of it, so
24 I'll be able to support this relief that's (audio interference).

25 CHAIRPERSON HILL: Thank you. Ms. John?

1 VICE CHAIR JOHN: I agree with everything that's been
2 said. This is fairly straightforward, and I can support it.

3 CHAIRPERSON HILL: All right. And --

4 VICE CHAIR JOHN: And I should add that I am giving
5 great weight to OP's analysis.

6 CHAIRPERSON HILL: Okay. Thank you, Ms. John.

7 I'll make a motion to approve Application No. 20363 as
8 captioned and read by the Secretary and ask for a second. Ms.
9 John?

10 VICE CHAIR JOHN: Second.

11 CHAIRPERSON HILL: Motion made and seconded. Mr. Moy,
12 could you please take a roll call vote?

13 MR. MOY: When I call your name, if you would please
14 respond with a yes, no, or abstain to the motion made by Chairman
15 Hill to approve the application for the relief requested. The
16 motion was seconded by Vice Chair John. Zoning Commission Chair,
17 Anthony Hood?

18 COMMISSIONER HOOD: Yes.

19 CHAIRPERSON HILL: Mr. Chrishaun Smith?

20 BOARD MEMBER SMITH: (Audio interference). All right,
21 I'll support.

22 MR. MOY: I had to do that. Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MR. MOY: Chairman Hill?

25 CHAIRPERSON HILL: Yes.

1 MR. MOY: We have a Board seat vacant. Staff would
2 record the vote as 4 to 0 to 1 on the motion made by Chairman Hill
3 to approve or grant seconded by Vice Chair John. Also in support
4 of the motion, Mr. Smith and Zoning Commission Chair, Anthony
5 Hood. The motion carries.

6 CHAIRPERSON HILL: Thank you, Mr. Moy. Do we want to
7 take a break? Okay. All right. Let's take five minutes. Thank
8 you. Or 10 minutes.

9 (Whereupon, the above-entitled matter went off the
10 record and then resumed at approximately 3:29 p.m.)

11 CHAIRPERSON HILL: Mr. Moy, you can call the next case.
12 You're on mute, Mr. Moy.

13 MR. MOY: Oh, my goodness. Okay. The Board is back in
14 session and the time is at or about 3:30 p.m. The next
15 application before the Board is No. 20365 of Kari McCarron and
16 Jesse Leifert, L-E-I-F-E-R-T, captioned and advertised for a
17 special exception under Subtitle E, Section 5201 from the lot
18 occupancy requirements of Subtitle E, Section 304.1 to construct a
19 two-story rear addition to an existing principal dwelling unit in
20 RF-1 Zone at premises 903 11th Street, Northeast, Square 980, Lot
21 24. The only thing I -- other than that I have for you, Mr. Chairman,
22 this morning, I got a note that the applicant was trying to submit
23 plans into the record within this 24-hour period, but it appears -
24 - my staff tells me it appears to be the same plans that's already
25 in Exhibit 28.

1 CHAIRPERSON HILL: Okay. Let's see. Ms. Brittingham,
2 could you introduce yourself, please?

3 MS. BRITTINGHAM: Sure. Hi. My name is Lacy
4 Brittingham and I am the architect for the project.

5 CHAIRPERSON HILL: Okay. Ms. Brittingham, who is here
6 with you today?

7 MS. BRITTINGHAM: I believe both the clients are,
8 homeowners, are also on the call.

9 CHAIRPERSON HILL: Okay. All right. In terms of --
10 were you trying to submit something that you've already submitted;
11 is that correct? Are you trying to submit new plans?

12 MS. BRITTINGHAM: No. So the Exhibit 28 was uploaded
13 into the record on January 5th which, I believe, was within the
14 requirement for changing or uploading new plans to the record. It
15 actually has no information. I just wanted the rear elevation to
16 reflect some final minor changes we made to the window pattern on
17 the rear elevation, otherwise nothing else changed about the
18 drawing package.

19 CHAIRPERSON HILL: Okay. So Mr. Moy, I guess I'd rather
20 have -- I mean, we want the accurate plans and so unless the Board
21 has any issues, we'll go ahead and submit those into the record.
22 And Ms. Brittingham, if you could just kind of speak to the
23 difference while you are kind of going through. I mean, I'm
24 looking at you're -- the plans that you submitted. Maybe, you
25 know, when you get to your -- you know, whatever point in your

1 presentation, if you can just kind of clarify what changed --

2 MS. BRITTINGHAM: Sure.

3 CHAIRPERSON HILL: -- because we don't have that in
4 front of us. And then also, I guess, if you could speak a little
5 bit to 1108 I Street and the shadowing and the privacy there. And
6 then also maybe if you could speak a little bit to the general
7 criteria that's under X 901.2, how you're meeting that also and we
8 can kind of ask questions as we go along. I'm going to put 15
9 minutes on the clock there so I know where we are, and you can
10 begin whenever you like.

11 MS. BRITTINGHAM: Okay. Great. Thank you, Chairman
12 Hill and members of the Board. So we -- I'm actually going to ask
13 -- Mr. Young, can you put the presentation up then and go to the
14 last slide, Slide 12? Sorry, Slide 11. Great. Thank you. Okay.
15 So you are looking at, on the -- in the center photograph on the
16 right we're looking at the back of the existing house. You can
17 see the original historic brick back of the house is that peach
18 color and it has the angled bay window at the back. There was an
19 extension of the second floor and of the first floor that are clad
20 in siding.

21 We are proposing to remove the two pieces of the rear
22 elevation that are clad in siding, also to remove the angled bay
23 window and then construct a new rear two-story addition. And you
24 can see in the center photograph the house to the left is 901 11th
25 Street and that is to the south. They extend much further beyond

1 the back of our house and will still extend 1.5 feet beyond past
2 the new proposed back of house of this property.

3 The house to the north, which is shown in the right
4 photograph, it's the blue house, is actually a matching house to
5 the existing condition at 903. And so when we demolish the
6 existing back of the house and build the new expanded addition, we
7 will be 4 feet beyond the existing rear wall of the second floor
8 of the house to the North, the blue house and so we're -- you
9 know, extending 4 feet beyond is still within even the by-right
10 limit of extending the house. So we're not having a very -- a
11 large impact on the changes in relation to the existing condition
12 that exists at the back of the house today.

13 If you can actually go then back to probably the first
14 slide? Sorry. Okay. So here you can sort of see what I talked
15 about in that our new back of house will be 4 feet beyond the
16 existing rear wall at 905 and we will be 1.5 feet less than the
17 existing rear wall of 901 11th Street. 901 11th Street is a
18 three-story existing house.

19 Actually, in Slide 2 -- you don't have to go there, but
20 in Slide 2 it is the block plan from the zoning map, and it does
21 not show the garage that exists at the back of 901 11th Street.
22 So they, essentially, have 100 percent lot coverage and the rear
23 wall of their garage and the three-story structure of the house
24 puts our yard in shadow a lot of -- most of the time, if not all
25 of the time. And so the impact of our structure which is a full

1 story lower than that, the shadows cast by it, you know, very
2 insignificant compared to the shadows being cast by 901 11th
3 Street.

4 So we are before you asking for relief from Section E
5 304.1 only for lot coverage. We are proposing 69.8 percent lot
6 coverage. We are meeting the rear yard requirements and we are,
7 again, not going more than 10 feet beyond our neighbors, so we're
8 not asking for that (audio interference) as well.

9 I do want to switch to Slide 7, please. Great. So I
10 can -- you know, the basement we are extending a portion of it
11 underneath the first floor, but I just wanted to start here on the
12 first floor because it also shows with our 12 -- you know, we are
13 removing the back of the house and so what we are constructing is
14 the 12'1" addition but it is only 4 feet beyond the neighbor's
15 house to the north and so, as you can see, we're expanding the
16 kitchen, we had a screened in porch and it tucks into the massing
17 of the whole -- the second floor that extends full width, property
18 line to property line, as well.

19 If you can go on to Slide -- you can go up one more to
20 Slide 8, please? And then there's just the second floor showing
21 that the new space is an expansion of the master suite.

22 And then on Slide 10, please? So this is the rear
23 elevation; existing on the left, proposed on the right. This is,
24 as you can see by the date that's down in the bottom right-hand
25 corner, this is the only page that changed in this packet of

1 drawings and all we changed are the windows sort of to the right
2 of the screened in porch that we labeled as C and D. We changed
3 that window pattern, the division of window, between -- the size
4 of it stayed the same. We just changed the window pattern and
5 everything else stayed the same on the second floor and with the
6 screened in porch.

7 I can speak to the burden of proof. So the light and
8 air available to neighboring properties will not be unduly
9 affected. As we discussed, the neighbor to the south is the
10 three-story structure and casts shadow onto the rear yard of this
11 yard and the neighboring yards most of the time. We -- as far as
12 our massing changes, we're not proposing any increase in height
13 and as mentioned before several times, we are only expanding the
14 footprint 4 feet beyond the existing condition and we are still
15 shallower than, or less than, the neighbor to the south.

16 We have -- as an addition that goes property line to
17 property line, we have no windows on the walls of the property
18 line, so the privacy, use, and enjoyment of the neighboring
19 properties will not be unduly affected. Our fence that exists on
20 the north property line in the rear yard will remain and the car
21 gate will remain as well on the outline. And the neighbor to the
22 south, as previously mentioned, has a garage that is essentially
23 100 percent lot coverage for their lot and structure, so any
24 outdoor space that they have is actually in their side yard on I
25 Street.

1 And last, the proposed lot doesn't substantially
2 visually intrude upon the character, scale, and pattern of the
3 other buildings. Because of the massing of 905 -- sorry, 901 11th
4 Street, the -- our proposed addition is actually not even visible
5 from I Street. The fence will remain, the car gate will remain,
6 to initially limit the changes, the visibility of the changed rear
7 elevation of this property.

8 And in conclusion, we feel we've met the requirements of
9 the special exception. The Office of Planning is recommending
10 approval. Both adjacent neighbors have signed letters of support
11 and I should mention actually that 1108 also signed a letter of
12 report -- of support, and we had that when we went through the ANC
13 as well as a couple of other neighbors on the street.

14 We have talked to our neighbors, we have good support
15 from anyone that we felt was in -- would be impacted by the
16 changes at the back of this house, and the ANC has given their
17 support, and actually the Capitol Hill Restoration Society has
18 also provided their support. So that concludes my presentation,
19 and I would be happy to take any questions.

20 CHAIRPERSON HILL: Okay. Thank you, Ms. Brittingham.

21 Does the Board have any questions for the applicant?
22 And if so, raise your hand.

23 I'm going to turn to the Office of Planning.

24 MS. FOTHERGILL: Good afternoon, Chairman Hill and
25 members of the Board. I'm Anne Fothergill from the Office of

1 Planning for BZA Case 20365 and the Office of Planning recommends
2 approval of this application and rests on the record, and I'm
3 happy to take any questions.

4 CHAIRPERSON HILL: Okay. Does anybody have any
5 questions for the Office of Planning?

6 Does the applicant have any questions for the Office of
7 Planning?

8 MS. BRITTINGHAM: No.

9 CHAIRPERSON HILL: Is it Ms. McCarron that's there?
10 Hello, can you hear?

11 MR. LEIFERT: Yep, that's us here. Jesse and Kari.

12 CHAIRPERSON HILL: Do you guys want to introduce
13 yourself for the record?

14 MR. LEIFERT: Sure. We are Jesse Leifert and Kari
15 McCarron, homeowners at 903 11th Street, Northeast.

16 CHAIRPERSON HILL: I mean, you guys waited around all
17 day. Might as well say something.

18 MR. LEIFERT: Yeah. Thank you, guys, for doing this
19 work for the city.

20 CHAIRPERSON HILL: You're welcome.

21 All right. Let's see. Okay. Mr. Young, is there
22 anybody here wishing to testify?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay. Does the Board have any final
25 questions of anybody? And if so, please raise your hand.

1 All right. Ms. Brittingham, you have anything you want
2 to add at the end?

3 MS. BRITTINGHAM: No, I don't.

4 CHAIRPERSON HILL: Okay. All right. I'm going to go
5 ahead and close the hearing. Close the record and the hearing.
6 Goodbye everyone.

7 Okay. I didn't have any issues with the application. I
8 thought that it was pretty straightforward. I think that the
9 analysis that was done by the Office of Planning I would agree
10 with as well as the testimony that was given from the applicant.
11 It seems as though they have been doing their outreach to the
12 neighbors and I -- again, I thought it was pretty straightforward,
13 so I don't have a lot to add.

14 Chairman Hood, do you have anything you'd like to add?

15 COMMISSIONER HOOD: No, Mr. Chairman. I would second
16 and echo your comments.

17 CHAIRPERSON HILL: Mr. Smith?

18 BOARD MEMBER SMITH: I will echo all of your comments
19 and also (audio interference) ANC 6A as well, so I'm support
20 (audio interference).

21 CHAIRPERSON HILL: Thank you, Mr. Smith.

22 Ms. John?

23 VICE CHAIR JOHN: Thank you, Mr. Chairman. I have
24 nothing to add. It's a very straightforward application and I'm
25 in support.

1 CHAIRPERSON HILL: Okay. I'm going to go ahead and make
2 a motion then to approve Application No. 20365 as captioned and
3 read by the secretary and ask for a second. Ms. John?

4 VICE CHAIR JOHN: Second.

5 CHAIRPERSON HILL: The motion has been made and
6 seconded. Mr. Moy, could you please take a roll call vote?

7 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
8 your name if you would please respond with a yes, no, or abstain
9 to the motion made by Chairman Hill to approve the application for
10 the relief requested. The motion was seconded by Vice Chair John.
11 Zoning Commission Chair, Anthony Hood?

12 COMMISSIONER HOOD: Yes.

13 MR. MOY: Mr. Smith?

14 BOARD MEMBER SMITH: Yes.

15 MR. MOY: Vice Chair John?

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MR. MOY: I have a Board seat vacant. Staff would
20 record the vote as 4 to 0 to 1 and this is on the motion made by
21 Chairman Hill to approve, seconded by Vice Chair John. Also in
22 support of the motion, Mr. Smith and Zoning Commission Chair,
23 Anthony Hood. Motion carries, 4 to 0 to 1.

24 CHAIRPERSON HILL: All right. Great. Thank you, Mr.
25 Moy. You can call our next one when you get your opportunity, get

1 an opportunity.

2 MR. MOY: Before the Board is Case Application No. 20366
3 of Colleen A. Slattery, Trustee. Caption and advertised for
4 special exception under Subtitle E, Section 5201; lot occupancy
5 requirements of Subtitle E, Section 304.1. This would expand two
6 existing rear balconies on the second and third stories of an
7 existing flat, in the RF-1 Zone. This is at premises 2026 North
8 Capitol Street, Northwest, Square 3117, Lot 78.

9 CHAIRPERSON HILL: Okay. Great. Thank you.

10 Ms. Wilson, could you introduce yourself please?

11 MS. WILSON: Hi. Alex Wilson from Sullivan & Barros on
12 behalf of the applicant.

13 CHAIRPERSON HILL: Okay.

14 MS. WILSON: And I'm -- I was going to introduce
15 everyone else that is here with me. I'm here with Colleen
16 Slattery who is the owner and Matt Levy, project architect. And
17 Mr. Sullivan is also here, but I'll be presenting.

18 CHAIRPERSON HILL: Okay. Great. All right. So I don't
19 have any specifics. I did have a question about the ANC, but now
20 I see that you got the letter in here, so you can go ahead and
21 begin whenever you like.

22 MS. WILSON: Great. Thank you, so much. Mr. Young,
23 would you be able to pull up the presentation? Thank you. Could
24 you go to the next slide, please? So there's a bit of background
25 to this case. The previous owner, who is the developer,

1 constructed balconies exceeding lot occupancy sometime in 2015.
2 He constructed the second and third floor balconies to a lot
3 occupancy of 67.2 percent.

4 The previous owner wanted to keep those balconies and
5 actually requested BZA relief in a previous application. At that
6 time, a variance was required and the BZA allowed the owner to
7 keep a portion of those balconies and it was the portion that was
8 approved in the building permit. I don't know if any of you were
9 on that case. I was not around for it.

10 And essentially, it was an estoppel argument and the BZA
11 approved balconies which were shown on the permit, but those
12 balconies were at a 63.6 percent lot occupancy and measured 15
13 feet by 5 feet whereas the actual constructed balconies measured
14 19 feet by 7 feet and 9 inches and were 3.6 percent higher lot
15 occupancy.

16 So the previous application was filed under the 1958
17 Regulations and since then there has been a change in how lot
18 occupancy is calculated. The current regulations permit lot
19 occupancy to be approved via special exception now since it's
20 calculated on a floor-by-floor basis and we talked to the Zoning
21 Administrator about this and he confirmed that in a determination
22 letter.

23 So currently, with all that being said, the specific
24 relief we are asking for, and this has been confirmed by the
25 Zoning Administrator, is special exception relief from the lot

1 occupancy requirements in order to increase the lot occupancy --
2 excuse me -- the lot occupancy to 67.2 percent from the originally
3 approved 63.6 percent. So we are seeking de novo review, so the
4 special exception criteria evaluates the impact of the 3.6 percent
5 increase in the lot occupancy.

6 And even though this is de novo, the request will
7 essentially allow Ms. Slattery to keep her balconies as they are
8 now and without the relief, she would be, essentially, required to
9 cutback portions of her balconies. Next slide, please?

10 So we have eight letters in support including the
11 immediately adjacent neighbors and neighbors across the alley.
12 ANC 5E unanimously supports the application. We presented at the
13 Bloomingdale Civic Association twice and they're supportive as
14 well. The Office of Planning is recommending approval and DDOT
15 has no objection. Next slide, please?

16 So the Zoning Regulations specifically permit special
17 exception relief from the lot occupancy requirements of up to 70
18 percent and the project only exceeds the approved lot occupancy by
19 3.6 percent. The use of neighboring properties will not be
20 adversely affected --

21 CHAIRPERSON HILL: Did you guys all freeze?

22 MS. WILSON: I can still see everybody.

23 COMMISSIONER HOOD: No, I didn't freeze.

24 VICE CHAIR JOHN: No.

25 COMMISSIONER HOOD: Not this time.

1 MS. WILSON: Can everybody hear me?

2 CHAIRPERSON HILL: No, I --

3 VICE CHAIR JOHN: I hear you. I can hear you.

4 BOARD MEMBER SMITH: Yes, I can hear you.

5 CHAIRPERSON HILL: Something happened. Something
6 happened to me. Maybe my -- could you just repeat your last
7 point, Ms. Wilson?

8 MS. WILSON: Sure. Did you see the slide on community
9 and agency support? I'm going through the general special
10 exception requirements right now.

11 CHAIRPERSON HILL: I did.

12 MS. WILSON: Okay. So the application safely meets the
13 general special exception requirements. The project only exceeds
14 the approved lot occupancy by 3.6 percent and the use of
15 neighboring properties will not be adversely affected by the
16 increase of 3.6 percent lot occupancy or 72 square feet of balcony
17 space. Next slide, please?

18 So this is a diagram showing what was approved and what
19 we are asking for special exception for now. The balconies
20 measuring 15 feet by 5 feet have already been approved and the
21 highlighted area shows the areas of expansion. The request is
22 just for the second and third floor balconies and the first-floor
23 balcony already existed at this time on site. Next slide, please?

24 Regarding privacy and use of enjoyment, the expansion of
25 the two balconies will not unduly compromise the privacy of use

1 and enjoyment of neighboring properties. The balconies are at the
2 rear and not facing windows on adjoining properties. They are
3 similar in size to the existing balcony on the first floor. To
4 the north, the balconies face a wall of an adjoining structure and
5 to the south it extends out beyond a large portion of the adjacent
6 rear yard.

7 Although a portion of the adjacent rear yard to the
8 south would be visible from the decks, it's primarily into the
9 adjacent property's parking pad. The next slide shows the
10 relationship between the subject property and adjacent properties.
11 If you could please pull that up? Thank you. So the balconies
12 face into the rear yard, but it's towards a parking pad so it
13 should not impact privacy. The balconies are open, and the
14 proposed increase would not create any impacts on light and air as
15 the balconies are open. Next slide, please?

16 The proposed expansion of the balconies will not
17 substantially visually intrude upon character, scale, and pattern
18 of houses on the alley. The request to increase the size of the
19 balconies, it's not to add new balconies. And as you can see in
20 the photos, the balconies already exist and have not created any
21 adverse effects on the neighboring properties as evidenced by
22 letters in support, and they are similar to decks in the existing
23 area.

24 If you could go to the next slide, it shows the views
25 along the alley and there are a variety of balconies and decks

1 along the alley and that is to the south of the property. Next
2 slide, please? That's the summary of our presentation. The
3 application safely meets the requirements of approval as the
4 proposal will not unduly impact light and air, or privacy of the
5 adjacent properties nor the character of the alley nor will it
6 create any adverse impact to the use of neighboring properties,
7 and we are happy to answer any questions.

8 CHAIRPERSON HILL: Okay. Thank you.

9 And does the Board have any questions for the applicant,
10 and please so raise your hand? No?

11 All right. I'm going to turn to the Office of Planning.

12 MR. MORDFIN: Good afternoon. Stephen Mordfin with the
13 Office of Planning and as -- our review of this application finds
14 it to be in conformance with the relevant criteria. We support
15 the application, stand on the record, and I am available for any
16 questions. Thank you.

17 CHAIRPERSON HILL: Okay. Great. Does the Office of
18 Planning have any questions -- oh, sorry. Does the applicant --
19 oh, no. All right. Does the Board have any questions for the
20 Office of Planning and if so, please raise your hand?

21 Does the applicant have any questions for the Office of
22 Planning?

23 MS. WILSON: No, thank you.

24 CHAIRPERSON HILL: Mr. Young, is there anybody here
25 wishing to testify?

1 MR. YOUNG: We do not.

2 CHAIRPERSON HILL: Okay. Mr. Mordfin, can you hear me?

3 MR. MORDFIN: Yes.

4 CHAIRPERSON HILL: I don't know why, Mr. Mordfin, I
5 remember you getting grilled a lot when we were actually live and
6 in-person by people. I mean, I wonder -- I haven't seen you get
7 grilled very hard here, but like, you know, the video, it must be
8 different for you guys.

9 MR. MORDFIN: It's the work environment.

10 CHAIRPERSON HILL: All right. Okay. All right. Okay.
11 We've got nothing else? All right. Ms. Wilson, you got anything
12 else? You done?

13 MS. WILSON: Yep, all done. Thank you.

14 CHAIRPERSON HILL: I can tell it's getting late. All
15 right. I'm going to close the hearing and excuse everyone. Bye-
16 bye.

17 Oh, Chairman Hood, would you start? Would somebody else
18 start?

19 COMMISSIONER HOOD: Mr. Chairman, I think --

20 VICE CHAIR JOHN: All right. I can start.

21 COMMISSIONER HOOD: Okay. Vice Chair, go right ahead.

22 VICE CHAIR JOHN: So this is fairly straightforward and
23 it's a request for relief from lot occupancy and it's a nominal
24 relief, 3.6 percent relief. And although the deck was already
25 built, we look at the application as if the balcony was not there

1 and we evaluate the request based on the criteria. So I do not
2 believe that there is any adverse impact from allowing the balcony
3 to remain at its current size. I agree with OP's analysis which
4 is quite clear and shows how the application meets the
5 requirement. I also agree with how the applicant has laid out the
6 elements of the criteria and how the project satisfies those
7 elements. DDOT does not object and I'm trying to (audio
8 interference) from the ANC. There's no report from the ANC unless
9 I'm missing something. Let's see. So the (audio interference)
10 that I would support the application.

11 CHAIRPERSON HILL: Mr. Smith?

12 BOARD MEMBER SMITH: I do believe that the applicant has
13 sufficiently demonstrated the (audio interference) of being able
14 to meet the criteria for the special exception. We did get a
15 letter from ANC 5D. There's no interest in the -- they did
16 support it (audio interference) reluctantly per the applicant's
17 request, but they didn't -- I think it's the (audio interference)
18 term phrase, but they do fully support the application. I do give
19 great weight to OP's report and in light of OP's report during the
20 presentation, I would be happy to (audio interference) support
21 (audio interference).

22 CHAIRPERSON HILL: Chairman Hood?

23 COMMISSIONER HOOD: Mr. Chairman, I don't have anything
24 to add, but I would agree with both the Vice Chair and also Board
25 Member Smith.

1 CHAIRPERSON HILL: Thank you. I would also agree with
2 my colleagues. I'm going to make a motion to approve Application
3 No. 20366 as captioned and read by the Secretary and ask for a
4 second. Ms. John?

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: Thank you. Mr. Moy, the motion has
7 been made and seconded. Could you please take a roll call vote?

8 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
9 your name, if you would please respond with a yes, no, or abstain
10 to the motion made by Chairman Hill to approve the application for
11 the relief requested. The motion was seconded by Vice Chair John.
12 Zoning Commission Chair, Anthony Hood?

13 COMMISSIONER HOOD: Yes.

14 MR. MOY: Mr. Smith?

15 BOARD MEMBER SMITH: Yes.

16 MR. MOY: Vice Chair John?

17 VICE CHAIR JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MR. MOY: We have a Board seat vacant. Staff would
21 record the vote as 4 to 0 to 1 and this is on the motion of
22 Chairman Hill to approve, seconded by Vice Chair John. Also in
23 support of the motion, Mr. Smith and Zoning Commission Chair,
24 Anthony Hood. Motion carries 4 to 0 to 1.

25 CHAIRPERSON HILL: Okay. All right. Thank you, Mr.

1 Moy. If you can call the last case, Mr. Moy, when you have a
2 chance?

3 MR. MOY: Okay. This would be Case Application No.
4 20307 of Eckington Court, LLC as amended for area variances from
5 the alley lot of access requirement, Subtitle C, Section 306.1(b)
6 and the lot -- from the alley lot minimum lot dimension
7 requirements, Subtitle C, Section 306.1(c) to subdivide the
8 existing alley record lot into two alley lots and permit the
9 renovation of an existing detached storage building into two
10 principal dwelling units. RF-1 Zone at premises 315 Rear W
11 Street, Northeast, Square 3562, Lot 60.

12 The applicant attempted to submit their PowerPoint which
13 I'm assuming they wanted to use for their presentation and that
14 was within that 24-hour period, Mr. Chairman.

15 CHAIRPERSON HILL: Okay. Is it Ms. Morris? Can you
16 hear me? Ms. Morris? Can you guys hear me? Ms. Morris, can you
17 hear me?

18 MS. MORRIS: Can you hear me?

19 CHAIRPERSON HILL: Yes, now I can hear you.

20 MS. MORRIS: Okay. Got it. Okay. Can you see me
21 because it doesn't look like my camera is on?

22 CHAIRPERSON HILL: No, not yet.

23 MS. MORRIS: Okay. There I am. Okay. Yes.

24 CHAIRPERSON HILL: Okay. Great. Okay. Great. Ms.
25 Morris, could you introduce yourself for the record, please?

1 MS. MORRIS: My name is Emily Morris. I'm with EKM Law.
2 I'm representing the applicant, Eckington Court, LLC. I believe
3 my -- the owner of that is Andre Jean and he is -- should be on as
4 well.

5 CHAIRPERSON HILL: Yep.

6 MS. MORRIS: Andre, are you here?

7 CHAIRPERSON HILL: Mr. Jean? Mr. Jean, could you
8 introduce yourself for the record, please?

9 MR. JEAN: Yes. My name is Andre Jean. I am a resident
10 of Eckington, 2116 4th Street, and owner of the lot as well.

11 CHAIRPERSON HILL: Okay. All right. Ms. Morris, are
12 you going to be presenting to us?

13 MS. MORRIS: Yes, just -- yes --

14 CHAIRPERSON HILL: Okay.

15 MS. MORRIS: -- along with Andre. Yep.

16 CHAIRPERSON HILL: Let me just get one thing. I guess
17 unless the Board has an objection, I'll go ahead and allow the
18 slide deck into the record because I'd like to be able to have a
19 full record and also take a look at it. However, I guess, Ms.
20 Morris, you can go ahead and pull that up during your presentation
21 --

22 MS. MORRIS: Yes.

23 CHAIRPERSON HILL: -- when you like. I mean, you know
24 that the Office of Planning is recommending denial of this because
25 they don't think that you're meeting the first and the third prong

1 of the variance standard and so, you know, you're going to have
2 to, you know, argue that point --

3 MS. MORRIS: Yes.

4 CHAIRPERSON HILL: -- and I'm going to put 15 minutes on
5 the clock just so I know where we are, and you can start whenever
6 you like.

7 MS. MORRIS: Sure. Is it possible for us to have the
8 presentation pulled up? I had emailed it to Mr. Young. I'm going
9 to let Andre do the first part.

10 MR. JEAN: Okay. Next slide, please? Yep. So
11 ultimately our requested relief here is for these two area
12 variances, these two regulations listed here. Next slide, please?
13 And I wanted to share the current state of the lot. Can we go to
14 the next slide? As a homeowner of the house where that garage is
15 in the picture, we've lived there for quite a bit and as you can
16 see, from time-to-time, the lot was either overgrown or people
17 were throwing into the lot or whatnot and when it came up for
18 sale, we thought, okay, you know, we have an opportunity to do
19 something, to do something a little bit better than just having a
20 lot where trash is being thrown and not much is happening from the
21 alley. So next slide, please?

22 This is a recent picture after we've had it cleaned
23 several times because what happens is that we'll clean it and then
24 folks will either dump stuff in it or put stuff near it and so
25 we've gone through that quite a bit and, you know, part of what we

1 propose is to do something there that would define the neighbor
2 and whatnot. Just wanted to show it. Next slide?

3 And, you know, this is on the outside where, as you can
4 see, there's work that's done, mechanic work that's done from
5 time-to-time in the alley, trash being put on the side of the
6 property which blocks the public use of it and, ultimately, this
7 is our base motivation for doing something of value with this lot.
8 Next slide, please?

9 So this is what it looks like from the (audio
10 interference). There is an existing 5-foot easement that we
11 provide. So 5 feet of the land on that left side there, 5 feet
12 all the way from top to bottom, is -- we're not allowed to build
13 on it per the agreement when we purchased it. It's there for use
14 of that alley to make that alley a little wider and so the
15 majority of our design and plans (audio interference) side of the
16 property versus that backside and so we wanted to show that. So
17 next slide, please?

18 And ultimately, that dark blue area there is the
19 enclosed area which is where we plan to build. Next slide? So
20 what we propose -- next slide -- would be to build this building
21 here which is one building, but two units and if you could go to
22 the next slide, I think it shows how it is divided. So this is
23 how it would be divided from a 3D perspective.

24 This one building only uses 60 some odd percent of the
25 lot as opposed to the 80 percent that we could build to, so we

1 built something that matched the neighborhood's look and feel from
2 a three-bedroom two level, (audio interference) parking spaces on
3 -- at the back of each house. Next slide, please?

4 This is how we propose splitting the two lots and, in
5 both cases, even if we were -- so the -- Lot A would be 1,700
6 square feet. Lot B would be about 1,400 square feet. Both
7 buildings would be about 900 square feet from a lot usage
8 perspective. And as you can see, we fall way under the 80 percent
9 limit that's there with the two parking spots on the top end of
10 the page. Next slide?

11 These are just views of the two units. Next slide?
12 Different perspectives there. Elevations as well. Next slide?
13 Next slide? Some of the materials that we plan to use. We shared
14 this as our ANC is very interested in this aspect and this is part
15 of why we garnered their approval as we have been working with
16 them since the beginning of this project and getting their inputs
17 and whatnot. Next slide, please?

18 And here we have community support that is listed. Next
19 slide? From the beginning, we've worked with the previous ANC of
20 5E, Courtney Segmen. We worked with our Eckington Civic
21 Association, additional ANC meeting. Throughout the entire
22 process, we've gotten letters of support by -- as well as letters
23 of support from neighbors. And next slide?

24 We did receive one complaint from a neighbor on 3rd
25 Street, I think where the mechanic work is usually done, and the

1 concern was -- I think it was a misunderstanding in terms of -- I
2 think they thought there was going to be a third level. There was
3 never really a third level planned there. We did have a, what's
4 called, a small penthouse. What's called a penthouse level which
5 was really for roof access, but we've taken that out of the
6 original design as a way to just, you know, just to demonstrate
7 that we're listening to the complaints and the concerns of the
8 third level there. So that wasn't 100 percent necessary, so we
9 removed it as you can see in our (audio interference). Next
10 slide?

11 Emily, I'll pass it back to you --

12 MS. MORRIS: Okay.

13 MR. JEAN: -- then Office of Planning.

14 MS. MORRIS: If I could get the next slide, please? So
15 we are seeking two area variances. This year has been an
16 interesting year, as you all know, for alley lots because the
17 Zoning Commission has issued two new orders that have changed
18 things several times, so we've had to modify the relief a couple
19 times over the past year. So we filed this in May, began the
20 process around the beginning of COVID actually.

21 So we went with an area variance because the lot is
22 almost big enough to subdivide into two matter-of-right lots, but
23 not quite. It's about 12 percent short of the two. Like, 3,600
24 is the requirement and about 12 percent short of that. So we are
25 asking for an area variance relief. It's a big lot. It's going

1 to be within the, basically, the same -- or (audio interference)
2 the proposed size and massing than any other rowhouse would be in
3 RF-1 Zone. It's consistent with Eckington in general.

4 So we'd like to -- if I could go to the next slide, we
5 can talk about the three prongs. So, of course, we have to show
6 for an area variance that there are extraordinary exceptional
7 conditions. Of course, it's a really large lot, 470 square feet
8 shy, 15 percent from the -- a matter-of-right subdivision. We are
9 very close to make the 1,800.

10 It's an extremely accessible alley. It's unusually
11 accessible. It has five different access points to public space.
12 There's two on the -- two to W Street, two to V Street, and one to
13 4th Street and the -- what's -- we had a conversation with Office
14 off Planning and Ms. Myers explained to me that the -- they like
15 to interpret, that you all like to interpret the regs as they were
16 written in 2016, but it's clear that the Zoning Commission has
17 been kind of backing away from that being a strict requirement
18 because if this had been a tax lot rather than a record lot, we
19 would have been in front of you asking for a special exception
20 relief rather than an area variance relief which indicates that
21 there is some policy that would indicate that this would be a
22 usual -- it would -- or a standard should be a little less than a
23 normal area variance because it, just as a matter-of-right, is a
24 record lot.

25 It is currently basically fully enclosed and as you can

1 see from the pictures, it's just a big wall. So massing-wise,
2 it's going to be no different than it is. It'll be actually
3 better because it'll have more open space, more parking for the
4 residents. There's going to be four parking spaces, and it's
5 consistent generally with the RF-1 Zone. So that's the
6 extraordinary conditions. If I could go to the next slide,
7 please?

8 From a practical standpoint, it is very difficult from a
9 financial standpoint to build just one unit for two reasons. One,
10 it would be a really, really large like single-family home for an
11 alley. It could go up to 80 percent of that lot and that's just
12 not realistically economically to build something that big.

13 It has no access to public utilities and one of the
14 reasons that Andre had purchased, Andre and his wife purchased
15 this lot is because they own 2116 and they're going to build
16 utility lots through 2116, but that is an incredible cost to bring
17 utilities, especially water, to this lot which is about --
18 estimated to be about \$100,000 in additional construction costs
19 which makes this a much more difficult lot to build as a single-
20 family unit.

21 And you also have the additional costs of going and
22 getting council approval of which we've been reaching out to the
23 councilmembers to do to get the naming of the alley. So there's
24 just additional costs associated with just having one unit
25 considering the size of the lot and what you can actually build

1 there. So if you could move to the next slide, please?

2 And this is actually consistent with -- our proposed use
3 is consistent with the intent that RF-1 zones are supposed to be,
4 for single-family homes. It's going to be two single-family homes
5 that are family sized which is something that is definitely within
6 the Mayor and the general policy of the District, to build more
7 single-family homes in the District and Eckington in particular.

8 We're going to be building within the matter-of-right
9 height and setback requirements. It's proposing double what is
10 required in the parking. Actually, been -- if it was just two --
11 actually, I don't know if you have to have parking if it was just
12 -- there was just one (audio interference) record lots, individual
13 record lots and we're proposing four spots.

14 It's going to be visually more appealing than the
15 current condition and it's consistent with the signals from the
16 Zoning Commission that they are okay with there being more density
17 or more units. Actually, it's not about density, more units
18 within the alleys within certain constraints. And we also have
19 unanimous community support and ANC support. They really liked
20 the idea of having more family-sized housing in Eckington. So I
21 believe -- go to the next slide, please?

22 So in conclusion, we're requesting that the Board please
23 provide us area variance relief --

24 MR. JEAN: Perfect, and --

25 MS. MORRIS: -- (audio interference).

1 MR. JEAN: And just to close out, I know that you guys
2 have -- you know, we're -- we want to thank you for your
3 thoughtful deliberation on the matter and we know that you have
4 discretion to weigh the weight of this a little differently. We
5 failed to mention that DDOT is also unopposed to this and we have
6 reached out to the various parties that are required to weigh in
7 and have not heard from everyone, but we did hear from DDOT in
8 time. But we do know following other similar cases that this sort
9 of thing is (audio interference) necessarily come against. Thank
10 you.

11 CHAIRPERSON HILL: Okay. I'm going to go around the
12 table and see who has questions. Chairman Hood, may I begin with
13 you?

14 COMMISSIONER HOOD: Sure, no problem. I just want to
15 ask Ms. Morris. I'm trying to figure out -- I remember some of
16 our discussions on how (audio interference). I'm trying to figure
17 out the signals. If you could point me in the direction of the
18 signals that -- I've never heard it exactly put that way before.

19 MS. MORRIS: Well, I put -- they're --

20 COMMISSIONER HOOD: (Audio interference) sending
21 signals.

22 MS. MORRIS: Well, I actually just -- that's my wording.
23 The reason I'm saying that is because the Zoning Commission issued
24 two orders, 1914 and 1913, and both of those orders last year, one
25 was issued in July or became effective in July and the second one

1 became effective on October 28th and both of those relaxed the
2 conditions by which you can actually construct in an alley and
3 1913 actually allows for a smaller lot, if it's a tax lot, to be
4 converted into a record lot. It doesn't have to be 1,800 square
5 feet.

6 So this unit, this lot, is a record lot, so it can't be
7 -- it's not -- it's subject to a different standard, but if it was
8 a tax lot, we could be in front of you seeking a special exception
9 rather than an area variance just by the nature of the fact that
10 it is a record lot which I take as a signal to the -- that the
11 Zoning Commission is saying it's okay to build single-family homes
12 on smaller lots under certain conditions and then here we're not
13 asking for a ton of relief, just a -- you know, just some area
14 variance, but staying within basically the same lot occupancy as
15 we would if we were a normal RF-1 lot and not --

16 COMMISSIONER HOOD: I will agree with you that the
17 Commission was sending -- I like that word, I'll probably use that
18 sometime. Sending a signal to do more on alley lots, but I'm not
19 sure if I would go that far to say to do it exactly to the extent
20 that you're going to. But I will say this, Mr. Jacques (sic).
21 Jacques, I believe was your name?

22 MR. JEAN: Jean, yep.

23 COMMISSIONER HOOD: Jean. Okay. Let me ask you,
24 because I -- and I'm sure the community appreciates you doing
25 something to that piece of property. Have you had discussions

1 with the Office of Planning of what is possible because I know
2 that they had it for denial and I know that this Board, and the
3 Commission, and all of us have discretion. I also know that we
4 have to stay within the Regulations. We don't necessarily -- the
5 Regulations are Regulations and sending signals, while I don't
6 like to always improvise and send signals, sometimes it's not the
7 best advantageous way for us to move forward for the whole city
8 but let me just ask you. Were there other options that you had to
9 be able to do something? I'm sure that -- I'm sure Chairperson
10 Bradley and others in that ANC, Thomas, I'm sure that they really
11 appreciate you doing something down there. They obviously worked
12 with you hard on it. They supported it, but were there other
13 options that you may have discussed with the Office of Planning
14 which they would -- that would be approved, or they would not
15 deny?

16 MR. JEAN: Not directly with the Office of Planning from
17 the perspective that they would deny or approve. I think we
18 talked to a lot of our neighbors and initially everyone wanted a
19 coffee shop and that wasn't something that was even possible just
20 because of the zone and, of course, the utility situation. And
21 when we looked at it, we know that by right we could build, you
22 know, essentially, a 5,000 square-foot one huge building that is
23 2,500, 2,500 and it could be one single-family house with eight
24 bedrooms, right.

25 But we -- when we talked to neighbors about that, people

1 were like well, you know -- we showed the two optional designs or
2 one where -- and there was an early version that had more than two
3 units and we -- because of feedback from our ANC, we went away
4 from that and we went down to two and they were like, "Yes, we
5 definitely support that. The design (audio interference)," and
6 whatnot, but it seemed like we -- our feedback was not the one
7 large and not more than two and that's where we landed in the
8 middle, but we didn't get anything direct from Office of Planning.

9 COMMISSIONER HOOD: Okay. Thank you, Mr. Jean.

10 MS. MORRIS: I did have a --

11 COMMISSIONER HOOD: Ms. Morris?

12 MS. MORRIS: I did have a conversation with Ms. Myers
13 with the Office of Planning and she basically just said they had a
14 discussion and they just couldn't support it. They weren't
15 offering any alternative because they said we should just build
16 just one house.

17 COMMISSIONER HOOD: Well, from my standpoint, I'll just
18 say this. You know, it's not often that I see developers or
19 applicants who live right in the neighborhood trying to do
20 something and I -- you know, I would -- let's see how this goes,
21 but sometimes we're harder on ourselves and I'll just say it like
22 that. Here's somebody who lives in the neighborhood trying to do
23 something, but I want to make sure that they fit the legal
24 requirements of it. Thank you, Mr. Chairman.

25 CHAIRPERSON HILL: Mr. Smith?

1 BOARD MEMBER SMITH: I don't have a question, but I'll
2 thank Mr. Hood for his second question (audio interference).

3 CHAIRPERSON HILL: Ms. John?

4 VICE CHAIR JOHN: I don't have a question. I'll wait to
5 hear from the Office of Planning. I might have a question after.

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

8 VICE CHAIR JOHN: Mr. Chairman, I do have a question.

9 CHAIRPERSON HILL: Oh, sure. Go ahead.

10 VICE CHAIR JOHN: I am unaware of that requirement that
11 would allow a tax lot being built by special exception, for the
12 applicant to build on a tax lot by special exception, and so
13 that's something I would have to have cleared up, so I have a
14 better understanding of the case. The (audio interference) record
15 (audio interference). So like we can ask (audio interference)
16 hear from the Office of Planning.

17 CHAIRPERSON HILL: Ms. Morris, could you mute your line,
18 if you don't mind? Thank you.

19 MS. MORRIS: Sure. Sorry.

20 CHAIRPERSON HILL: Mute. Fine. Sure. That's all
21 right.

22 Could I turn to the Office of Planning?

23 MS. MYERS: Hello. For the record, Crystal Myers with
24 the Office of Planning. As you've stated, the Office of Planning
25 is recommending denial in this case. This is a variance case, so

1 it's a higher test. The key issue that we had is that an
2 exceptional situation needs to be identified that results in a
3 practical difficulty to allow for doing this subdivision at a --
4 to create two lots that are (audio interference) and the applicant
5 made an argument that the lot is extremely big, and so therefore
6 that's resulting in a practical difficulty and I know that there
7 was a discussion about financial challenges with that, but there
8 wasn't a lot of information on that.

9 And so our stance is that the exceptional situation does
10 not -- there's no evidence of that being a practical difficulty.
11 This is a recorded lot and even though 1,800 square feet is the
12 minimum requirement for a RF-1 lot area, that's the minimum. You
13 can actually have a lot that's larger than that.

14 And as a recorded lot, they can create a single-family
15 house on the lot. It's an alley lot. The minimum would be, or
16 the requirement would be, a maximum of one dwelling unit. But as
17 a recorded lot, they can currently do a single-family house on
18 this lot and probably we do think they would need special
19 exception because the alley widths are under the 20-foot, 24-foot,
20 minimum requirement so that would have to be addressed. But other
21 than that, as a recorded lot, there is another alternative for
22 them and this variance relief doesn't -- we don't have the
23 evidence, the argument, to support it.

24 Another point to bring up is that the Zoning Regulation
25 integrity would be challenged. And as we stated before, we've

1 recently undergone alley lot text amendment. So even with the new
2 text amendment, 19-13, this still does not meet the Regulations.

3 Now, I know that there was discussion about the special
4 exception for tax lots. I think the applicant is referring to
5 Subtitle C, Chapter or Section 306.4 and there is a provision.
6 That would be a provision to convert a tax lot, an alley tax lot,
7 to a record lot, but not to subdivide or at least that was not my
8 understanding of that section. But as I've told the applicant,
9 this is not a tax lot, so I look at this as that section not being
10 applicable in this case.

11 And with that, I'm here for questions. I'll make a
12 small staff report correction. The year on the staff report should
13 be 2021, but other than that, stand by the record of the staff
14 report.

15 CHAIRPERSON HILL: Okay. Thank you. Ms. Myers, I guess
16 -- can you hear me?

17 MS. MYERS: Uh-huh.

18 CHAIRPERSON HILL: I guess, my question is as far as the
19 economic hardship, I mean, we've had people make that argument
20 before and I guess, you know, I don't know if you are saying that
21 if you heard more about that that might make it more unique and
22 I'm just -- because what I'm asking, I guess, is like, you know,
23 the utilities being brought in there, the fact that, you know,
24 they have to go through the expense to turn it into a named alley.
25 You know, are things like that things that the Office of Planning

1 took into consideration as to the uniqueness of that lot?

2 MS. MYERS: I mean, we read the argument. Usually when
3 the economic argument is made, there's usually documentation about
4 challenges when it comes to the economics or the financial
5 challenges. That was not in this case. And I'll admit, typically
6 Office of Planning, it does not usually support a financial
7 argument. It usually has to be a pretty compelling financial
8 argument case.

9 I know I had one a few years ago where the applicant
10 provided details about the real estate market in the area, et
11 cetera. So usually there's a bit more of a record in the record.
12 So there's more of a paper trail in the record about the
13 challenges when it comes to the financial issues.

14 CHAIRPERSON HILL: And then lastly the question, because
15 of that easement and I didn't know the details, if they didn't
16 have the easement, would they have enough square footage?

17 MS. MYERS: No. I mean, they -- I didn't look at it
18 from that perspective because --

19 CHAIRPERSON HILL: That's all right.

20 MS. MYERS: -- (audio interference) --

21 CHAIRPERSON HILL: That's fine.

22 MS. MYERS: Yeah.

23 CHAIRPERSON HILL: That's fine. Okay. All right.
24 I'll go around the table with any questions.

25 Chairman Hood?

1 COMMISSIONER HOOD: I don't necessarily have a question.
2 I think Ms. Morris, Ms. Myers, and Mr. Jean have brought up some
3 things that we need to close the loop on. Especially, I would
4 like to get some (audio interference) advice on the record lot/tax
5 lot issue and then I would like to go back and revisit some of the
6 signals. I'd like to research some of those signals. I'm going
7 to use that word and I'm not slighting it, Ms. Morris. I actually
8 appreciate it. I want to see if the intent, if we were sending
9 those kind of signals.

10 So, you know, interpretation -- all of us interpret
11 things differently and I want to make sure, tighten that up, Mr.
12 Chairman, and also give Mr. Jean some time to maybe provide, if he
13 wants to, and Ms. Morris wants to provide, some of that to Mr.
14 Myers some of that additional information. So those are my two --
15 well, two or three different comments. Thank you, Mr. Chairman.

16 CHAIRPERSON HILL: Thank you, Chairman Hood.

17 Mr. Smith?

18 BOARD MEMBER SMITH: Well, I (audio interference) Ms.
19 Myers, but I do agree with Mr. Hood that we could bring this issue
20 before the OAG and the Zoning Administrator on the nuances between
21 the (audio interference) regulations, which ones are triggered
22 versus when we're dealing with a tax lot versus a regular lot. I
23 feel like this has come up very often for me since being on the
24 Board, so that would be helpful, but that's not germane, I guess,
25 to this questioning of you, but I don't have any questions.

1 CHAIRPERSON HILL: Yeah. I think we did do a tax
2 lot/record lot training at some point, but maybe we can kind of
3 mention that, Mr. Moy, or actually, Mr. Rice, also the next time
4 we do a training.

5 Ms. John, do you have any questions?

6 VICE CHAIR JOHN: No, I don't, but I don't recall that
7 it's an automatic conversion from a tax lot to a record lot
8 without looking at whether or not the lot meets the development
9 standards. I don't recall that which seems to be what the
10 applicant is saying. But you know, I would need to look at that
11 and if we're not deciding today, it's something that OAG could
12 advise us on. So that's one thought.

13 The second thought is that I would take a little
14 different approach than Ms. Myers because I believe that we can't
15 look simply at the economic difficulty. There would have to be
16 something more and if there was some showing, for example, that
17 because of the easement the applicant would lose 450 square feet,
18 I think that's where you were going, Mr. Chairman, then it coupled
19 with economic cost, we might be able to find a confluence of
20 factors. But I would say in terms of meeting the variance
21 criteria, I don't think it's looking very good to me at the
22 moment.

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

25 MR. JEAN: Just that if we did have more time to submit

1 additional financial information, I mean, would that -- because
2 there -- it's definitely -- the expense is there. I mean, we -- I
3 didn't realize that we needed to -- to that -- to a certain level
4 of detail. I thought it was not assumed, necessarily, but it
5 definitely would be obviously more expensive to do this, but we
6 could certainly take additional time if that's available to
7 provide that if that would help with the conversation.

8 MS. MYERS: I mean, like I said, a financial argument is
9 one that, from the Office of Planning's perspective, is a rare one
10 that we support, especially since this is a recorded lot, but the
11 information about the easement, that would be something that --
12 there just wasn't any information on that in the record as much.
13 There wasn't much discussion on that. If that's something that
14 you have more information on, that would be helpful as well. I
15 don't know what position we would have, but if you want another
16 review, want to submit more information, I would say both of those
17 pieces would be helpful to understand.

18 MR. JEAN: Okay. Thank you.

19 CHAIRPERSON HILL: Okay. I'm going to come back around
20 here and we're going to see what's - what we all want to do. But
21 Mr. Young, is there anyone here wishing to testify?

22 MR. YOUNG: We do not.

23 CHAIRPERSON HILL: Okay. I guess, Mr. Jean, I don't
24 know, and Ms. Morris, what you all think you might want to do. I
25 mean, I think that, you know, Ms. Morris, 12 percent isn't

1 actually that small. Like, when people are talking about
2 percentage differences it's like 2, 1.5, I mean, really like
3 something that we're like, you know, convinced by. I mean, I
4 think, you know, getting to that number is going to be kind of
5 difficult for me given the prongs that you have to fill in order
6 for us to grant that area variance.

7 What Ms. John is speaking to, I guess, is, you know,
8 more of a confluence of factors argument where, you know, if you
9 had that easement you would have enough square footage, but it
10 doesn't sound like you would even have that. Like, you know, so,
11 you know, you would be getting to maybe 5 percent, you know, or
12 something like that. And so I don't -- I guess what I'm trying to
13 point out is I don't know -- I don't want you all to waste your
14 time.

15 Also, you know, and what the Office of Planning has said
16 in terms of their report is that, you know, you have a record lot,
17 you have something that you're able to build and your argument in
18 terms of the variance is that, you know, you can't make use of
19 your property because it's just going to be too expensive to build
20 the one, you know, build what you're allowed to build, right.

21 And even then, what the Office of Planning is saying is
22 you would still have to come before us for a special exception
23 concerning the alley width problem. And if you did actually, the
24 one thing that I guess we didn't get is something from D.C. Fire
25 that, you know, that there's no problem getting water back there

1 or, you know, serving that building. In either case, you would
2 need to do that if you were back before us for a special exception
3 again or if you continue to try to work through this.

4 I mean, I suppose, you know, we could -- if you're
5 interested, we could go ahead and you could, you know, have some
6 discussions with the Office of Planning. You could, you know,
7 take some time to put together and see if you have an ability to
8 put together a financial argument. I mean, the Office of
9 Planning, again, doesn't usually and I'll agree with Ms. Myers,
10 doesn't usually get into the financial criteria or aspects of it
11 because you're asking for a variance, right, and your -- which is
12 something that's outside of the Regulations.

13 Like, again, you have something you can do with the
14 property. You're just saying that you can't use it because of
15 financial reasons. I mean, that's really kind of the argument
16 that I'm hearing and whether or not you're able to even justify
17 that, like how you would be able to -- you know, you'd have to put
18 some numbers together that show again like, you know, what the
19 costs would be with one unit, if you sold it what would happen,
20 that type of thing.

21 So I guess I'm also unclear as to whether or not you
22 have my -- whether I would be swayed. I don't see that, you know,
23 Ms. John -- I don't know whether -- you know, she seems to be kind
24 of on my side at this point that, and, you know, I'm not taking a
25 vote with people, but Mr. Smith is nodding his head. So, you

1 know, it seems as though, you know, you still have this high
2 burden that you already kind of came in the front door with. I
3 mean, you knew it when you came walking in, you know, this
4 hearing.

5 So I suppose, you know, there's no harm in you taking a
6 look at this and seeing if you want to -- we can postpone this for
7 -- we can keep the record open for some information from you and
8 the Office of Planning and then, I guess, you can just determine
9 whether or not you think it's worthwhile to continue going down
10 this road, right, and then you can, you know, withdraw your
11 application or do whatever you want to do, right.

12 So I would -- I guess that's probably the best case
13 right now for you. I mean, I'm sorry that you did go through all
14 of it. It does sound like you've really been working with the
15 ANC. I mean, to Chairman Hood's point, you know, we don't really
16 see a lot of people where they live next door or they're -- you
17 know, or they're taking up a lot of -- I guess, the good thing is
18 you get to design something that is there for your benefit and
19 that you're beautifying your own space there, you know, but.

20 So I guess, let's see. So this is my proposal, and you
21 can see what you want to do. We could go ahead, leave the record
22 open for you to submit more information concerning a confluence of
23 factors argument which might bring in, again, you know, finances
24 into it, the easement into it. You know, I still don't get the
25 argument whether or not it's a tax lot or a record lot.

1 I guess you can go ahead and make that argument, meaning
2 it's not a tax lot. It is a record lot. You know, so you could
3 go ahead and, I guess, continue to make that argument. We'll
4 leave the record open for any new information. Then we can leave
5 the record open for whether or not the Office of Planning has
6 anything to add after that new information and then we can set the
7 case for a decision meeting.

8 And I'm kind of looking at my Board members first to see
9 if that sounds as though something you all might be interested in
10 and, I guess, I could start with Chairman Hood first as to your
11 thoughts.

12 COMMISSIONER HOOD: My thoughts are I think that's a
13 good path forward. I'm not sure if we're going to end up wherever
14 the applicant wants to be, but I think that's a good path forward
15 and he can go back and relook at what he's bringing to us as well.

16 CHAIRPERSON HILL: Okay. Mr. Smith?

17 BOARD MEMBER SMITH: If my fellow Board members believe
18 that this is a good path forward, I would support it. But I would
19 say from my standpoint on the variance, I agree with Ms. Myers. I
20 do believe that there needs to be a confluence of factors where
21 economic -- there's economic consideration.

22 The example that I would give, Ms. Myers gave an
23 example, and I would say that let's say that this alley had a
24 major topographic issue in the rear and the zoning regulations
25 would force the dwelling unit to be within a ravine and that would

1 cause a major financial hardship whether it's a single-family
2 house or a two family dwelling where they would have to fill in
3 that ravine a little bit or they would have to do some extreme
4 design of this building where it's practically financially
5 unfeasible for you to build or use anything on this lot.

6 Nothing that has been presented today speaks to that and
7 I don't believe that it sways me one way or the other and I
8 believe that this particular situation is a self-imposed hardship
9 of the applicant because they're trying, from an economic
10 standpoint, to build two units which creates this hardship and
11 comes down to the size of the lot. So I -- you know, if we want
12 to continue to deliberate this case and leave it open, I'm open to
13 that (audio interference) vote.

14 CHAIRPERSON HILL: Ms. John?

15 VICE CHAIR JOHN: So this is another case where it's a
16 great idea, but it just doesn't fit in the Regulation as I see it
17 and I would hate -- I like to be a straight shooter with the
18 applicant because he's been working for a year on this project and
19 the variance is tough, even though it's an area variance. And so
20 add to that, the economic difficulty cannot be 75 percent of the
21 reason. Maybe 5 percent or something.

22 And so I agree that we should continue the case and
23 maybe with further thought there might be, you know, some
24 solution, but if I were to decide today, I would not be able to
25 support that variance because we get this issue all the time where

1 somebody, you know, wants to build up a property in a certain way
2 so that it would be economically feasible and, you know, we just
3 can't go on that argument alone. It would just be a slippery
4 slope. So I agree with you. We should continue it to see, you
5 know, if there is some solution.

6 CHAIRPERSON HILL: Okay. Now, I forget, so Mr. Moy or
7 Mr. Rice, are you guys there?

8 Chairman Hood?

9 MR. RICE: Yes, sir?

10 COMMISSIONER HOOD: Yeah. I just wanted to go back
11 because I heard Board Member Smith and Vice Chair John's comments.
12 And to me, unless I missed something, it seemed like Mr. Jean was
13 willing to go back and relook at some of the things and also
14 provide some of what Ms. Myers -- that's why I took the position I
15 was in because we may -- he may come back with something totally
16 different that's not even an area variance. I don't know, but
17 that was the impression I got and maybe I'm incorrect on that, but
18 I think he needed an opportunity because I think he sees kind of
19 where we are to relook at it. That was the impression I got. If
20 I'm incorrect, because I don't like to put in on promised land as
21 well, but if I'm incorrect then it's my fault, but I think I
22 recognize something else in this conversation.

23 CHAIRPERSON HILL: Chairman Hood, I'm going to find out
24 where promised land is. You know, there's a lot of promised land
25 out there. You know, like I mean, you know -- all right.

1 COMMISSIONER HOOD: That's something that I hear that
2 goes on all the time, especially when the ANC is coming from the
3 Zoning Commission and it seems like we put them on promised land.
4 I don't like to do that because when promised land doesn't happen,
5 when you're in the Costco, you hear about it, so. And I too,
6 don't like to be put on -- I don't like to be put on promised
7 land, so.

8 CHAIRPERSON HILL: I thought eventually though promised
9 land happens. That's the whole point, hopefully, right? Promised
10 land, that maybe it'll happen. Not that it's a never ever, right?
11 So, but anyway, I got it.

12 No, Mr. Rice and Mr. Moy, what I was trying to remember
13 was so if, again, the applicant -- I'm just trying to think of
14 timing now. If you came back and it was, again, one unit and you
15 had to come back for the special exception, is there any timing?
16 Like, can you -- you can then change the application to now it's
17 just a special exception and then somehow, he doesn't have to
18 repost, or he doesn't have to repay for stuff or anything, I mean,
19 is there any benefit to that? Can you all help me out?

20 VICE CHAIR JOHN: Let me (audio interference) in
21 silence.

22 MR. RICE: I'm not --

23 VICE CHAIR JOHN: Oh. Are you ready, Mr. Rice?

24 MR. RICE: No. I'll hear your 2 cents first, ma'am.

25 VICE CHAIR JOHN: Right. It's already advertised as a

1 variance and so if he dropped the request for a variance, he would
2 be reducing the relief that is being requested, so I do not
3 believe he would have to re-notice the --

4 CHAIRPERSON HILL: All right.

5 VICE CHAIR JOHN: -- application. So we could continue
6 it for whatever time is reasonable for the applicant to go back
7 and look at his options to see what's doable.

8 CHAIRPERSON HILL: Right.

9 VICE CHAIR JOHN: We would -- I mean, Chairman Hood, we
10 should not put anybody on promised land and so that's why I've
11 been throwing in a little bit of cold water about the economic
12 issue being the most important because they're relying on it.

13 CHAIRPERSON HILL: Right. And I love that we're having
14 this discussion because I thought we were going to go past 6
15 o'clock and so we can now, you know, talk about it even more now,
16 but exactly. Like, that's what I'm trying to understand again,
17 which is the promised land thing, right. You know, exactly.

18 Like, you know, you don't have to then -- you're going
19 from a higher relief which is the variance to a lower relief which
20 is the special exception, so you could save time in some capacity
21 and that's -- the specifics of it, Vice Chair John, is always what
22 I forget or don't really understand. That's what I'm trying to
23 remember.

24 Like, Mr. Moy, because I'm just curious now again.
25 Like, you then don't have to repost, you then don't have to pay

1 again or something, right?

2 MR. MOY: Yeah, because historically, with the Board,
3 that's how -- that's the procedure that we've operated going to a
4 lesser relief meeting. We don't have to repost for 51 days, but
5 normally, in terms of technicality, you know, we would revise the
6 caption on the sign posting, you know, those kinds of things as
7 well as in the calendar.

8 CHAIRPERSON HILL: Got it. Right.

9 MR. MOY: BZA calendar, yeah.

10 CHAIRPERSON HILL: And Ms. Morris, Ms. Morris, you're a
11 land use attorney; is that correct?

12 MS. MORRIS: Yes. Oh, yes.

13 CHAIRPERSON HILL: Oh. Okay. All right. So then
14 you'll know even better then. Okay.

15 MS. MORRIS: Well, I didn't take -- so my understanding
16 is that the request for the area variance for the new record lot
17 that has a smaller alley, like the smaller -- I was taking that,
18 interpreting that to mean, that it already met the other
19 requirements, so that's why I didn't ask for a special exception.
20 Because the requested --

21 CHAIRPERSON HILL: Okay. (Audio interference). Ms.
22 Myers, what were you talking about again?

23 MS. MYERS: We're saying that OP thinks it may apply.
24 So you probably want to just double-check with the Zoning
25 Administrator because we're not clear on that either. As a

1 matter-of-right, you can do a one dwelling unit on an alley lot,
2 but part -- one of those criteria is that it has to be accessed by
3 alley lot -- or alleys that are a certain width and this does not
4 meet that criteria.

5 There's a special exception from that criteria that
6 addresses that and we're not sure if by asking for a variance, if
7 you were granted the variance, does that also allow you -- so
8 we're just not clear on that, but we're saying that, especially if
9 the variance is no longer being pursued and you're going to just
10 apply for matter-of-right or with a option to just do one house,
11 then you will have to use special exception for the alley width if
12 you're going to do a house on that lot.

13 CHAIRPERSON HILL: So Ms. Morris, and we're going to
14 wrap this up here. I'm getting -- we're getting near the end,
15 right, but I'm just trying to think. So Mr. Jean -- I mean, I
16 don't even know -- I don't know if I can get you the promised land
17 thing or not. You know, we're not -- I don't know if I'm
18 culturally correct, you know, but like the -- I'm just being very
19 clear as to I think you see that, you know, your variance argument
20 is not going to work with us at this point and whether or not it's
21 going to work at all is still very suspect, right.

22 And so, you know, I'm just kind of allowing you the
23 opportunity to go back and figure out what you think you might
24 want to do. And so you can either come back to us and make a
25 bigger, better argument for the variance. I still don't think

1 that'll necessarily fly, particularly if the Office of Planning
2 will not be able to help you out. I'm just kind of -- it's the
3 end of the day and I'm exhausted.

4 So, you know, and/or you can keep your options -- you
5 know, all of this work that you've already done. You don't have
6 to start again if we don't -- because if we hear the case now and
7 then we vote and you lose, then that's it. You know, you've got
8 to start back at the beginning for whatever you're doing, right.
9 So I'm just letting you know.

10 So I guess, Mr. Jean, what we'll do then is go
11 ahead and allow time for you to submit something to the Office of
12 Planning and then have the Office of Planning allow us time and
13 then allow time for the Office of Planning to give us something
14 and then we can set this for a decision. And if you came back and
15 changed this, then you would probably have to, I guess, make a
16 request to reopen the record and then we would go ahead and have a
17 hearing again basically because you would have to go back to the
18 ANC probably for whatever design you were trying to get if you did
19 a single-family home, right. So it is a process. So in terms of
20 getting information back to us and then a report from the Office
21 of Planning and then getting us a separate decision.

22 I mean, Mr. Moy, I don't know if a month is like, you
23 know -- I don't know what we got. I know I've already now tried
24 to do stuff on -- we rescheduled stuff for the 17th, I think, and
25 24th. I mean, you're -- you've got me out in March all the way

1 until -- oh, the 17th of March also and we just have 8 to 10 cases
2 all day long, right?

3 MR. MOY: Yeah. February -- your calendar for February
4 is already out of the question, so we're looking at March. But I
5 was also going to add in the statement that you just made whether
6 you, the Board, would care to set this for a decision meeting or a
7 continued hearing. Not knowing which direction the applicant is
8 going to be leaning, it may be wise to set it for a continued
9 hearing because even on a continued hearing, you can still make a
10 bench decision at that point. That way, you don't have to worry
11 about it. If we had set it for a decision meeting, reopen it and
12 then set it again further down the road.

13 CHAIRPERSON HILL: I got it.

14 MR. MOY: That's my suggestion.

15 CHAIRPERSON HILL: I got it. So a continued hearing,
16 what that does then for us, in terms of just our schedule, is that
17 we're really -- you're -- I mean, February is shot. You just
18 scheduled something on the 10th and the 17th, and I think the 24th
19 there was still eight cases, correct?

20 MR. MOY: Yes. Yes, yes.

21 CHAIRPERSON HILL: And so the 31st, how many cases we
22 got?

23 MR. MOY: Eight cases. No. 8. Crazy 8.

24 CHAIRPERSON HILL: This would be No. 8?

25 MR. MOY: This would be No. 9.

1 CHAIRPERSON HILL: And the 24th you also have eight
2 cases?

3 MR. MOY: Correct.

4 CHAIRPERSON HILL: Okay. And we're now -- 27th -- I
5 mean, Mr. Jean, I'll go ahead and put you on the 24th of March,
6 okay, for a continued hearing and then, you know, you can figure
7 it all out, right. And, I guess, if you did do that by the 24th
8 of March, Mr. Moy, could you ask for when we would want a revised
9 report from the Office of Planning and then whatever we need from
10 the applicant?

11 MR. MOY: Okay. I'm going to work backwards from March
12 24th. So with the Office of Planning response -- well, it could
13 be -- could be -- let's see, let's see. 3/24? Let's say OP
14 responds by March 15th, which is a Monday, if that's acceptable,
15 but let's look at these dates first. And then the applicant can
16 submit their filing, let's say, March 1st. That gives OP two
17 weeks.

18 CHAIRPERSON HILL: Okay.

19 MR. MOY: So the applicant would file March 1st with
20 whatever new information you have or the same information, OP can
21 respond two weeks later which would be March 15, and then a
22 continued hearing March 24th.

23 CHAIRPERSON HILL: Okay. Okay. Great.

24 Well, Mr. Jean, I think you got to kind of figure out
25 what you want to do and to be very clear now because, you know,

1 you're getting the benefit of kind of a long day here and your end
2 of the day, which is that, you know, I think you got a really
3 tough hill to climb, you know, for this area variance.

4 MR. JEAN: (Audio interference).

5 CHAIRPERSON HILL: That's what I think has been very
6 clearly stated by the Board. Okay. Let's see. So Mr. Jean
7 and/or Ms. Morris, do you have anything else before I close the
8 hearing and the record except for items that we asked from the
9 Board. I'm sorry. Except for items we asked from you and the
10 dates we gave you. Do you have anything that you'd like to -- you
11 need or to add?

12 MS. MORRIS: No.

13 CHAIRPERSON HILL: Okay.

14 MR. JEAN: Not at this time.

15 CHAIRPERSON HILL: Okay. Great. All right. Well, then
16 I'm going to close this hearing. We'll have a continued hearing
17 on 3/24 with you guys and we'll see what happens.

18 MS. MORRIS: Okay. Thank you for your time.

19 CHAIRPERSON HILL: Thank you.

20 Okay. All right, you guys. It's the end of the day and
21 Chairman Hood, I mean, I just love it. Since I got you here -- I
22 mean, I know it's kind of the end of the day -- sorry everybody
23 else, but right. Like it is like promised land, right. You would
24 think that supposedly -- the hope is one day you get to the
25 promised land, right. It's not that it's just a never, no.

1 COMMISSIONER HOOD: If I had known we was going to have
2 all this much time at the end, I would have probably elaborated a
3 little bit more based on -- no, I'm just playing. You can
4 eventually get there. You know, you eventually -- we eventually -
5 -

6 CHAIRPERSON HILL: Right.

7 COMMISSIONER HOOD: -- get there and I -- we may get
8 there at this last case. Who knows. We may get there.

9 CHAIRPERSON HILL: Right. Fair enough, fair enough.
10 But, in general, it's extremely difficult is what you're saying.
11 Promised land is a very hard place to get to.

12 COMMISSIONER HOOD: Yeah. Promised land is kind of
13 rough, so that's why don't like to put anybody on promised land
14 and the -- don't raise the expectations of something that won't
15 really happen. That's kind of where Vice -- I would have to yield
16 to Vice Chair John.

17 CHAIRPERSON HILL: Okay.

18 VICE CHAIR JOHN: That's a (audio interference).

19 CHAIRPERSON HILL: Okay. All right.

20 Mr. Moy, is there anything else for us?

21 MR. MOY: No, you can bang your gavel, sir.

22 CHAIRPERSON HILL: Okay. Bye-bye. We're adjourned.

23 COMMISSIONER HOOD: Bye.

24 VICE CHAIR JOHN: Thank you.

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

1 record at 4:58 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 1-27-21

Place: Teleconference

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

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)